

Behind the Gallows:
Capital Punishment, Law, and Legislative Performance in
Turkey (1926-1990)

Cemre Ünalrı Demirkeler



A dissertation presented to the
Atatürk Institute for Modern Turkish History
at Boğaziçi University
in partial fulfillment of the requirements for the degree of
Doctor of Philosophy

September 2025

Approvals

“Behind the Gallows: Capital Punishment, Law, and Legislative Performance in Turkey (1926-1990),” a dissertation prepared by Cemre Ünalđı Demirkeseř in partial fulfillment of the requirements for the degree of Doctor of Philosophy from the Atatürk Institute for Modern Turkish History at Boğaziçi University, has been approved on 4 September 2025 by:

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Declaration of Originality

The intellectual content of this dissertation, which has been written by me and for which I take full responsibility, is my own, original work, and it has not been previously or concurrently submitted elsewhere for any other examination or degree of higher education. The sources of all paraphrased and quoted materials, concepts, and ideas are fully cited, and the admissible contributions and assistance of others with respect to the conception of the work as well as to linguistic expression are explicitly acknowledged herein.



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Abstract

Behind the Gallows: Capital Punishment, Law, and Legislative Performance in Turkey (1926-1990)

Cemre Ünalrı Demirkeler, Doctoral Candidate at the Atatürk Institute for Modern Turkish History at Boğaziçi University, 2025

Associate Professor Berna Yazıcı Tepeyurt, Dissertation Advisor

This dissertation examines how the death penalty's legal framework and the practice of deciding on executions operated within Turkey's parliamentary era. The legislature, vested with broad power ranging from enacting capital laws to granting amnesty, played a central role in the operation of the death penalty while these laws were in effect. Analysis of parliamentary processes reveals that the death penalty functions as *a distraction* beyond the criminal and legal boundaries. Actors partly responsible for shaping, tolerating, or ignoring the normative order enabling crime, or for the legal inertia that fails to prevent it, deflect attention by emphasizing brutal death penalty debates, thus concealing or shifting their responsibility. Three notable parliamentary practices emerged. First, interpretations of death penalty legislation created a myth of *monsters deserving death*, which over-individualizes crime and deflects responsibility onto *others*. Second, the legislature acted in silence, presenting itself not as a decisive authority but as a mere cog in a machine. Indeed, 80.6% of individual death sentences were processed without parliamentary debate, and for thirty-five years, none were placed on the agenda. Political elites, neither accepting nor rejecting executions, strategically preserve the death penalty laws by leveraging its capacity to absorb every debate into its moral sphere. Third, the death penalty's legal existence hid individual responsibility by portraying victim as abstract entity – *the state* or *nation*. It obscured how and why those positioned at the fringes or in opposition to the socio-political order were placed there in the first place, by designating them as the *other*.

143,000 words

Özet

Darağacının Ardında: Türkiye’de İdam Cezası, Hukuk ve Yasama Performansı
(1926-1990)

Cemre Ünaldı Demirkeseer, Doktora Adayı, 2025

Boğaziçi Üniversitesi Atatürk İlkeleri ve İnkılap Tarihi Enstitüsü

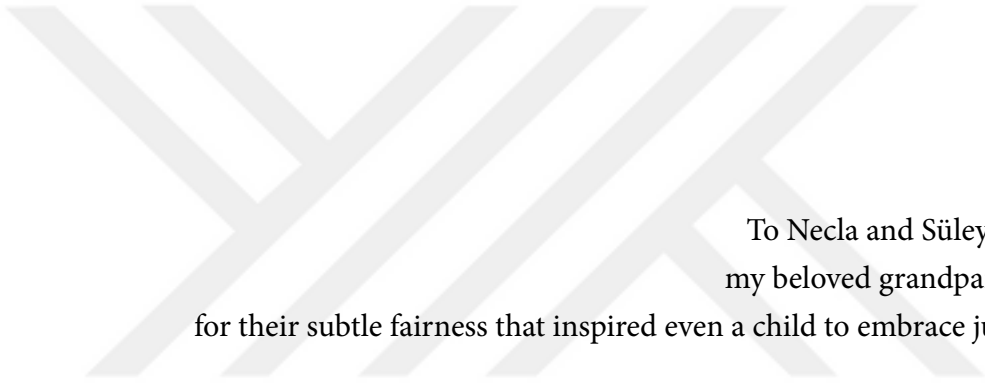
Doçent Berna Yazıcı Tepeyurt, Tez Danışmanı

Bu çalışma Türkiye’de idam cezası öngören yasal düzenlemenin ve mahkemelerce kesinleşmiş idam cezalarının infazına karar verilmesi pratiğinin Parlamento özelinde nasıl işlediğini ele almaktadır. İdam cezasının kanunlaşmasından, af yetkisine uzanan geniş sorumluluklarla donatılmış yasama organı, ilgili kanunlarının yürürlükte olduğu dönem boyunca idam pratiğinin merkezinde konumlanır. Parlamenter süreçler incelendiğinde, idam cezasının cezai ve hukuki sınırları aşan bir *dikkat dağıtıcı* işlevi gördüğü ortaya çıkar. Suçu doğuran normatif düzeni şekillendiren, tolere eden, ya da görmezden gelen veya suça mani olamayan yasal atalette bir ölçüde payı olan aktörler, sorumluluklarını gizleme yahut devretme maksadıyla dikkatleri idam cezasının vahşiyane tartışma zeminine çeker. Parlamentoda üç pratik göze çarpar. İlki, idam cezası kanunu yorumlarının *ölümü hak eden canavarlar* miti yaratarak, suçu bireyselleştirmesi ve sorumluluğu tümüyle *öteki* aktörlere yüklemesidir. İkincisi, yasamanın süreci sessizlikle yürüterek kendini yetkin karar organı değil, çarkın içinde bir dişli olarak lanse etmesidir. Bireysel idam dosyalarının %80,6’sı hiç konuşulmadan görüşülmüş, hatta toplam otuz beşe sene boyunca hiçbir dosya meclis gündemine alınmamıştır. İnfazları ne onaylayıp ne reddeden siyasi elitler, her tartışmayı kendi ahlaki düzlemine çekme kudretine sahip idam cezasını stratejik olarak muhafaza etmiştir. Son olarak; idam cezası, suçun mağdurunu muğlak birer *devlet* ve *millet* olarak resmederek bireysel sorumluları gizleyebilmiştir. Böylece, sosyo-politik düzenin karşısında veya saçaklarında konumlananları *öteki* ilan ederek, nasıl ve niçin burada konumlan(dırıl)dıkları sorusunu görünmez kılmıştır.

143.000 kelime







To Necla and Süleyman,
my beloved grandparents,
for their subtle fairness that inspired even a child to embrace justice

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Glossary of Non-English Terms

Delikanlı	Young or teenage boy
Efendim	Sir
Mühtedi	Person converted to Islam
Kıpti/Çingene	Tsigani/Gypsy
Kumalık	Second wife or sister wives
Ülkücü	Ultra-nationalist
Yargıtay	Court of Cassation and/or Court of Appeal
Zenci	Black person



Acronyms

AP	Adalet Partisi (Justice Party)
AsCK	Askeri Ceza Kanunu (Military Criminal Code)
CCa	Court of Cassation
CHP	Cumhuriyet Halk Partisi (Republican People's Party)
CoE	Council of Europe
DP	Demokratik Parti (DP, or Democratic Party)
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
EU	European Union
MBK	Milli Birlik Komitesi (National Unity Committee)
MGK	Milli Güvenlik Konseyi (National Security Council)
MHP	Milliyetçi Hareket Partisi (Nationalist Movement Party)
RG	Resmi Gazete (Official Gazette)
TBMM	Türkiye Büyük Millet Meclisi (Grand National Assembly of Turkey)
TCK	Türk Ceza Kanunu (Turkish Criminal Code)
UN	United Nations
YAD	Yüksek Adalet Divanı (Supreme Justice Court)

Preface

If writing this preface feels more like the cherry on top rather than a mere formality, it is likely because there are so many people I wish I could thank here. However, my foremost gratitude goes to my former official advisor of seven years and now de facto advisor, my beloved mentor, Umut Türem, who has continued to provide invaluable guidance throughout this dissertation, even after his departure. As I reflected on how to express my gratitude to him, I came across a children's book that resonated deeply with me. *The Dot* by Peter H. Reynolds tells the story of a girl who believes she cannot draw. During art class, when she leaves her paper blank, her teacher encourages her to “just make a mark and see where it takes you.” In frustration, she makes a small dot on the paper, and her teacher praises it, inspiring her to create more creative dot drawings. Like her, I began my M.A. program almost without confidence in my own voice. I have numerous notes on my first reflection papers from Umut Hoca's 2015 courses, where he wrote, “I'd prefer though you have a larger paragraph, where we hear your voice!” Whether good or bad news, since then, I have ceaselessly spoken. Above all, Umut Hoca is not only an inspiring academician—through his works, courses, guidance, meticulousness, endless questioning, and equally endless patience—but he is also the first person who convinced me that imagination has a place even in the strictest, most delicate corners of the academic world; especially where I doubted my own contributions would matter. Although I still face doubt, I am deeply grateful for the door he opened and the courage he gave me to “just make a mark.” In addition, I would like to express my heartfelt gratitude for his unwavering effort that made me feel as though we were writing this dissertation together, rather than me simply receiving help. I am deeply thankful for all his thoughtful comments, for patiently reading my drafts countless times, and for making me feel that he was thinking with me, not just for me. I also cannot forget to thank him for standing by my side during the difficult days I faced this year and for inspiring me with his perseverance.

I am also deeply grateful to my official advisor, Berna Yazıcı. While this dissertation began with Umut Türem, I owe its completion to Berna Yazıcı. The time we shared, though limited, inspired me to imagine what it would

have been like to journey through this process with her from the very beginning. I am truly thankful for all her efforts, her meticulous, word-for-word feedback, and every suggestion she offered so generously. She illuminated every dark day—not only in matters of the dissertation, but well beyond it. From the very first day I attended her class, I have appreciated her unwavering support, her encouragement, and the way she has never transformed her valuable knowledge into condescension.

I would like to express my sincere gratitude to Irmak Ertör, one of the most important people who inspired me to write this preface as a more personal reflection rather than a formal acknowledgment. Her academic excellence has always been a source of great admiration for me. However, beyond that, since the day I first experienced her egalitarian, cheerful, and just approach to academia—qualities long sought after in academic life of Turkey—she has become a true inspiration. I am deeply thankful for her unwavering support during the dark days of our social and personal struggles, for reminding me never to forget why I wrote this dissertation, why I chose this path, and that I am not alone. She has often cared for me even more than I have for myself. Though she would prefer to be seen as a fellow traveler, I am profoundly grateful for her humble and guiding presence.

I would also like to extend my heartfelt thanks to two members of my defense committee who, though they may not realize it, hold a special place in my PhD life. I cannot recall when or where I first said, “I will study capital punishment,” but I clearly remember how my curiosity about the subject was sparked. During my first year of doctoral studies, I spent many days reflecting on the insightful discussions from Cengiz Kırılı’s course about murder cases in Ottoman jurisprudence, which ultimately led me to explore Ebru Aykut’s PhD dissertation. First, I am deeply grateful to Cengiz Hoca for his patience, understanding, and support during those early days when I was immersed in reading parliamentary minutes. He never discouraged my enthusiasm for any of my questions and consistently encouraged me to ask more in the following weeks. I also wish to thank Ebru Aykut for kindly agreeing to be part of my committee. I still find it hard to believe that her perfectly written work was just a PhD dissertation; she gave me the courage to believe that such a meticulous archival study was indeed possible. Although we have only known each other

for a short time, she quickly made me feel comfortable in any academic discussion. I am truly grateful to both of them for their insightful contributions.

I would like to express my sincere gratitude to my final committee member, Berna Ekal, for her generous and effortless involvement in this process from the very first day we communicated, and for the time and effort she devoted to this dissertation. Since the day I began my master's degree at the Atatürk Institute, and throughout these ten years, I have had the privilege of taking classes of many professors who contributed far more to this study than I could have ever imagined, including Asım Karaömerlioğlu, Kutluğhan Soyubol, Nadir Özbek, Seda Altuğ, Şevket Pamuk, and Zafer Toprak. I am deeply grateful for their invaluable contributions. My thanks extend to Aybala Bulut, Can Gümüş, and Emir Küçük, my colleagues during the three years I worked as a research assistant here, for reminding me that non-competitive collegiality is possible and that we have the power to make room for one another. I would also like to thank the entire administrative and academic cadre of the Atatürk Institute for their support.

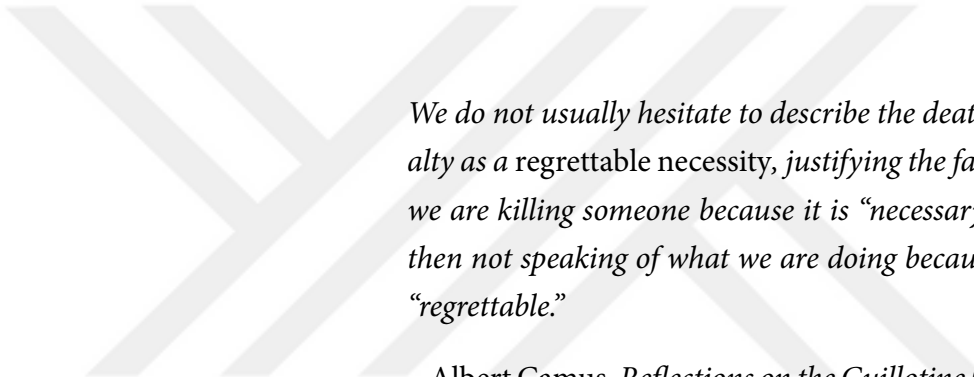
I would also like to acknowledge all my friends who stood by me during a critical and chaotic period in my family's history. Although I cannot name them all here, I am deeply grateful to my friends from Galatasaray University, GSÜTT, BAAL, the Atatürk Institute, Boğaziçi University, and my former workplace. I thank them not only for their support but also for helping me to remember this darkness not with fear, but with resilience and solidarity. Their strength made it possible for me to continue writing during those difficult days. It has been a long time since academia ceased to be a space we could sustain in our scholarly sanctuary. Without their presence, this dissertation would never have been completed. While I cannot single her out among the others, I am especially grateful to Zeliha Gizem Sayın for engaging in lengthy discussions about the research idea on the very day I first conceived it and for standing by my side throughout these final days of the journey, albeit in a very different context.

I have saved my final and deepest thanks for my family. I am profoundly grateful to my beloved partner, Kerem Demirkese, who has been one of my greatest sources of support throughout my ten years in academia. From my master's degree to my PhD, and throughout my research assistantship and

doctoral journey, whenever I felt on the verge of giving up, he was there—listening patiently to what I said, what I wrote, what I couldn't write, and even what I wrote and then deleted, never growing tired or bored. His effortless kindness, his gentle acceptance of his stance in history, and his endless inspiration made this journey possible. I would also like to express my deepest gratitude to my mother, Gülhiz Ünalı, who believed in me more than I believed in myself during my doctoral studies, who reminded me of my dream and my direction whenever I faltered, and whose resilience I deeply admire. My heartfelt thanks also go to my bonus-dad, Ali Şahanlar, whose patience I greatly respect. I am thankful to Gülay Demirkese, from my extended family, for her understanding, support, and the spark of excitement in her eyes; and to Fem Öncül for her steadfastness, empathy, and patience, which at times served as a comforting shield.

NOTE: The in-house editor of the Atatürk Institute has made detailed recommendations with regard to the format, grammar, spelling, usage, syntax, and style of this dissertation.





We do not usually hesitate to describe the death penalty as a regrettable necessity, justifying the fact that we are killing someone because it is “necessary,” and then not speaking of what we are doing because it is “regrettable.”

– Albert Camus, *Reflections on the Guillotine* (1959),
4.

Introduction

[V]iolence gains nothing, killing wins nothing – only sometimes nothing is what people want. Death is what they want. And they get it.

– Ursula K. Le Guin, *The Eye of the Heron* (1983), 142.

In 2022, when I began writing this dissertation, two politicians' speeches - reported by separate newspapers - captured widespread sentiments echoed by many of their peers. On the fourth day of the Marmaris forest fire in Turkey, the then-Interior Minister, Süleyman Soylu, emphasized the need to impose harsher penalties for forest fires:¹

-
- 1 On June 21, 2022, a significant wildfire broke out in Marmaris, Turkey. The fire rapidly spread due to strong winds and the lack to conduct aerial interventions at night. It took five days to extinguish, resulting in the burning of nearly five thousand hectares of forest area. "4,500 Hectares of Forest Burned in Wildfires in Marmaris," *Bianet*, June 27, 2022, <https://bianet.org/haber/4-500-hectares-of-forest-burned-in-wildfires-in-marmaris-263812>.

I say this as someone hurt by these acts. Such penalties, especially those relating to forest fires, should be made more severe. The death penalty is highly debated in Turkey. But the death penalty also has its own deterrent effect. Yes, it does not sound pleasant, it does not sound very kind, but there is something else. Such an irresponsibility should have its own strict punishment.²

Two days after the Marmaris forest fire was extinguished, and forty-two days following the Court of Cassation's (CCa) decision in the Emine Bulut murder case, the leader of the Milliyetçi Hareket Partisi (MHP, or Nationalist Movement Party), Devlet Bahçeli, spoke at his party's parliamentary group meeting. Referring to the death penalty for those responsible for forest fires, Bahçeli stated:

I find the death penalty debate useful and say that we would support it if a bill is proposed. I hope that the death penalty will also include crimes such as femicide, rape, and terrorism. We are ready to fulfill whatever duties fall upon us.³

During these speeches, the CCa upheld the life imprisonment sentence (*müebbet hapis cezası*) for Fedai Varan's premeditated murder of his ex-wife, Emine Bulut, whom he fatally stabbed in front of her ten-year-old daughter. The newspapers positively highlighted the rejection of appeals for mitigation based on unjust provocation (*haksız tahrik*) and judicial discretion (*takdir*).⁴

-
- 2 The terms "death penalty" and "capital punishment" are used interchangeably in this study. "Soylu, Orman Yangınlarıyla İlgili Cezaların Artırılmasını İstedi: İdamdan Bahsetti," *Birgün Gazetesi*, June 24, 2022, <https://www.birgun.net/haber/soylu-orman-yanginlariyla-ilgili-cezalarin-artirilmasini-istedi-idamdan-bahsetti-393080>.
 - 3 The term "femicide" can be defined briefly as the "killing of women and girls because of their gender." Cited from "Femicide," European Institute for Gender Equality, <https://eige.europa.eu/publications-resources/thesaurus/terms>.
"Devlet Bahçeli'den 'İdam' Açıklaması: 'Destek Vermeye Hazırız,'" *Cumhuriyet Gazetesi*, June 28, 2022, <https://www.cumhuriyet.com.tr/turkiye/devlet-bahceliden-idam-aciklamasi-destek-vermeye-haziriz>.
 - 4 "Yargıtay, Emine Bulut Cinayeti Davasında Verilen Müebbet Hapis Cezasını Onadı," *Anadolu Ajansı*, May 16, 2022, <https://www.aa.com.tr/tr/gundem/yargitay-emine-bulut-cinayeti->

Initially, however, the defendant had been charged with more severe crime, with “premeditated murder with monstrous feeling,” which carries the penalty of aggravated life imprisonment (*ağırlaştırılmış müebbet hapis cezası*). Instead, the local court sentenced the perpetrator to life imprisonment for intentional murder, citing insufficient evidence for monstrous feelings. In short, Bahçeli suggested that a murderer who had not even received the most severe punishment under the current penal system should be sentenced to death under a hypothetical one.

If capital punishment had not been abolished in Turkey, would this perpetrator now be on death-row, or would the local court have again sentenced him to the second most severe penalty – this time, aggravated life imprisonment? Today, does the fantasy surrounding the reinstatement of the death penalty serve merely as a deterrent effect, with no genuine intention of execution? We cannot know, we can only speculate. However, we can find a consistent pattern emerging in the statements of the politicians cited above: they make no reference to the social constructions and socio-political and legal context that directly cause, facilitate, or tolerate such criminal behaviors – as arson, femicide, and terrorism. Instead, perpetrators are portrayed as the sole actors responsible for these tremendous acts. By focusing attention on crimes, criminals, and the death penalty, more fundamental questions are obscured. For instance, how does the failure of Turkey’s jurisprudence to protect the victims of male violence impact the prevalence of femicides? According to Human Rights Watch, “[h]undreds [of women] are murdered by their partners every year, even though in some cases they had reported their abusers to authorities more than once.”⁵ Moreover, how do the authorities sometimes protect perpetrators, rather than provide legal protection for victims? In the case of Emine Bulut, the prosecutor (*bölge savcısı*) himself appealed to the CCa on behalf of the murderer, citing mitigating circumstances such as unjust

davasinda-verilen-muebbet-hapis-cezasini-onadi/2589260; “Femicide: Court of Cassation Upholds Life Sentence for Killing of Emine Bulut,” *Bianet*, May 16, 2022, <https://bianet.org/haber/femicide-court-of-cassation-upholds-life-sentence-for-killing-of-emine-bulut-261923>.

5 Human Rights Watch, *Combatting Domestic Violence in Turkey: The Deadly Impact of Failure to Protect*, May 26, 2022, <https://www.hrw.org/report/2022/05/26/combating-domestic-violence-turkey/deadly-impact-failure-protect>.

provocation and the perpetrator's "good conduct." In summary, the local court did not find sufficient evidence of "monstrosity" to warrant the most severe sentence under existing law, and the prosecutor argued that this lesser sentence should be further reduced.

Not only is the shared responsibility of the judiciary taken out of focus, but so too are those of the legislative and executive bodies. For example, Bahçeli, as a member of Parliament who advocates ultimate solutions to male violence, such as capital punishment, could also publicly support Turkey's withdrawal from the Istanbul Convention – a human rights treaty aimed at protecting women against all forms of gender-based violence, preventing violence, prosecuting perpetrators, and eliminating discrimination.⁶ By strictly focusing on the moral and legal outcomes of reinstating the death penalty, little criticism is directed at how their arguments about the Convention's provisions on gender identity "undermining family values" may actually contribute to increasing femicide cases.⁷ The debate over the death penalty for femicide and the disproportionate focus on criminals effortlessly shifts the focus away from the deficiency of judicial and administrative proceedings, as well as the underlying patriarchal power dynamics within the society that can contribute to this kind of violence.

Despite the death penalty having been absent from Turkish criminal law for twenty-one years, rhetoric surrounding capital punishment – including calls for reinstatement – continue to surface in public discourse at least annually. This enduring prominence prompted me to question why the death

6 Council of Europe (CoE), "Istanbul Convention," <https://www.coe.int/en/web/istanbul-convention>.

"Turkey's Istanbul Convention Withdrawal Is the Right Decision," *Anadolu Agency*, "March 30, 2021, <https://www.aa.com.tr/en/turkey/turkeys-istanbul-convention-withdrawal-is-right-decision/2192502>; quoting Devlet Bahçeli: "'The signatory country has a right to withdraw from the convention as well as to be a party to it by signing the treaty, it is a legal right. The termination of the convention is a right and appropriate act,' Devlet Bahçeli told his party's parliamentary group."

7 Penny Kapusuzoğlu, "A Year in Review: The Consequences of Turkey's Withdrawal from the Istanbul Convention," *The International Affairs Review*, March 8, 2022. <https://www.iar-gwu.org/blog/iar-web/a-year-in>.

penalty narrative remains so dominant despite its legal abolition decades ago.⁸ I suggest that the threat of the death penalty does not always align with legal realities, nor is it a phenomenon that can only be explained through legal framework. Capital punishment may have operated in a comparable manner when it was legally in force, surpassing each and every one of the crime control attempts. At the beginning, various questions compelled my attention such as: how has capital punishment served to disconnect a perpetrator's violence from state-sanctioned or socially legitimized violence? How has it represented victims and perpetrators? In what ways have the socio-political, socio-economic, and cultural identities/categories/norms been shaped by capital punishment, as much as they have shaped it? How has it influenced and been influenced by society's perceptions of being "modern," "civilized," "merciful," "degenerate," or "barbaric"? Why has the Parliament occupied a distinct role in Turkey's death penalty history? And after all, as the research question, how did capital punishment actually operated during the parliamentary era in Turkey and what purposes did it serve throughout its lifetime?

This dissertation explores the unique socio-legal dynamics of capital punishment in Turkey, focusing on the period from 1926—when the Republican regime codified the death penalty in its first criminal code—to the 1990s, marking the initial reliable steps toward abolition. This research moves beyond viewing the death penalty merely as a legal sanction, revealing it as a complex social performance that both shapes and is shaped by collective notions of crime, justice, and societal boundaries, while framing legal accountability and social responsibility. To investigate this, I analyzed legislative and legal documents as primary source—mainly parliamentary records, criminal laws and legislative debates related to the death penalty.

I argue that capital punishment functions as a "distraction," as Austin Sarat contends, diverting attention from socio-political, socio-economic, and

8 I use the terms "abolition" and "abolitionism" specifically to refer to the legal abolition of capital punishment, rather than the historical Anglo-Saxon usage associated with the anti-slavery movement.

cultural (or contextual, as Clifford Geertz would frame it) issues.⁹ Sarat argues that by fueling the public debate about the death penalty and producing media material about its dramatic aspect; the United States' death penalty policy camouflages the underlying socio-economic problems behind crime, such as racial, educational, and economic inequalities. This “distraction” should not be understood merely as a temporary diversion from a “real” issue to a more “interesting” one. Sarat insightfully suggests that “state-killing distracts. It encourages the quest for revenge rather than efforts at reconciliation and social reconstruction” and “[w]e must ask what the death penalty does to us, not just what it does for us.”¹⁰ I prefer to use the term “distraction” not only in the sense of diverting attention from any possibility or effort of reconciliation, as Sarat describes, but in a more nuanced way – especially in the context of Turkey. Here, capital punishment is not merely an obstacle to social reconstruction but an active participant in its construction, where silence and secrecy play a greater role than fiery public debates. Capital punishment involves, as David Garland put it,

discursive frameworks of authority and condemnation, ritual procedures of imposing punishment, a repertoire of penal sanctions, institutions and agencies for the enforcement of sanctions and a rhetoric of symbols, figures, and images by means of which the penal process is represented to its various audiences.¹¹

My focus is on how the death penalty operates by forming – and being formed by – certain categories such as morality, love, betrayal, patriotism, the state, and society, while simultaneously obscuring or highlighting the social context,

9 Austin Sarat, *When the State Kills: Capital Punishment and the American Condition* (New Jersey: Princeton University Press, 2001).

Clifford Geertz noted in 1973: “culture is not a power, something to which social events, behaviors, institutions, or processes can be causally attributed; it is a context, something within which they can be intelligibly – that is, thickly – described.” cited from Clifford Geertz, “Thick Description: Toward an Interpretive Theory of Culture,” in *The Interpretation of Cultures: Selected Essays* (New York: Basic Books, 1973), 14.

10 Sarat, *When the State Kills*, 14, 15, 247.

11 David Garland, *Punishment and Modern Society: A Study in Social Theory: Studies in Crime and Justice* (Oxford, UK: Clarendon Press, 1990), 17.

shifting responsibility, concealing accountability, and blurring the distinction (if any) between state-sanctioned killing and other forms of legally condemned violence.

Following the tendency of social historians, given the connection between individual violent behavior, the violence embedded in social conditions, and the own violence of state-sanctioned killing, I argue that the problem of capital crime implicates all of *us* as a society – not just isolated individuals as *others*.¹² Contrary to my argument, not only in the context of Turkey but throughout the literature on the death penalty, there is a belief that the most heinous crimes can only be committed by demonic, deviant actors. For instance, drawing on psychology and criminology, there is a body of literature arguing that those who commit capital murder are not driven into crime by unjust social conditions; rather, they act sometimes rationally, sometimes emotionally, but always with absolute free-will.¹³ More radically, some criminological theories, referencing biology, propose the existence of “natural born killers.” Some depict such offenders as remorseless psychopaths driven by the thrill of killing, even explicitly referring to them as an “accident of birth,” portraying them as “non-human” dark entities.¹⁴ At the opposite end, some Marxist criminologists generally argue that criminals act only based on psychological traits shaped by capitalist society. According to this view, “criminal behavior ... is

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- 12 Craig Haney, “The Social Context of Capital Murder: Social Histories and the Logic of Mitigation,” *Santa Clara Law Review* 35 (1995): 559-60. <https://digitalcommons.law.scu.edu/law-review/vol35/iss2/7>.
 - 13 For instance, James Q. Wilson's *Thinking About Crime* (New York: Basic Books, 1975) addresses the nature of criminal behavior by challenging prevailing views that attribute crime primarily to poverty or social neglect. Instead, Wilson argues that criminal acts are largely rational and influenced by the potential rewards and punishment associated with it. Or Jack Katz's *Seductions of Crime: Moral and Sensual Attractions in Doing Evil* (New York: Basic Books, 1988) explores how criminal behavior is driven not just by rational calculations but by the immediate emotional and sensual experiences that make crime alluring.
 - 14 David L. Bazelon, “Foreword: The Morality of the Criminal Law: Rights of the Accused,” *The Journal of Criminal Law and Criminology* 72, no. 4 (1981): 1150, <https://doi.org/10.2307/1143229>; Craig Haney and John Manzolati, “Television Criminology: Network Illusions of Criminal Justice Realities,” in *Readings About the Social Animal*, ed. Elliot Aronson (New York: Freeman, 1977), 124.

almost entirely attributable to the combination of egoism and an environment in which opportunities are not equitably distributed.”¹⁵

I position my argument between these two perspectives. While it is undeniable that criminals exercise some degree of control over their violent actions, social conditions can mitigate or distribute their guilt among various actors within society. For instance, the idea that capital murderers are barely human, demonic beings solely responsible for their crimes is a myth. Beyond individual character, a complex web of social and systemic factors contributes to capital offenses: unjust social conditions, structural deficiencies in the social and legal order, entrenched prejudices, discriminatory norms, and even bias in the selection of capital defendants.¹⁶ However, since many of us living in the same society do not inevitably become killers, it seems unlikely that social conditions completely override free-will. The central argument of this dissertation closely aligns with Jeffrey H. Reiman’s view, as he references Jeffrie G. Murphy:

Though criminals can control their actions, when crimes are predictable responses to unjust circumstances, then those who benefit from and do not remedy those conditions bear some responsibility for the

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- 15 Austin T. Turk, Introduction to *Criminality and Economic Conditions*, by Willem Bongers, (Bloomington: Indiana University Press, 1969), 14, cited in Jeffrie G. Murphy, “Marxism and Retribution,” *Philosophy & Public Affairs* 2, no. 3 (Spring 1973): 236, <http://www.jstor.org/stable/2264911>.

For further arguments, for example, on how capital punishment acts as an agent in the criminalization of customary practices in favor of capitalist private property: Peter Linebaugh, *The London Hanged: Crime and Civil Society in the Eighteenth Century* (Cambridge: Cambridge University Press, 1992).

- 16 Research shows that poverty, race, and social class heavily influence who faces the death penalty, reflecting broader patterns of social inequality and systemic injustice rather than purely individual culpability. See: Richard M. McGahey, “Dr. Ehrlich’s Magic Bullet: Economic Theory, Econometrics, and the Death Penalty,” *Crime & Delinquency* 26, no. 4 (October 1980): 485–502, <https://doi.org/10.1177/00112878002600403>; Peter Passell, “The Deterrent Effect of the Death Penalty: A Statistical Test,” *Stanford Law Review* 27, no. 6 (November 1975): 61–80, <https://doi.org/10.2307/1228227>; David B. Mustard, “Racial, Ethnic, and Gender Disparities in Sentencing: Evidence from the U.S. Federal Courts,” *The Journal of Law and Economics* 44, no. 1 (April 2001): 285–314, <https://doi.org/10.1086/320276>; William J. Bowers, Glenn L. Pierce, “Arbitrariness and Discrimination under Post-Furman Capital Statutes,” *Crime and Delinquency* 26, no.4 (1980): 563–632, <https://doi.org/10.1177/00112878002600409>.

crimes and thus the criminals cannot be held *wholly* responsible for them in the sense of being legitimately required to pay their full cost.¹⁷

When analyzing the legal practice of the death penalty in Turkey, there are two major reasons to identify other “shareholders of guilt” beyond the perpetrator. First, the capital punishment system actively created or contributed to a normative framework through laws, commutations, and the surrounding discourse. For example, sentence mitigation based on cis-heteronormative patriarchal norms may make certain gendered crimes more tempting or tolerable. Second, more passively, the actors with the power to address certain socio-political, economic, or legal deficiencies – whether consciously or not – failed to do so, exemplified by the inertia in providing incentives to reduce social inequality. This results in a lack of motivation to resist temptation and a reduced fear of punishment for offenders. Saying that others, besides the offender, share responsibility in the context that produces crime does not mean ignoring the fact that perpetrators sometimes commit truly brutal crimes. The issue in this study is not the reality of *wickedness* of the perpetrators but rather the *innocence* of others. Focusing solely on the brutality of crime through the death penalty allows other actors who bear active or passive responsibility in this context to say, “We do not tolerate any monstrosity.” Hypothetically, this is not always about someone stealing bread out of hunger, but about those who are sentenced to death for stealing in a system that legitimizes certain thefts. This shows that those who, in some way, contribute to this “legitimate” system are not held accountable. By portraying these cases as isolated incidents, they conceal the reality that these acts may represent the most extreme manifestations of an “ordinary” spectrum of violence and injustice – patterns that have been directly produced, reproduced, tolerated, or ignored by law over extended periods.

What has been discussed so far also applies to numerous legal and penal norms. Focusing on “others” and neglecting contextual reflection is common in much criminal law literature. The death penalty’s distinguishing feature,

17 Jeffrey H Reiman, “Justice, Civilization, and the Death Penalty: Answering van den Haag,” *Philosophy and Public Affairs* 14, no. 2 (Spring, 1985): footnote 20, 132, <http://www.jstor.org/stable/2265453>; Murphy, “Marxism and Retribution.”

central to this study, is its role as a bodily performance of law that shifts responsibility: it constructs extremely gruesome myths and monsters, placing them center stage as the sole agents responsible for social problems, actually killing them, thereby absolving other social actors of responsibility and agency. As Craig Haney observes, “if violent crime is the product of monstrous offenders, then our only responsibility is to find and eliminate them.”¹⁸

The death penalty is one of the mundane interactions between law and society, as it directly touches and eliminates the body of a condemned individual and “deliver[s] its message through the human body.”¹⁹ The act of carrying out a sentence is the embodiment of the death penalty itself. Executions generate powerful images of state-killing which are consumed, reproduced and circulated by society. Emmanuel Taïeb said that “[e]xecutions are political rituals of violence.”²⁰ This technique of power is performed “following a joint decision made by political and judicial authorities,” and the presence of a spectator is necessary.²¹ “The citizens who attended these kinds of ceremonies were not enlightened, but rather blinded by state propaganda that in fact specifically required their participation for the ceremony’s proper functioning.”²² The execution has historically served “modern” authorities as a means to manifest their ability to repress those who defy their law. And public images of the death penalty have dominated much research on the subject, not only as legal acts but as cultural and political performances that shape and reflect societal values and state authority.²³ However, in practice, public executions were neither the

18 Haney, “The Social Context of Capital Murder,” 558.

19 İpek Yosmaoğlu, *Blood Ties: Religion, Violence, and the Politics of Nationhood in Ottoman Macedonia, 1878–1908* (New York: Cornell University Press, 2013), 226.

20 Emmanuel Taïeb, *Hiding the Guillotine: Public Executions in France, 1870–1939*, trans. Sarah-Louise Raillard foreword by Mitchel P. Roth (Ithaca and London: Cornell University Press, 2020), 2.

21 *Ibid.*

22 *Ibid.* 9.

23 Some notable studies on execution that support this argument: Paul Friedland, *Seeing Justice Done: The Age of Capital Punishment in France* (Oxford: Oxford University Press, 2012); Annulla Linders, “The Execution Spectacle and State Legitimacy: The Changing Nature of the American Execution Audience, 1833–1937,” *Law & Society Review* 36, no. 3 (2002),

norm nor the explicit intent in the case of Turkey. There was no clear legal provision – whether in the criminal code, criminal procedure law, or official circulars (*tamim*) – mandating public or private executions until 1965, Law on Execution of Sentences explicitly required that capital punishment be carried out in private.²⁴ Executions in Turkey have occurred both in public spaces and behind prison walls until 1965. Existing case-studies often focus narrowly on popular culture representations of past public executions, which, while effectively attention-grabbing, offer a limited perspective on the broader socio-political and legal context in which capital punishment operated in Turkey.²⁵

Whether public staged or not, capital punishment is fundamentally a bodily performance of law as a spectacle. It is a spectacle because the death penalty is a striking representation of crime, law, and justice; not merely the act of killing. Execution did not just happen, it was performed through an entire process. Whether on a public or private stage, certain actors and images play a part in it. For instance, in twentieth-century Turkey, the intentional infliction of pain on the body (or “the body in pain” in the Foucauldian sense) was no longer a component of executions. Yet, the law continued to be represented through the spectacle of inscribing itself on the body. According to Article 12 of Türk Ceza Kanunu (TCK, or Turkish Criminal Code) dated 1926, for example, if the individual sentenced to death is convicted of murdering their own mother or father, they were to be taken to the place of execution barefoot, with their head uncovered, and wearing a black shirt rather than a white one.²⁶ Matricide and patricide were capital crimes regulated by Article 450, and this law became clearly visible on the body of the criminal. Whether staged or not, the

<https://doi.org/10.2307/1512164>; Timothy Vance Kaufman-Osborn, *From Noose to Needle: Capital Punishment and the Late Liberal State* (Ann Arbor: The University of Michigan Press, 2005).

24 Article 2 of Law no. 647 issued July 13, 1965 (*Cezaların İnfazı Hakkında Kanun*).

25 Some examples: Kamil Ateşoğulları, *Ölüm Cezası: Bir İnsanlık Suçu* (Belge Yayınları: İstanbul, 2000); Sinan Yıldırım, “Ali Ürkmer’in Sultanahmet Meydan’ında Asılması ve Gazetelerin Tutumu (1939): Halka Açık Olarak gerçekleştirilen Bir İdam,” *Toplumsal Tarih* 91 (July, 2001): 18-22; Ahmet Cevdet Aşkın, “Bir İktidar Gösterisi Olarak Halka Açık İnfazlar,” *Galatasaray Üniversitesi İletişim Dergisi* Special issue 4 (July 2019): 35-48, <https://doi.org/10.16878/gsuilet.542277>.

26 Article 12 of Law no. 765, issued March 1, 1926 (the TCK).

death penalty delivered a specific message about family through this embodied image, which occasionally struck the eyes of the audience but consistently resonated within their minds. In this way, the death penalty operated as a performance of law within a field of power, in the Bourdieusian sense.²⁷ The actors within this fluid relational power field, as Timothy Vance Kaufman-Osborn put it, have unceasingly sought “to secure [their] legitimacy by neatly distinguishing between judge and executioner, between the pronouncement of a death sentence and its actual performance.”²⁸ However, in Turkey, there was one more crucial step between judge and executioner: Parliament.

While the criminal law’s aspect as a performative tool for shifting the blame and the death penalty’s quality as an embodiment of law are distinctive, these phenomena are not unique to Turkey. What sets Turkey apart are the specific actors at the center of this process and the unique ways they enact the death penalty. In Turkey, the execution of a death sentence, even after court finalization, required explicit parliamentary approval – making Turkey’s approach unique, as other countries typically leave the final decision to executive or judicial authorities. This system created two peculiarities: first, it embedded the death penalty within the image of society’s collective responsibility through its representative institutions; second, it centralized responsibility by establishing a circular process where the same body that enacts the death penalty law also decides on its execution after all legal remedies are exhausted. The process that begins in the legislature also ends there. However, despite holding this central and powerful position, members of legislative bodies have predominantly chosen silence and waiting. As discussed later, four-fifths of the death penalty cases before Parliament were decided without a single word spoken.²⁹ Moreover, nearly half of Turkey’s death penalty history involves court-issued sentences that were kept on hold without ever being placed on the

27 Pierre Bourdieu defines the concept of the field of power, which differs from other fields. “It is the space of the relations of force between the different kinds of capital or, more precisely, between the agents who possess a sufficient amount of one of the different kinds of capital to be in a position to dominate the corresponding field.” See Pierre Bourdieu, *Practical Reason: On the Theory of Action* (Stanford: Stanford University Press, 1998), 34.

28 Kaufman-Osborn, *From Noose to Needle*, 5-6.

29 See page 78 and footnote 60 in Chapter 2 for further explanation.

parliamentary agenda.³⁰ In Turkey, alongside shifting blame for systemic violence onto alternative actors and emphasizing individual perpetrators, a significant responsibility shift occurred through depersonalizing accountability by conducting the entire process in a silent loop without any parliamentary debate.

My argument, which I will develop in the following pages of this introduction, is that the death penalty in Turkey served not only as a form of punishment but also as a mechanism that diverted attention from the socio-cultural and political contexts, as well as the legal deficiencies, in which capital crimes arose. My study outlines a series of mechanisms by which capital crimes and their corresponding punishments have obscured these broader contextual issues. Firstly, capital punishment served to distract from systemic social injustices, collective accountability, and institutional deficiencies by dehumanizing or legitimizing those involved – whether as offenders or victims. Notably, Parliament did not consistently define certain individuals as “monsters” through formal legislation or public discourse; rather, it typically avoided such contentious debates and often aimed to suppress the grounds for any confrontation. As a second mechanism, I will examine how the relationship between legal authority and lethal violence is obscured through four principal strategies. These include creating procedural self-perpetuating cycles, suppressing any opposition voices, inducing extensive delays in carrying out executions of those on death-row, and maintaining a state of limbo by not executing sentences. These methods – such as dehumanization of actors, attributing blame to isolated offenders, or quietly preserving the legal framework for capital punishment – did not always operate successfully, especially in politically charged cases. Thirdly, as the visibility of accountable actors and situations increases, I will examine how members of Parliament mask their own roles by positioning themselves as victims of crime, invoking broad and ambiguous identities such as the state, society, or the nation. They further fragment these identities internally, allowing for diverse interpretations of responsibility, which ultimately serve to shift blame onto groups constructed as “enemies” of the state or society.

30 See page 78 and footnote 31 in Chapter 2 for the timeline.

§ 1.1 Navigating the Literature: A Critical Socio-Legal Approach to the Death Penalty

The legislative peculiarity of Turkey's death penalty experience creates a significant gap in the literature, which is addressed by this study. As detailed in Chapter 2, the prevailing literature on capital punishment overwhelmingly focuses on the necessity or abolition of the death penalty – commonly framed as retentionist versus abolitionist, or more broadly, “the pro-con debate.” While this perspective offers valuable insights, it also exemplifies the death penalty's capacity to monopolize attention, one of its most striking features. This dissertation does not claim impartiality but argues that, as long as the death penalty remains in effect, the pro-con debate overshadows other important conversations beyond the moral dimension. To illuminate the often-neglected areas, this study deliberately excludes the capital punishment literature centered on the pro-con discourse.

The literature produced by legal scholars – especially those specializing in criminal law – and human rights activists is extensive, while research beyond strictly legal and moral aspects remains intensely scarce in Turkey. Numerous studies on legal norms, formal rules, and debates on the necessity or inhumanity of capital punishment through international law, criminal codes, case-law, and case-studies can easily be found.³¹ This disciplinary disposition of literature reveals that the primary lens has been the legal dimension of capital punishment. However, the existence of the death penalty extends far beyond

31 For notable works addressing the death penalty in Turkey, which is often framed as a pro-con debate, refer to: Ateşoğulları, *Ölüm Cezası*; Faruk Erem, *Adalet Psikolojisi: Suçlu Psikolojisi, Usul Psikolojisi, Mahpusun Psikolojisi*, (Ankara: Ankara Üniversitesi Hukuk Fakültesi, 1959), Erem, *Ümanist Doktrin Açısından Türk Ceza Hukuku II* (Ankara: Sevinç Matbaası, 1971), Erem, *Bu Sizin İçin Bir Şarkıdır/Bir Ceza Avukatının Anıları* (Ankara: Kültür Bakanlığı Yayınları, 1993); Mehmet Semih Gemalmaz, *Türkiye'de Ölüm Cezası (1920-2000): Zihniyet, İnfazlar, Mevzuat, Yargı ve Siyaset*, I, (İstanbul: Beta Yayınları, 2001), Gemalmaz, *Türkiye'de Ölüm Cezası (1920-2000): İnfaz Kararları/Kanunları ve Meclis Tutanakları*, II (İstanbul: Beta Yayınları, 2001); Reha Öz, *Ben Devletim: Asarım*, (İstanbul: BDS Yayınları, 1989); Bülent Tanör, *Türkiye'nin İnsan Hakları Sorunu*, (BDS Yayınları: İstanbul, 1991).

Also, see footnote 4 in Chapter 2 for selected legal studies presenting both retentionist and abolitionist perspectives on the death penalty.

the penal sphere. Capital punishment constantly serves various purposes which are irrelevant to its primary and alleged purpose of crime controlling.³² While these purposes, of course, are not completely unrelated to criminal law, any legal analysis – particularly within criminal law – that neglects to scrutinize the social reflections remain incomplete from the disciplinary perspective of this study.

Before 2004, when capital punishment laws were still in force, efforts in Turkey predominantly focused on either promoting or opposing abolition. In this climate, marked by intense moral and political divisions, attempts at contextual analysis may have taken a secondary role. However, it has now been twenty-one years since the official abolition of capital punishment in Turkey and forty-one years since the last execution was carried out. At least, after all these years, the phenomenon of the death penalty merits a thorough historical and contextual analysis, comparable to the significant recent interdisciplinary studies across the fields of law, anthropology, sociological studies, and political theory, which have notably advanced understanding in other legal fields within Turkey.³³ But, although the death penalty was abolished, scholarly focus

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- 32 For discussions on capital punishment beyond crime control, refer to the edited book by Austin Sarat and Christian Boulanger that scrutinizes “capital punishment’s embeddedness in discourses and symbolic practices in specific times and places” in different societies: Austin Sarat and Christian Boulanger, eds., *The Cultural Lives of Capital Punishment: Comparative Perspectives (The Cultural Lives of Law)* (Stanford, California: Stanford University Press, 2005).
- 33 For some scholars and studies that have significantly contributed to the interdisciplinary field of law: Julia Eckert, Brian Donahoe, Christian Strümpell, and Zerrin Özlem Biner co-edited *Law Against the State: Ethnographic Forays into Law’s Transformations* (Cambridge University Press, 2012), which examines how ordinary individuals use law as a form of protest against the State. Elif Babül’s recent research explores the intersection of migration management and the legal-juridical field in Turkey, highlighting the complex dynamics at play. Similarly, Deniz Yonucu’s article, “The Absent Present Law: An Ethnographic Study of Legal Violence in Turkey,” published in *Law and Society Review* 27, no. 6 (2024): 123–45, offers an ethnographically grounded analysis of Turkey’s anti-terror law. Additionally, Saygun Gökarıksel and Z. Umut Türem analyze law and politics as co-constitutive domains of power, domination, and resistance in their study on the state of exception in Turkey following the attempted coup d’état, titled “The Banality of Exception?: Law and Politics in ‘Post-Coup’ Turkey,” *South Atlantic Quarterly* 118, no. 1 (2019): 175–87, <https://doi.org/10.1215/00382876-7281684>.

on its punitive nature and human rights issues has not shifted.³⁴ The attention of human rights organizations and the media has been increasingly shaped by debates surrounding the threat to reinstate the death penalty in Turkey.³⁵

Returning to my starting point, if capital punishment functions as a form of “distraction” that diverts attention from the socio-political, economic, and cultural context, and if its sole purpose is not to control crime nor confined to the legal field, then how does it actually operate? Rather than seeking a single new approach that transcends all existing perspectives, the solution appears to lie in employing multiple theories in layers, following a social-historical perspective. I aim to refer to several general theories of criminal punishment, including structural-functionalist, neo-Marxist, post-structuralist, and legalistic perspectives. Scholars such as Stanley Cohen, David Garland, Craig Haney, Paul Q. Hirst, Michael Ignatieff, James B. Jacobs, and Peter Young propose a sociological analytical framework distinct from those used by criminologists and philosophical theorists; they emphasize the social dimensions of punishment.³⁶ For instance, Haney challenges stereotypical portrayals of

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- 34 For several studies conducted from a human rights perspective and/or focusing on the character of punishment following the official abolition: Carolyn Hoyle, “Efforts towards abolition of the death penalty: Challenges and prospects,” *Death Penalty Research Unit Research Papers* 1, (University of Oxford, December 2023); Mete Sefa Uysal, Emir Üzümcüker, and İnci Boyacıoğlu, “Supporting capital punishment for rape offenders as a collective retaliation against honour threat,” *Journal of Community & Applied Social Psychology* 31, no. 1 (January 19, 2021): 354-66, <https://doi.org/10.1002/casp.2505>.
- 35 Especially after the 2016 coup d'état attempt, discussions about reinstating the death penalty were revived by President Recep Tayyip Erdoğan and various political figures. See: “Erdogan says he is ready to back reinstating Turkey's death penalty,” *Reuters*, July 1, 2022; “Turkey coup attempt: Erdogan signals death penalty return,” *BBC News*, July 19, 2016; Human Rights Association, “Death Penalty Cannot Be Brought Back!,” July 18, 2016, <https://ihd.org.tr/en/death-penalty-cannot-be-brought-back/>; The Advocates for Human Rights, “Turkey – Human Rights Council – Death Penalty – July 2019,” Stakeholder Report submitted to the Thirty-fifth Session of the Working Group for the Universal Periodic Review, July 1, 2019; Mara Bizzotto, “Introduction of the death penalty in Turkey: urgent request for the Commission's opinion on the need to break off accession negotiations with Turkey,” Question for written answer E-008831-16 to the European Commission, November 24, 2016.
- 36 Some scholars propose a sociological approach to punishment that draws on a wide range of literature – including criminology, sociology, philosophy, political economy, and even fiction

“natural born killers” by emphasizing that many capital defendants share patterns of early childhood trauma and maltreatment, and that violent behavior is rooted not solely in individual pathology but in broader social and historical contexts.³⁷ I generally follow their social history perspective – which rejects a unidimensional approach to analyzing any social institution.

Although they do not focus exclusively on the death penalty, their broader work on punishment offers valuable insights into how capital punishment operates. These social theories are neither entirely coherent with one another nor mutually exclusive; they can be combined to refine and correct each other.³⁸ Capital punishment is a legal punishment that fully embodies its name. But while punishment theories undoubtedly underpin this study, the death penalty, as an integral component of the rhetoric of death, cannot be reduced to mere punishment. To interrogate “why, and how the symbolic appeal of legalized state killing varies across time and space,” this work examines how capital punishment in Turkey operates as a distractor and responsibility-shifter – transcending its formal role as retributive justice.³⁹ Thus, I draw also on theories of law, performance, the state, and literature of cultural and legal history to analyze how capital punishment fulfills this role.

– to capture the multifaceted nature of punishment: David Garland and Peter Young, *The Power to Punish: Contemporary Penalty and Social Analysis* (London: Gower, 1983); James B. Jacobs, *New Perspectives on Prisons and Imprisonment* (New York: Cornell University Press, 1983); Michael Ignatieff, “State, Civil Society, and Total Institutions: A Critique of Recent Social Histories of Punishment,” in *Crime and Justice: An Annual Review of Research*, vol. 3, ed. Michael Tonry and Norval Morris (Chicago: University of Chicago Press, 1981): 153-192; Paul Q. Hirst, *Law, Socialism and Democracy* (London: Allen & Unwin, 1986); Stanley Cohen, *Visions of Social Control: Crime Punishment and Classification* (Oxford: Polity Press, 1985).

37 Haney, “The Social Context of Capital Murder,” 547–609.

38 David Garland, “Sociological Perspectives on Punishment,” *Crime and Justice: Review of Research* 14, (1991): 152, <https://www.jstor.org/stable/1147460>.

39 Austin Sarat and Christian Boulanger, “Putting Culture into the Picture: Toward a Comparative Analysis of State Killings,” in *The Cultural Lives of Capital Punishment: Comparative Perspectives*, eds. Austin Sarat and Christian Boulanger (Stanford, CA: Stanford University Press, 2005), 16.

For a conceptualization of the term “distraction” in the context of the death penalty, see Sarat, *When the State Kills*, 3-16.

Up to this point, I have broadly aligned with socio-legal studies, notably following Robert W. Gordon's landmark article, *Critical Legal Histories*.⁴⁰ This scholarship emphasizes the culturally embedded nature of law – in our case, the death penalty – a perspective that has gained increasing traction in the United States and Europe, particularly since the late 1980s.⁴¹ Garland contends that punishment, as a social institution, does more than merely mirror the society and culture in which it is embedded; it actively shapes them. Penal practices and society mutually create and recreate the mentalities and sensibilities surrounding societal behavior guiding crime and punishment. Building on Garland's insights, many other influential scholars – such as Austin Sarat, Benjamin Steiner, Jonathan Simon, Malcolm M. Feeley, Paul Schiff Berman, and William Bowers – have highlighted that punishment should not be viewed simply as a legally authorized reaction, limited in the legal institutions and actors.⁴² Rather, it is embedded in everyday practices and circulating as “cultural artefact.”⁴³

I agree with this perspective. Yes, the death penalty transcends legal institutions and official texts. However, these very institutions also live through

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- 40 Robert W. Gordon, “Critical Legal Histories,” *Stanford Law Review* 36, no. 1 (1984): 57–125, <https://doi.org/10.2307/1228681>.
- 41 For illustrative examples, see: Anthony Chase, “Toward a Legal Theory of Popular Culture,” *Wisconsin Law Review* (1986): 527–69, <https://repository.law.wisc.edu/s/uwlaw/item/27181>; Stewart Macaulay, “Images of Law in Everyday Life: The Lessons of School, Entertainment, and Spectator Sports,” *Law & Society Review* 21, no. 2 (1987): 185–218, <https://doi.org/10.2307/1228837>; Patricia Ewick and Susan S. Silbey, *The Common Place of Law: Stories from Everyday Life*, (Chicago: University of Chicago Press, 1998); Susan S. Silbey, “Making a Place for a Cultural Analysis of Law: [Commentary],” *Law and Social Inquiry* 17 (1992): 41, <http://www.jstor.org/stable/828638>.
- 42 Malcolm M. Feeley and Jonathan Simon, “The New Penology: Notes on the Emerging Strategy of Corrections and Its Implications,” *Criminology* 30, no. 4 (November 1992): 449–474, <http://scholarship.law.berkeley.edu/facpubs/718>; Benjamin Steiner, William Bowers, and Austin Sarat, “Folk Knowledge as Legal Action: Death Penalty Judgments and the Tenet of Early Release in a Culture of Mistrust and Punitiveness,” *Law and Society Review* 33, no. 2 (1999): 461–508, <https://doi.org/10.2307/3115171>; Paul Schiff Berman, “The Cultural Life of Capital Punishment: Surveying the Benefits of a Cultural Analysis of Law,” *Columbia Law Review* 102, no. 4 (May 2002): 1129–1177, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=313664.
- 43 Garland, *Punishment and Modern Society*, 193.

everyday practices. For example, it is true that analyzing the death penalty solely through the lens of the penal code is insufficient; understanding how the law operates within society is equally important. Yet, it is crucial to recognize that the legislature itself is an integral part of that society, and does not always act as a direct reflection of the legal norms it produces. In the Parliament of Turkey, for instance, a legislator might candidly admit, “Let me just say that I am not that much of *kanuncu* [a Turkish term meaning both ‘legalist’ and ‘law-maker’ in a direct translation],” when advocating for clemency for someone sentenced to death under the very laws they helped enact.⁴⁴ I think that, in contexts like Turkey, excluding legislative or judicial actors – who play a crucial and active role in the practice of the death penalty – with the intention of focusing solely on society risks reinforcing the ambiguous divide between society and the state. Therefore, I have deliberately chosen to place the legislation of the Republic at the heart of this study. This institution holds a peculiar and pivotal position, serving as both a site of legal authority and a stage where the complex dynamics between regime, society, and capital punishment are performed and contested.

Secondly, capital punishment is not merely a form of state-killing; it is distinguished by its character as a law-abiding form of violence. And given that law and society mutually shape one another, how do we distinguish between the two? This question aligns with recent developments in socio-legal studies, which critically examine the ambivalent relationship with the concept of the “legal,” though not specifically focused on capital punishment itself.⁴⁵ Emilie Cloatre and colleagues caution that socio-legal scholarship may oversimplify legal consciousness by focusing only on human actors or on spaces “outside” formal legal boundaries.⁴⁶ Cloatre calls for “a more careful attention to the ways in which legal technicalities and the ‘law within’ matter to the constitution of the social (it being understood here as inherently constitutive of and

44 Dr. Saim Ali Dilemre (Konya), *TBMM Zabıt Ceridesi*, D.7, C.2, İ.F, İn.24, May 17, 1943, 100.

45 For instance, David Cowan and Daniel Wincott, eds., *Exploring the “Legal” in Socio-Legal Studies* (London: Macmillan Publishers Limited, 2016).

46 Emilie Cloatre, Dave Cowan, Ole Hammerslev, and Stine Piilgaard Porner Nielsen, “The Object(s) of Legality,” *Journal of Law and Society* 51, no. 1 (December 16, 2024): 30–44, <https://doi.org/10.1111/jols.12513>.

constituted by legal interactions, rather than as a distinct space).⁴⁷ Briefly, legal history should also examine how “law differentiates itself.”⁴⁸ Given that capital punishment is a form of law, this dissertation aligns with the current critical socio-legal perspective and an alternative version of critical legal history through the legislative space within which the death penalty operates in Turkey.

Briefly, this study addresses a threefold literature gap. Critical legal history proposes that punishment extends beyond formal law, embedded in everyday practices and social relations. However, this view can overlook the significant overlap between legal and social spaces, which often converge. While alternative approaches in legal history and critical socio-legal studies emphasize legal space, none have specifically analyzed Turkey’s death penalty. In Turkey, legal scholars tend to adopt a narrow legalistic lens, while human rights activists approach the issue morally, often without sufficient contextualization. I argue that the Parliament of Turkey occupies a crucial intersection of these gaps: it functions as a socially embedded institution engaging with capital punishment beyond legal and moral domains (as in discussed critical socio-legal studies); it acts as the lawmaker (as in legal studies); and it serves as the ultimate decision-maker reflecting “society’s conscience” (as in studies on retention and abolition of the death penalty).

Focusing on Turkey, where Parliament both enacts capital punishment laws and approves executions, it shows how legislative performance depersonalizes responsibility by shifting blame onto “others” while obscuring systemic violence. This occurs in three key ways: First, laws and parliamentary debates over-individualize crimes, ignoring social norms that drive brutality, creating “demons deserved to die,” dividing society into victims and villains, and

47 Emilie Cloatre, “Fluid Legal Labels and the Circulation of Socio-Technical Objects: The Multiple Lives of ‘Fake’ Medicines” in *Exploring the ‘Legal’ in Socio-Legal Studies*, eds. David Cowan and Daniel Wincott, (London: Macmillan Publishers Limited, 2016), 97.

48 Deborah Dinner, “A Provocative Journey through the Arcades of Legal History,” *JOTWELL*, November 6, 2017, reviewing Christopher Tomlins, “Historicism and Materiality in *Legal Theory*,” in *Law in Theory and History: New Essays on a Neglected Dialogue*, eds. Maksymilian Del Mar and Michael Lobban (Oxford: Hart Publishing, 2016), <https://legalhist.jotwell.com/a-provocative-journey-through-the-arcades-of-legal-history/>.

allowing various responsible actors to evade accountability (Chapter 3).⁴⁹ Second, legislators remain invisible to avoid responsibility, blurring the link between law and killing by camouflaging how the death penalty system operates – creating a cyclical, silent, or inactive process that masks who holds the “right of death” (Chapter 4).⁵⁰ Third, the system conceals legal flaws and the arbitrariness of those in power, framing the death penalty as a lawful form of collective revenge of “the state” and “society,” defined to suit the ruling actors, excluding large parts of the population despite claims of inclusivity (Chapter 5). I believe these arguments help illuminate how parliamentary rhetoric surrounding the death penalty obscures the constellation of socio-political factors behind crime and avoided confronting the deeper question of why crimes deemed “capital” arise in the first place.

§ 1.2 Framing the Inquiry: Sources, Archival Challenges, and Research Methods

The death penalty is more than a legal, ethical, or political puzzle; it is a social practice that requires new analytical approaches. Rather than using new sources, this study re-examines existing primary sources used in earlier studies, exploring overlooked questions and new lines of inquiry. By revisiting them through a critical social-historical lens, I aim to uncover how capital punishment functioned not only as a legal sanction but also as a performative social practice embedded within broader parliamentary narratives surrounding law and court verdicts, contrasting with prior research that often de-socializes the issue. Specifically, I concentrate on legislative narrative and acts in texts such as parliamentary minutes (*Zabıt Ceridesi/Meclis Tutanağı*), the

49 Haney, “The Social Context of Capital Murder,” 548.

50 I employ the term “right of death” in a Foucauldian sense: “[T]he right of life and death is a dissymmetrical one. The sovereign exercised his right of life only by exercising his right to kill, or by refraining from killing; he evidenced his power over life only through the death he was capable of requiring.... This death that was based on the right of the sovereign is now manifested as simply the reverse of the right of the social body to ensure, maintain, or develop its life.” See: Michel Foucault, *The History of Sexuality, Volume I :An Introduction* (New York: Pantheon Books, 1978), 136.

Justice Commission Reports (*Adliye Encümeni Mazbatası/Adalet Komisyonu Raporu*), and related documents. Although their general titles were as stated, I took into account all minutes of the parliamentary commissions and legislative bodies that maintained the same function despite changes in their names and structures during military regimes and transitional periods.⁵¹

In these documents, I have sought to trace discussions on the death penalty across various legal and parliamentary texts, including the



51 The title and composition of parliamentary commissions have changed over time or due to political influences. For instance, the Commission of Justice (*Adliye Encümeni*, or *Adalet Komisyonu* in Turkishised version) was reconstituted as the Commission of Social Affairs (*Sosyal İşler Komisyonu*) during the military rule of Constituent Assembly (*Kurucu Meclis*) in 1961. Starting with the first parliamentary season of the bicameral system in Turkey in 1962, this Commission was renamed as the Commission of Constitution and Justice (*Anayasa ve Adalet Komisyonu*). And it was duplicated to work separately under the National Assembly (*Millet Meclisi*) and the Senate of the Republic (*Cumhuriyet Senatosu*). However, this system was suspended by the coup d'état of 1980. Between 1980 and 1982, the Expertise Commission of Milli Güvenlik Konseyi (MGK, or National Security Council) (*MGK İhtisas Komisyonu*) reviewed the death penalty dossiers under the military regime (the MGK). From 1982 to 1983, the Advisory Assembly (*Danışma Meclisi*) worked alongside the MGK, and both groups had their own Commission of Justice. Following the enactment of the Constitution of 1983, the Commission of Justice was re-established and continued its work until the abolition of capital punishment in Turkey.

Constitutions,⁵² the Turkish Criminal Code⁵³ and the Military Criminal Code,⁵⁴ amendments to provisions of these laws that impose the death

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- 52 Law no.491, dated April 20, 1924 (Constitution of 1924), Law no.334, dated July 9, 1961 (Constitution of 1961), Law no.2709, dated October 18, 1982 (Constitution of 1982).

To recall, although the authority to impose the death penalty resided in the Parliament from the first Assembly on April 23, 1920 until the abolition of capital punishment on May 7, 2004 (Law no.5170), the 1921 Constitution (Law no.85, dated January 20, 1921-*Teşkilât-ı Esâsiye Kanunu*) did not explicitly include such a provision.

- 53 Law no. 765, issued March 1, 1926 (the TCK).

Article 12 of the TCK defined the death penalty as “the execution of the convict by hanging.” This penalty was prescribed for crimes regulated in various chapters of the Penal Code, including:

General provisions: Articles 70, 82. Crimes against the international legal personality of the state (*Devletin arsiulusal şahsiyetine karşı cürümler*): Articles 125, 126, 127, 128, 129, 131, 132, 133, 135, 136, 137, 138, 140, and 141. Crimes against the state powers (*Devlet kuvvetleri aleyhine cürümler*): Articles 146, 147, 149, 152, and 156. Other chapters: Crimes related to judicial authorities: Articles 217, 285, 286, and 290; provisions related to narcotic substances: Articles 403, 406, 407, and 408; sexual assault: Article 418; abduction by force: Article 439; murder: Article 450; abduction for political and social purposes: Article 499.

- 54 Law no.1632, issued May 22, 1930 (Military Criminal Code, Askeri Ceza Kanunu, AsCK).

Article 12 of the AsCK defined the death penalty as “the elimination of the life of the person sentenced.” Capital punishment was directly prescribed for crimes listed in Articles 55, 56, 59, 60, 62, 63, 64, 69, 70, 75, 79, 80, 89, 91, 94, 97, 101, 102, 126, 127, 136, 159, 160, as well as in Additional Articles 4 and 5.

The Articles of the AsCK, which include the death penalty with reference to the TCK, were as follows: Article 54, 148, 152.

penalty,⁵⁵ other laws containing the death penalty,⁵⁶ laws on criminal execution,⁵⁷ parliamentary by-laws,⁵⁸ some prominent legislative amendment

55 The TCK dated 1926 underwent ten revisions related with capital punishment: Law no.2275, issued June 8, 1933; Law no.3038, issued June 11, 1936; Law no.5844, issued December 3, 1951; Law no.6123, issued June 9, 1953; Law no.15, issued June 6, 1960; Law no.1490, issued September 28, 1971; Law no.2370, issued January 7, 1981; Law no.3679, issued November 21, 1990, Law no.4723, issued December 6, 2001; and Law no.5252 issued November 4, 2004.

The AsCK dated 1930 was revised by Law no.3823, issued May 13, 1940; Law no.3914, issued August 21, 1940; Law no.4257, issued June 15, 1942; Law no.4277, issued August 3, 1942, Law no.7331, issued June 8, 1959.

56 Article 1, 2 and 3 of Law no.2, issued April 29, 1920 (*Hıyanet-i Vataniye Kanunu*-Law of Treason), Law no.21 issued September 11, 1920 (*Firariler Hakkında Kanun*-Law for the Fugitives). There is no explicit article in this law referring to the death penalty, but it paves the way for the institutionalization of the courts of independence, which will issue many execution decisions), Article 30 of Law no.1918, issued January 7, 1932 (*Kaçakçılığın Men ve Takibine Dair Kanun*-Law for Prohibition and Prosecution of Smuggling), Article 24 and 27 of Law no.2313, issued June 12, 1933 (*Uyuşturucu Maddelerin Murakabesi Hakkında Kanun*-Law for the Inspection of Narcotic Drugs. The articles of the Criminal Code to which this law refers started to include the death penalty after the 1953 amendment), Article 57 of Law no.378, issued January 18, 1940 (*Milli Korunma Kanunu*-National Protection Law. The 1944 amendment added the death penalty.), Article 4 of Law no.62, issued August 18, 1960 (*İnkılap Mahkemeleri Hakkında Kanun*, Law for Revolution Courts), Article 23 of Law no.3713, issued April 12, 1991 (*Terörle Mücadele Kanunu*-Law on Fight Against Terrorism), and Article 4 of the revision of the law no.4141, July 4, 1995 (Forest Law – *Orman Kanunu*).

57 Law no.1412, issued April 4, 1926 (*Ceza Muhakemeleri Usulü Kanunu*), Law no.647, issued July 13, 1965 (*Cezaların İnfazı Hakkında Kanun*).

58 In the 1927 By-Law of the TBMM (*Türkiye Büyük Millet Meclisi Dâhili Nizamnamesi*), the Rules of Procedure of the MBK, the Rules of Procedure of the Chamber of Deputies (*Temsilciler Meclisi*), the Rules of Procedure of the Constituent Assembly formed by the merger of the MBK and the Chamber of Deputies, the Rules of Procedure of the Senate of the Republican, and the Rules of Procedure of the Joint Sessions of the TBMM, there are no provisions related to the death penalty.

Regulations concerning the execution of death sentences were first included in the Article 90 of 1973 By-law of the National Assembly. Article 90, whose content remained unchanged, was included as Article 92 in the new By-law by Decision no.424, dated May 16, 1996.

proposals,⁵⁹ amnesty laws,⁶⁰ and most importantly, debates on individual death penalty cases placed on the parliamentary agenda.⁶¹ These established sources provide insight into how capital punishment has been legislated, debated, and applied in Turkey over time, reflecting both legal frameworks and the political and social contexts surrounding each case.

I scrutinize parliamentary discussions related to these documents occurring on various occasions, including the adoption, amendment, or abrogation of criminal law; decree/law-making sessions concerning individual capital punishment cases; and the promulgation of laws granting a pardon. Additionally, I review reports of parliamentary commissions on related matters (such as the Justice Commission), as well as resolutions of ministries or other relevant secretariats (such as the Ministry of Defense), which vary depending on whether a military or civilian regime is in power, or whether the legislature is bicameral or unicameral during a given period. Between 1926 and 1984, when the last individual death penalty file was heard, Parliament reviewed 659 dossiers concerning 707 death row inmates.⁶² Of the 707 death-row inmates

59 The criminal law drafts for the TCK proposed in 1940, 1958, 1987, 1989, and 1997 were not accepted by the TBMM. However, I found it important to examine these drafts for their intentions and the narratives they present.

60 General amnesty laws that include offenses punishable by the death penalty from 1926 to 2004: Law no.5677, enacted July 14, 1950; Law no.780, enacted August 3, 1966; Law no.1803, enacted May 15, 1974; Law no.3267, enacted March 11, 1986; Law no.3713, enacted April 12, 1991; Law no.4616, issued December 22, 2000.

61 From the first case brought before the Parliament after the enactment of the new Turkish Penal Code in 1926 (*TBMM Zabıt Ceridesi*, D2, C.25, Y.3, İ.94, dated May 3, 1926) to the last individual case discussed and returned by the Parliament (*TBMM Tutanak Dergisi*, D.17, C.7, Y.2, B.6, October 2, 1984).

62 Some dossiers were counted multiple times due to being prepared more than once – for example, twice under the bicameral system during civilian or military regimes or after revisions by parliamentary commissions. On the other hand, the number of persons was counted only once, regardless of how many parliamentary sessions or assemblies their cases were discussed in. Dossiers of individuals granted general amnesty under laws from 1923, 1950, 1966, and 1974 are excluded from the 659 count. Including those granted general amnesty and whose dossiers were repealed from Parliament, the total number of individuals whose dossiers reached Parliament was 813; however, these were not discussed individually and thus are not included in the 707 figure. Furthermore, these numbers represent only a portion of all dossiers submitted to Parliament, limited to those placed on the Parliamentary agenda.

whose files were placed on the parliamentary agenda, 620 were sentenced to death under Article 450 of the TCK dated 1926, which defines capital murder, officially categorized as “crimes against persons,” either explicitly stated or understood from the offense definition. All crimes against persons involved capital murder, mostly related to theft, interpersonal disputes, and sexual assault. However, since the legal provisions defining offences are not always specified, and some cases involve multiple offences, providing an exact figure would be misleading. The remaining eighty-five individuals were convicted of crimes classified as “crimes against the state” under the TCK dated 1926 or Askeri Ceza Kanunu (AsCK, or Military Criminal Code) dated 1930. For two convicts, neither the specific article nor its explanation could be found in the archives. Additionally, fifteen politically motivated capital murder cases, officially classified as “crimes against persons,” are treated as “political crimes” in this study (which will be further discussed in Chapter 5), increasing that category from eighty-five to one hundred. Briefly, my primary source of analysis is the parliamentary database, specifically the parliamentary minutes. The documents attached at the end of these minutes, along with the discussions about them, represent the final stage of any capital punishment decree or law before its promulgation.

From the entry into force of the TCK dated 1926 until the last individual death penalty case discussed in Parliament in 1984, all individual death penalty files that were not covered by general amnesty laws and were presented on the parliamentary agenda can be accessed in Appendix C. It should be noted that the information in these files generally reflects officially recorded data. However, as will be discussed later, the legally defined forms of crime and criminal motivation do not always correspond precisely to those examined in this dissertation. For instance, crimes categorized broadly under the legal term “capital murder” may encompass diverse elements ranging from sexual assault to political animosity. This framing recognizes the official legal definitions and acknowledges thematic variations discussed in the research, providing a nuanced approach to the understanding of capital offenses under the 1926 TCK.

The presence, content, or absence of debate surrounding the death penalty serves to elucidate its function as a social phenomenon. While there must have been more discussions before these dossiers reached the parliamentary

agenda, these earlier archival sources are only partially accessible. This issue stems from both limited access to archives and the fact that there was no official requirement to keep records. For instance, a parliamentary sitting in 1951 shows that there was no formal rule obliging parliamentary committees to keep minutes of their meetings.⁶³ As a result, many committee discussions from that time were not officially documented. Due to these and other insufficiencies, it cannot be argued that the parliamentary minutes alone offer a complete picture. Nevertheless, they are consistent and reflect major aspects of the legislative process. They reveal what was discussed, which information was included in or excluded from the documents and debates, how crime, punishment, and justice were reframed, and how – or whether – capital punishment has operated beyond its strictly legal dimension even within this legal space.

The interpretation of the entire body of parliamentary minutes is the most challenging part of this study. I have reviewed over a thousand parliamentary records related to death penalty inmates and examined approximately two thousand records concerning capital punishment laws – including amnesty laws – covering the period from 1926 to 2004. To scrutinize debates surrounding the adoption, amendment, or abrogation of criminal laws, I also reviewed periodicals such as *Yargıtay Dergisi*, *Adalet Dergisi*, and the Resmi Gazete (RG, or the Official Gazette). Briefly, civil and military parliamentary documents are the primary archival sources for this study. The parliamentary archives concerning the death penalty have already been examined by various legal scholars. Canonical criminal law books contain a significant amount of factual data – such as the age range of inmates, the relevant legal articles, and the distribution of parliamentary votes – which are often used to analyze the relationship between the dependent variable (capital punishment) and independent variables like regime type, crime rates, demographic indicators, gender or

63 “Since no official minutes were kept in the commission, I was taking notes in my own handwriting, which would be used as a basis for the preparation of the commission report in the future.” cited from Müfit Erkuyumcu (Balıkesir), *TBMM Tutanak Dergisi*, D.9, C.10, T.2, B.6, November 19, 1951, 125.

age of actors, public opinion, and socio-economic factors.⁶⁴ However, those demographic, socio-economic, legal, or political data are not my primary inquiry. While such data can be valuable, my study centers on the effects shaped by these factors rather than the data themselves. For example, rather than simply counting the number of female perpetrators, as previous studies have done, I analyze how the gender of perpetrators is discussed in specific contexts, what effects are produced by the category of gender, and how discussions of the death penalty in turn shape gendered understandings, emphasizing the socio-political dimensions of punishment.

I find Walter Benjamin's philosophy of history – that prioritizes “constellations” – particularly useful when studying the archive of death sentences in Turkey.⁶⁵ While researches focused on the abolition of the death penalty, or its hoped-for abolition, or contemporary debates about its possible reinstatement are undoubtedly important, a different constellation is possible. During the period covered in this study, most legal documents containing death sentences – including those related to the drafting of the new criminal code – were issued in silence. From the regime's first criminal code until the last individual case was reviewed, nearly %80.6 of death row inmates and 77.5% of their dossiers brought before the parliamentary agenda were resolved – either through approval of execution or commutation – without any discussion. Moreover, for almost half of the period between 1926 and the official abolition of the

64 Although Gemalmaz's work provides the most comprehensive data on capital punishment in Turkey, a similar tendency can also be observed in the studies cited in footnotes 31 in this Chapter and footnote 4 in the Chapter 2.

65 “[C]onstellation makes of history a work of imagination undertaken now: constellation represents phenomena of the past conjoined with the present as a single image, just as stars form the outline of a figure (a constellation). But the figure is imaginable as such only at one standpoint, is dependent for its existence as an image upon the view from that standpoint, which is the standpoint of now. Constellation hence ... underscores that history is not the observation of ‘once upon a time’ in a world of which we are not part, or a reflection upon the past as ‘a distant mirror’ of the present, but a conjunction of past and present that occurs now.” This representation of the constellation is taken from Kapczynski, “The Redemptive Constitution,” 1050, 1065–6, cited by Christopher Tomlins, “The Strait Gate: The Past, History, and Legal Scholarship,” *Law, Culture and the Humanities* 4 (2009): 19, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2034512.

death penalty in 2004 (thirty-five out of seventy-eight years), individual death sentence cases were never even submitted to the parliamentary agenda, leaving the condemned in a state of uncertainty. However, this pervasive silence, rather than being insignificant, reveals much about the death penalty. The following chapters aim to unravel this picture by spotlighting the rare parliamentary voice that exceptionally emerges during the prevailing silence characterizing the process – a moment Benjamin calls “memory as it flashes up at a moment of danger.”⁶⁶ I will explore the occasions when this silence was shattered, revealing debates over the “monstrosity” of the crime, the unsettling “normality” of those involved, the shifting blame onto “others,” and the contested roles, duties, and rights of Parliament. Crucially, I will show how this powerful rupture, though speaking volumes, was swiftly silenced once again.

Critical legal history participates in the wider movement over the past thirty-years within qualitative social sciences and humanities that emphasizes complexity. As Christopher Tomlins observes, “The results of this contextualizing or relational approach have been empirically rich but are inevitably marked by an abandonment of authoritative causal explanation (metatheory) for thick description.”⁶⁷ He proposes an alternative to critical legal history which is “parsing of relations between law and what is extrinsic to it, by exploring the explanatory potential of allegory, by which what are imagined as distinct become the same.”⁶⁸ I must admit that I discovered this methodology focusing on allegory after beginning my writing. I had already employed numerous allegories and references to mythology due to my personal interests. Yet, I gladly embrace this approach, as it aligns well with my broader methodological preferences. Throughout the following chapters, I will revisit certain images – from monsters to the mythical *Ouroboros*, and from the very modern

66 “To articulate the past historically does not mean to recognize it ‘the way it really was’ (Ranke). It means to seize hold of a memory as it flashes up at a moment of danger. Historical materialism wishes to retain that image of the past which unexpectedly appears to man singled out by history at a moment of danger. The danger affects both the content of the tradition and its receivers.” Walter Benjamin, “Theses on the Philosophy of History,” in *Illuminations: Essays and Reflections*, trans. Harry Zohn, (New York: Schocken, 1999), 255.

67 Christopher Tomlins, “After Critical Legal History: Scope, Scale, Structure,” *Annual Review of Law and Social Science* 8 (2012): 31, <https://doi.org/10.1146/annurev-lawsocsci-102811-173811>.

68 *Ibid.*

abstraction of the state to the souls in Dantesque Limbo – using them as lenses to explore the complex relations within the death penalty law and social context.

§ 1.3 Defining Periodization and Research Organization

Although it is impossible not to refer to periods before and after, I have chosen to begin the main body of this study in 1926 and conclude it in 1990. Since its establishment in 1920, the Parliament has been one of the institutions with the broadest authority over the death penalty. However, this Foucauldian “right of death” had no constitutional basis until the 1924 Constitution.⁶⁹ Yet, I chose to start the study in 1926, two years after 1924, because although 1924 is recognized as the year marking the abolition of shari’a jurisprudence, the first penal code of the Republican regime officially came into effect on this date.⁷⁰ Although the Ottoman legacy endures to some degree within the criminal codes and legislative discourse, within the scope of this study – which focuses on the peculiarities of the parliamentary context – the influence of the past criminal jurisprudence established prior 1926 is not unimportant but remains minimal. The overall “responsibility-shifter,” blurry, and often secretive performance of capital punishment under the Republican regime stood in stark contrast to the absolute, omnipotent, and unmistakably loud and clear exercise of power by the Sultan, as will be further examined.

Since 1926, the TCK has defined the authority of Parliament while also specifying a range of capital crimes within its provisions.⁷¹ Although this criminal code was amended ten times concerning the death penalty, it remained in

69 Article 26 of the Constitution of 1924: “The Grand National Assembly itself ... executes definitive sentences of capital punishment handed down by the courts.”

70 The TCK (Law No. 765 issued on March 1, 1926) abolished the prior Ottoman criminal law, known as the 1858 Imperial Penal Code (1274/1858 *Ceza Kanunname-i Hümayûnû*). This made the 1926 Criminal Code the first penal code of the new Republic.

71 Article 12 of the TCK dated 1926 and also see footnote 52.

force until 2004.⁷² Capital punishment was abolished for all crimes in Turkey, whether committed in wartime or peacetime, in 2004.⁷³ However, the scope of this study neither extends fully to 2004 nor strictly ends in 1984, as is often emphasized in the literature. The prevailing pattern in the literature, which identifies the final death penalty case debated in Parliament and the last execution as dating to 1984, effectively marks the closure of Turkey's death penalty era at that point, paving the way toward its "inevitable" abolition.⁷⁴ Nonetheless, the death penalty remained legally codified for an additional two decades. The lack of executions during this time should not diminish the significance of the sentence itself or the continued practice of courts issuing death penalties. From the perspective of the condemned prisoners, there was little practical difference compared to the preceding semi-moratorium years; they endured years of uncertainty, never knowing if their fate would be death or mercy. However, the broader societal implications were markedly different.

In my view, it is not 1984 but the 1990 law – which converted the penalties for fifteen crimes previously punishable by death into life imprisonment –

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- 72 In different periods, the TCK dated 1926 included thirty-three different articles – some of which were later abrogated – that prescribed capital punishment for various crimes. It underwent revisions related to capital punishment in the following years: 1933, 1936, 1951, 1953, 1971, 1981, 1990, 2001, and 2004. See footnote 55.
- 73 Capital punishment in Turkey was abolished for all offenses, whether committed during wartime or peacetime, by Law no.5170, issued on May 7, 2004. This law followed Law no. 4771 of 2002, which had abolished the death penalty solely for peacetime offenses. Subsequently, Law no. 5218 introduced the new TCK on July 14, 2004. In addition to domestic legal reforms, Turkey ratified Protocol no. 13 to the European Convention on Human Rights in 2006. (Protocol 13, Article 1: Abolition of the death penalty: "The death penalty shall be abolished. No one shall be condemned to such penalty or executed.")
- 74 For examples that demonstrate this straightforward tendency, see: Norair Khachatryan, "Crime and Punishment in Turkey," in *Encyclopedia of Crime and Punishment*, First Edition, ed. Wesley G. Jennings (Malden, MA: John Wiley & Sons, Inc., 2016); Mariam Azhar, "Power, Religion, and Capital Punishment: A Comparative Analysis Between Abolitionist Turkey & Retentionist Iran," *Cornell International Affairs Review* 7, no. 1 (2013): 1, <http://www.inquiriesjournal.com/a?id=1487>; Abdurrahman Terzi, *Türkiye Büyük Millet Meclisi'nin Ölüm Cezalarının Yerine Getirilmesine Karar Verme Yetkisi: Tarihsel Süreç, Belgeler ve Tartışmalar*, Legislative Expertise diss. (Yasama Uzmanlığı Tezi), TBMM Genel Sekreterliği Kanunlar ve Kararlar Başkanlığı, Ankara, 2014.

along with subsequent developments, that presents a convincing narrative of a “road to abolition.”⁷⁵ This understanding is closely aligned with international interpretations. For instance, the United Nations (UN) described Turkey as a de facto abolitionist country in 1998, referring to the legal developments of the 1990s.⁷⁶ While it is true that the provisions of the removed articles had rarely or never been applied, and thus did not cause a practical change, this marked the first time in Turkey’s history that the number of capital punishment provisions was reduced.⁷⁷ As will be discussed in the final chapter, there is no single, definitive road to abolition following the moratoriums or the de-publicization of executions. Rather, it is more like “the multifaceted trajectory.”⁷⁸ For instance, in twentieth century France, “death penalty abolitionists had rejected numerous legislative attempts to move executions behind prison walls, fearing that if the guillotine were removed from public view there would be ‘little motivation to abolish it.’”⁷⁹ Referring to its invisibility, Friedland argued that “these non-public executions would be nearly indistinguishable from life sentences of imprisonment, both of which had the effect of making criminals disappear behind closed doors.”⁸⁰ Friedland’s argument is partially valid with regard to Turkey. However, Turkey’s death sentences resembled life

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- 75 Law no.3679, issued November 21, 1990.
Referring to the definition of Ogletree and Sarat, Charles J. Ogletree Jr. and Austin Sarat, eds., *The Road to Abolition?: The Future of Capital Punishment in the United States* (New York: NYU Press, 2009).
- 76 Status of the International Covenants on Human Rights, Question of the death penalty, Report of the Secretary-General submitted pursuant to Commission resolution 1997/12, U.N. Doc. E/CN.4/1998/82 (January 16, 1998).
- 77 The amendments to the TCK dated 1926 in 1936, 1951, 1953, and 1971 increased the number of articles prescribing the death penalty to 21, 22, 27, and 28 respectively, and the 1990 amendment reduced this number to 13.
- 78 Austin Sarat and Jürgen Martschukat, “Introduction: Transatlantic Perspectives on Capital Punishment: National Identity, the Death Penalty, and the Prospects for Abolition,” in *Is the Death Penalty Dying?: European and American Perspectives*, Sarat and Martschukat, eds. (Cambridge: Cambridge University Press, 2011), 1-14.
- 79 Mitchel P. Roth, “Foreword,” in *Hiding the Guillotine: Public Executions in France, 1870–1939*, by Emmanuel Taïeb, trans. Sarah-Louise Raillard (Ithaca, NY: Cornell University Press, 2020), xiii.
- 80 Friedland, *Seeing Justice Done*, 278.

imprisonment not only because the public display of executions was prohibited by law since 1965, but also because they had never been executed since 1984.⁸¹

Following the relocation and suspension of executions, along with legal reforms in the 1990s – such as amnesty laws, constitutional amendments, and new criminal codes – that weakened both the legal basis for and the implementation of death sentences, it is likely that a large portion of society remained unaware whether death sentences were still being carried out in prisons or had ceased entirely.⁸² During the years I spent writing my dissertation, I found that many people I encountered – even some of the most dedicated human rights activists – were unaware that the death penalty remained in force until as recently as twenty-one years ago, within their own lifetimes. This observation supports the conclusion that the death penalty's presence was not widely recognized after a certain point. Even the capital trial of Abdullah Öcalan in 1999, one of the most well-known death-row prisoners in Turkey's history, appears to have remained in the public consciousness as an exception – a symbolic threat without actual enforcement of sanctions. I conclude the main body of this study in 1990 not because the last execution occurred then, but due to the rise of a new form of abolitionism emerging around 1989-90.⁸³ The period aimed at retaining the death penalty in law, whether or not it was actually enforced, was dismantled gradually and unevenly rather than abruptly. It should be noted, as I will elaborate in the final chapter, that both the presence and ghost of the death penalty continue to function as forms of social

81 Article 2 of Law no. 647, issued July 13, 1965.

82 Chronological lists of legal reforms in this area: Amendment Law no. 3679, issued September 21, 1990; Law no. 3713, issued April 12, 1991; Amnesty Law no.4616, issued December 22, 2000; Constitutional Amendment Law no.4709, issued October 3, 2001; Amendment Law no. 4771, issued August 9, 2002; Constitutional Amendment Law no.5170, issued May 7, 2004; Amendment Law no.5218, issued July 17, 2004.

It is crucial to acknowledge the small but significant segment of society actively engaged in abolitionist campaigns against the death penalty in Turkey. For some prominent campaigns of human rights activists, lawyers, and journalists: Gökçer Tahincioğlu, *Çünkü Umurumuzda: 11 Sivil Toplum Başarısı* (İstanbul: Hakikat, Adalet ve Hafıza Çalışmaları Derneği Yayınları, 2022).

83 Legislative proposal for the amendment of the TCK, dated September 18, 1989. *TBMM Tutanak Dergisi*, D.18, C.51, Y.4, B.33, dated November 14, 1990.

performance. However, this study primarily focuses on its *presence* – as a distractor, as a responsibility-shifter.

Every individual death penalty case brought before the Parliament during this period falls within the scope of this research. However, it should be noted that there are cases which, although appearing in “the incoming and outgoing papers” section of the parliamentary records, were never formally placed on the agenda. The state of waiting without parliamentary debate was one of the fundamental characteristics of the death penalty in Turkey. This waiting period can only be traced retrospectively in existing archives. In other words, we can measure how long a case has been pending only when it finally appears on the agenda in a sitting for a decision. However, no information is available regarding cases that were never individually placed on the agenda. Consequently, since no cases were brought to the agenda after 1984, archival information beyond this date remains speculative. Although some legal studies cite varying figures based on statements by different politicians in the media, I have not been able to ascertain a definitive number.⁸⁴ Therefore, the case-specific data in this study begin with the enforcement of the 1926 TCK and conclude with the case discussed in 1984 that resulted in the last death sentence.⁸⁵ In terms of parliamentary decisions, draft laws, and legislative proposals related to the death penalty, I did not encounter a similar issue of timing and thus examined these cases up to the emergence of abolitionist tendencies. However, it should be noted that even if such discussions/documents are included in this study, archival data on cases that were never placed on the parliamentary agenda is very limited. Consequently, proposals aimed at abolishing or expanding the death penalty that were not taken up for discussion appear briefly in the records and then disappear without further trace.

84 For instance, while in June 1999 a magazine wrote that thirty-six case files concerning forty-seven death-row prisoners were pending before Parliament, another magazine published on the same date stated that forty-four convicts were awaiting consideration. If these figures are not entirely incorrect, the conflicting results prevent their reliable inclusion in an academic study. *Nokta*, June 20–26, 1999, no. 906, 16–22; *Hürriyet*, June 8, 1999, no.18405, 26.

85 More specifically, from the first parliamentary sitting following the enactment of the TCK on May 3, 1926 – particularly Decree No. 237 dated May 9, 1926 – up to the last sitting discussing executions, which was subsequently referred back to the Justice Commission on November 8, 1984.

Finally, instead of following a chronological timeline, I chose a thematic approach and organized this dissertation into four main chapters. While this structure does not adhere to strict historical periodization, I do not suggest that distinct periods – such as the early Republican era and the bicameral system of the 1970s – are equivalent or interchangeable. Each period must be analyzed on its own terms, with its unique dynamics. However, it is more consistent not to divide the dissertation strictly by periods, as capital punishment performs similar functions across different eras, albeit within varying contexts. In a country like Turkey, where nearly half of its Republican history has unfolded under martial-law, states of emergency, and de facto regimes following military coups, this pervasive use of extraordinary legal measures makes it also untenable and inconsistent to separate “exceptional” times from “ordinary” ones.⁸⁶ While different historical realities give rise to distinct – and sometimes mutually exclusive – norms, it is essential to emphasize the continuity of capital punishment’s meaning beyond its purely punitive function.

§ 1.4 Outlining the Scope and Limitations of the Study

Although constitutional order and parliamentary functioning in Turkey have experienced interruptions, the ultimate authority has always resided with the legislature under both civilian and military regimes. In this dissertation, I argue that in Turkey, the fact that the same body – legislation in any form – served as the final authority both to legislate the death penalty and to decide on its execution created a loop. This loop, by focusing on “monsters,” operating quietly, or employing the rhetoric of decision-making on behalf of society or

86 Turkey has been governed under various martial laws from *Takrir-i Sükûn Kanunu* (Law no.578, issued March 4, 1925) to the 1982 Constitution. The 1983 *Olağanüstühal* (OHAL, or State of Emergency) Law (Law No. 2935, issued October 27, 1982) introduced a new layer to this state of exception. This law remained in effect until the Council of Ministers’ decision in July 2002. Particularly in regions with a high Kurdish population, OHAL and martial laws became the administrative regime for an uninterrupted period of twenty-three years, with the state of emergency extended every four months a total of forty-six times. See: Özgür Sevgi Göral, Ayhan Işık, and Özlem Kaya, *Executive Summary of The Unspoken Truth: Enforced Disappearances* (Istanbul: Truth Justice Memory Center, 2013), 3.

the state – thereby making all of us complicit in state-sanctioned killing – obscured the context in which capital crimes arose and the responsibility of those involved. However, not all death penalty cases in Turkey’s parliamentary history fit this framework. I exclude from this study two types of state-killings that disrupted this loop by bypassing Parliament’s final decision: those carried out by Independence and Martial Law Tribunals, and by military courts during wartime.

1.4.1 *The Extraordinary Siblings: Independence and Martial-Law Tribunals*

Botagoz Kassymbekova asked for a Stalinist purge in 1937 in Kyrgyzstan:

Was it capital punishment, or a state killing? If we agree that a state killing is murder in the name of the state and by state agents, but define capital punishment as the execution of a court’s decision, then the 1937 killings – a deliberate killing in the name of the state, by state agents – present a puzzle.⁸⁷

Like Sarat, I do not see a fundamental difference between state-killing and capital punishment. Although extrajudicial killing is not official, it remains connected to state institutions. However, the death penalty is a “legally administered state-killing, used as a punishment in response to a crime.”⁸⁸ The peculiarity of the death penalty lies in its law-abiding and ordinary nature. It is neither an extrajudicial execution nor an act of warfare; rather, it is a legal component of criminal law of ordinary times. Yet, some death sentences in Turkey’s history differ from the general framework I discuss in this dissertation. These exceptional cases, which exceed judicial authority and limited parliamentary power, are essentially unconstitutional or illegitimate in the *spirit* of the law, if not in its *letter*.

87 Botagoz Kassymbekova, “Capital Punishment in Kyrgyzstan: Between the Past, “Other” State Killings and Social Demands” in *The Cultural Lives of Capital Punishment*, ed. Austin Sarat and Christian Boulanger, 181.

88 Sarat and Boulanger, “Putting Culture into the Picture,” 34: “As opposed to state killing in a more general sense (i.e. cases in which the state kills intentionally or unintentionally, without judicial process, such as through extrajudicial executions or warfare).”

Between the establishment of the Türkiye Büyük Millet Meclisi (TBMM, or the Grand National Assembly of Turkey) and the abolition of the death penalty, there were regulations that either removed or limited the Parliament's authority to decide on executions. If we look after the 1924 Constitution, which explicitly granted the Parliament this right and duty, the first chronological exception is the Independence Tribunals (*İstiklâl Mahkemeleri*). Although the Independence Tribunals were legally established as courts, their mode of operation resembled the French Revolutionary Tribunals.⁸⁹ They were not conventional courts because their members were elected by the Parliament from among its own deputies, their decisions were final and not subject to appeal, and the principle of immediate execution of sentences without requiring further approval was adopted.⁹⁰ Actually, according to the Law (*İstiklâl Mehâkimi Kanunu*), the death sentences issued by these “courts” were not automatically exempt from parliamentary approval for execution.⁹¹ However, in 1925, the Parliament passed a decree allowing death sentences handed down by the Eastern Independence Tribunal and, gradually, by the Ankara Independence Tribunal to be executed directly without requiring parliamentary

89 The French Revolutionary Tribunal (*le Tribunal révolutionnaire*) was an extraordinary criminal court established by the National Convention in 1793 during the French Revolution. It became a central instrument of the Reign of Terror, tasked with swiftly prosecuting and punishing enemies of the revolution and began to known as *le tribunal de la terreur*. The Tribunal was composed of five judges, a public prosecutor, two deputies, and a jury of twelve, all appointed by the Convention, and its decisions were final with no right of appeal (Decree of National Convention no.615, enacted June 10, 1794). Emmanuel Pierrat, *Le tribunal de la Terreur* (Paris: Fayard, 2019); Stephen J. Lee, *Avrupa Tarihinden Kesitler: 1789-1980*, trans. Savaş Aktur, (Ankara: Dost Kitapevi Yayınları, 2004), 11-20.

90 Article 2, 6 of Law no.249, enacted July 31, 1922.

91 Article 5 of Law no.249, enacted July 31, 1922: “According to the regulations governing the Independence Courts (*İstiklâl Mahkemeleri*), all rulings except for death sentences were final and binding, with enforcement entrusted to all armed and unarmed state authorities. Death sentences, however, required prior review and approval by the TBMM, which considered these cases before all other matters. Even under urgent or exceptional circumstances, executions could not be carried out without explicit authorization from the Assembly, which alone held the power to grant such permission.

approval.⁹² Although some members of Parliament viewed this as a violation of the constitutional provision granting them final authority over death sentences, the laws were nevertheless enacted.⁹³ This decision effectively granted the tribunals exceptional power to carry out executions without the usual legislative confirmation.

Similarly, in 1925, a law was passed stipulating that death sentences issued by the Martial Tribunals (*Divân-ı Harp*) established in martial-law zones could be executed without the approval of the Assembly.⁹⁴ Although some legislators viewed the Independence Tribunals as excusable to a certain extent because they could be considered part of the Parliament, those same individuals regarded the extension of the execution authority to martial-law courts as an illegitimate constitutional amendment.⁹⁵ Nevertheless, the law was passed. In 1935, another martial-law court with greater autonomy was established under the “Law on the Administration of Tunceli Province” (*Tunceli Vilayeti’nin İdaresi Hakkında Kanun*).⁹⁶ “The ultimate aim of this law was the forcible subjugation and assimilation of non-Turkish regions into Turkishness.”⁹⁷ The governor and military commander, serving as the General Inspectors, were granted extensive judicial powers. Trials were subject to strict time limits, and the right of appeal was closed. Moreover, it was stipulated that

92 Decree no. 117, enacted March 4, 1925 (*Harekatı Askeriye Mıntıkasında ve Ankara’da Birer İstiklal Mahkemesi Teşkili Hakkında Meclis Kararı*). For a detailed account of the gradual authorization granting the Ankara Independence Court the power of execution: Decree no 136, enacted April 20, 1925; Decree no.168, enacted October 25, 1925; Decree no.247, enacted May 18, 1926.

93 Feridun Fikri Bey (Dersim), *TBMM Zabıt Ceridesi*, D.2, İ.2, C.15, İç.69, March 4, 1925.

94 Article 1 of Law no.595, issued March 31, 1925 (*Harp ve İsyan Sahalarında İdarei Örfiye Mıntıklarında Müteşekkil Umum Divan Harplerden Verilecek İdam Kararlarının Sureti İcrasına Dair Kanun*).

This law was repealed by Law No. 3832 (*Örfi İdare Kanunu*), enacted on May 22, 1940. Although the Menemen incident death penalty cases were subject to Law no. 595, it was an exception in being brought before the Parliament.

95 Besim Bey (Mersin), *TBMM Zabıt Ceridesi*, D.2, C.2, C.16, B.90, March 31, 1925.

96 Law no.2884, enacted January 2, 1936.

97 Pınar Dinç, “Dersim: A Century of State-Led Destruction and Resistance,” in *The Republic of Turkey and Its Unresolved Issues*, eds. Pınar Dinç and Olga Selin Hünler (Singapore: Palgrave Macmillan, 2025), 55-56.

“execution of death sentences shall be ordered by the governor and commander if no postponement is deemed necessary,” allowing executions to be carried out without seeking parliamentary approval.⁹⁸

What these three “courts” have in common is that they constitute exceptions to the established judicial process. Although legally established, they did not adhere to conventional legal norms and can be seen as forms of mimicry. They are judicial body-like structures – sometimes composed of legislative members or operating without any possibility of appeal – that reflect a state of exception. Another important commonality for this study is that they did not require the “conscience of society.” Despite being labeled as “death sentence,” these practices resemble other forms of state-killing “which are much harder to trace, prove, and attribute responsibility for.”⁹⁹ They were betwixt and between capital punishment and extrajudicial punishment. Although legally established, these courts had no genuine connection to the rule of law and often undermined legal certainty. For example, the files of three death-row inmates, whose cases had been submitted to Parliament in 1923, were retroactively withdrawn by an Independence Tribunal and the inmates executed in April 1925 on the grounds that “there was no need for parliamentary approval.”¹⁰⁰ It seems appropriate to recall Shai J. Lavi’s observation that “the true power of the state is not its monopoly on the legitimate use of force, but rather a monopoly on the unjustifiable application of vengeance.”¹⁰¹

These cases resemble extraordinary siblings of the death penalty. Unlike the function of the death penalty emphasized in this dissertation, they appear to focus on the total elimination of identities marginalized, without attempting to evade responsibility. These tribunals pursued distinct agendas. For example, in the 1935 martial tribunals, “The young Turkish Republic claimed to have a mission to liberate the people of Dersim [or Tunceli as it was officially renamed by the Republic] from the oppression of the aghas and sheikhs with

98 Article 33 of Law no.2884, enacted January 2, 1936.

99 Kassymbekova, “Capital Punishment in Kyrgyzstan,” 189.

100 *TBMM Zabıt Ceridesi*, D.2, İ.2, C.17, B.98, dated April 9, 1925.

101 Shai J. Lavi, “Imagining the Death Penalty in Israel: Punishment, Violence, Vengeance, and Revenge,” in *The Cultural Lives of Capital Punishment: Comparative Perspectives*, ed. Austin Sarat and Christian Boulanger (Stanford, CA: Stanford University Press, 2005), 227.

the aim of modernizing and civilizing society.”¹⁰² Hundreds of people, often without precise records, have been subjected to this form of state violence.¹⁰³ For this reason, these cases fall beyond the scope of this study, as not all state-sponsored violence is equivalent to the violence of the death penalty. While the fact that such exceptional cases come to mind when discussing the death penalty is valuable for holding regimes accountable for their violence, it can also be argued that focusing solely on them overshadows the more subtle deaths of hundreds of individuals during so-called “ordinary” capital laws of “ordinary” times.

Although their legal basis remains unclear, two cases that eventually came before the Parliament are included in the data of this study as exceptions to the exceptions. The first is the Menemen Incident, which involved a violent uprising by a group of Islamist militants who opposed the early Republican reforms in 1930. In response, the government declared martial-law in Menemen and surrounding regions, established a special military tribunal, and swiftly prosecuted the perpetrators.¹⁰⁴ Thirty-one individuals were sentenced to death, and the executions of twenty-eight were carried out promptly in early 1931.¹⁰⁵ According to martial-law court legislation, this case should not have been brought to legislation and only reached the parliamentary agenda “by

102 Dinç, “Dersim,” 56.

103 “The military operation region [Tribunal of Independence] tried 5,010 people in a working period of two years. Some 2,231 people were convicted, of whom 420 faced capital punishment. On the other hand, 2,436 people were tried before the Ankara TI in the same period, of whom 1,093 were convicted and 240 received the death penalty.” cited from Mehmet Semih Gemalmaz, “The Death Penalty in Turkey” (1920–2001): Facts, Truths and Illusions,” *Criminal Law Forum* 13 (March 2002): 102, <https://doi.org/10.1023/A:1020186503699>.

104 On December 30, 1930, the Republican People's Party (Cumhuriyet Halk Fırkası) parliamentary group convened with the agenda of “one month of martial law in the field of reactionism, referral of the accused to the Military Tribunal, punishment of negligent administrative officials, and the adoption of measures to preserve the Republic.” The following day, the Council of Ministers (*İcra Vekilleri Heyeti*) convened and, pursuant to Article 86 of the Constitution, decided to declare martial law for one month effective January 1, 1931, in the Menemen district as well as the central districts of Manisa and Balıkesir due to the events in Menemen. *TBMM Zabıt Ceridesi*, D.3, İ.4, C.24, İn.17, January 1, 1931.

105 Of the thirty-one convicts, two had their sentences commuted by Parliament, and one was granted non-prosecution. *TBMM Zabıt Ceridesi*, D.3, İ.4, C.25, İn.25, February 2, 1931.

mistake.”¹⁰⁶ Whether this was truly a technical error or a deliberate move to foster an atmosphere of political consensus remains a matter of speculation. Nevertheless, I chose to include it in the numerical data because, although it was not debated in Parliament, it was nonetheless on the agenda and granted legislators the right to address it. The fact that Parliament refrained from discussing the case was not due to a lack of authority but rather an active decision for silence.

The second exception is the death sentences issued by Yüksek Adalet Divanı (YAD, or Supreme Justice Court). The YAD was a special tribunal established by Milli Birlik Komitesi (MBK, or National Unity Committee), which carried out the military coup of May 27, 1960.¹⁰⁷ Essentially, it functioned as a revolutionary court tasked with prosecuting members of the former civilian government and President. The court’s members were not selected from Parliament but were appointed from senior judges and military legal officers.¹⁰⁸ Its decisions were final and not subject to appeal; however, the execution of death sentences required the approval of the MBK, which held legislative authority.¹⁰⁹ However, the most important reason for including the YAD in this study’s data, beyond its requirement for legislative approval, is that – unlike other exceptional courts – it operated based on the symbolic function of the death penalty rather than seeking to eliminate all individuals it found guilty. In other words, it did not aim at mass execution or indiscriminate elimination regardless of individual identity, as seen in other cases outside this study. Instead, its structure carefully emphasized specific crimes and criminals, identified those responsible, and thereby excluded others. Furthermore, the execution of members of the state on behalf of the state itself is a significant event in the history of capital punishment, which will be further discussed.

106 Report of Justice Commission, dated June, 1956. *TBMM Zabıt Ceridesi*, D.10, C.12, İ.2, İn.78, June 18, 1956.

107 Article 6 of Law no.1, issued June 12, 1960 (1924 tarih ve 491 sayılı Teşkilâtı Esasiye Kanununun Bâzı Hükümlerinin Kaldırılması ve Bâzı Hükümlerinin Değiştirilmesi Hakkında Geçici Kanun). Law no.3, issued June 18, 1960 (YAD Muhakeme Usulüne Ait Geçici Kanun).

108 Article 6 of Law no.1, issued June 12, 1960.

109 Article 3 of Law no.1, issued June 12, 1960: “The National Unity Committee exercised legislative power directly and held executive power through the Council of Ministers, which was appointed by the Head of state and approved by the Committee.”

1.4.2 *Semi-Spectacles: Military Executions in Wartime Contexts*

“For too long, historians have regarded military law in isolation, as if it were an organic entity whose evolution is separate from ... society.”¹¹⁰ I agree with Gerard Oram's observation, but it is also true that there was a different militaristic understanding of capital punishment and methods of execution. In the context of Turkey, the appropriation of means of justice and power has been a contentious issue between the civilian and military authorities, not only in regard to capital punishment, but the entire criminal justice system. Although they have conjointly operated within the social hierarchy between the law-abiding and the lawless, there has been a dual system representing the lawful side. Military and civilian judiciaries in Turkey have historically maintained separate legal systems, each governed by distinct criminal codes, court structures, and methods of execution. Military courts hold jurisdiction over all military offenses as well as civilian offenses committed by military personnel.¹¹¹ Although military courts' decisions are legally binding, the execution of death sentence generally required the approval of the Parliament, reflecting civilian political sovereignty over such sentences.¹¹² However, military executions were partially outside the realm of political sovereignty. There was a notable exception: Warfare. In a state of war, the Commander of the Turkish Armed Forces was authorized to approve and carry out death penalties without requiring parliamentary consent.¹¹³

Analyzing the execution of sentences based on AsCK of 1930 was challenging because of the absence of archival documents on wartime conviction and their executions. Executions constituted an important aspect of military cases. In Turkey, convicts were executed differently according to their military or civilian status. All civilians sentenced to death were executed by hanging, even

110 Gerard Oram “The Administration of Discipline by the English Is Very Rigid’ British Military Law and the Death Penalty (1868-1918),” *Crime, Histoire & Sociétés* 5, no. 1, (2001): 93, <http://www.jstor.org/stable/42708432>.

111 For articles of the ASCK, see footnote 54.

112 Article 244 of the Law no. 1632, issued May 22, 1930; Article 249 of Law no. 353, issued November 25, 1963.

113 Article 248 of the Law no. 353, issued November 25, 1963.

if their crimes were military in nature.¹¹⁴ According to the AsCK, the death sentences imposed by military courts on the military personnel for a non-military offence were carried out in accordance with Article 12 of the TCK, meaning these convicts were also hanged.¹¹⁵ However, if a Military Court convicted military personnel to death for a military offence, execution was carried out by firing squad.¹¹⁶ The convict had no right to choose the method of execution. Until the abolition of the death penalty, the methods and procedures of execution performed by military and civilian authorities remained largely unchanged.

Military executions by firing squad were never fully public or entirely private acts; rather, they served a specific audience as a form of spectacle. These executions were conducted as semi-public events, with only military personnel permitted to witness them, while civilians were barred from the execution site. Since only military criminals convicted of military crimes were executed by firing squad, it can be considered that this target group was reasonably selected. Furthermore, because every stage – from investigation to trial, from the death sentence to the moment of execution – occurred away from public scrutiny and parliamentary debate during wartime, this aspect falls outside the scope of this dissertation.

None of the arguments explored in this study – neither the societal norms contributing to crime nor the actions of those representing society – apply to wartime military cases. They were executed within their own self-contained military communities. However, it should be noted that while these events occur in extraordinary circumstances, they operate within the existing ordinary judicial system, thus distinguishing them from previous exceptional examples as martial-law tribunals. It is more accurately considered a sub-branch of capital punishment and constitutes a field of study in its own right. Consequently, only military cases subject to parliamentary approval are included in the data

114 Article 12 of the TCK dated 1926; Article 2 of Law no. 647 issued July 13, 1965 (*Cezaların İnfazı Hakkında Kanun*); Article 61 of the By-law no. 6/8517 issued July 5, 1967, (*Ceza İnfaz Kurumları İle Tevkifevlerinin Yönetimine ve Cezaların İnfazına Dair Tüzük*). Article 20 of the AsCK dated 1930.

115 Article 20/2 of the AsCK dated 1930.

116 Article 20 of the AsCK dated 1930.

of this study. As an exception to this exception, one case included in the dataset that came before the Parliament, despite it technically not being required to, involves a soldier of the Turkish Armed Forces serving under the UN command during the Korean War, who was found guilty of the capital murder of a sixteen-year-old South Korean boy.¹¹⁷

All these exclusions are not only due to their breaking the loop, but rather because of the consequences arising from them. They operated against marginalized or segregated groups, conducting their actions in isolation, with the primary aim of eliminating the convicted individuals. The Independence or martial-law tribunals did not recognize parliamentary authority or judicial norms despite Parliament being in session and the Constitution in effect. Their constitutional legitimacy was questionable, thus resembling extra-judicial killing rather than capital punishment. It would be inaccurate to describe the death sentences issued by these tribunals as “distractors.” Far from obscuring who holds control and responsibility, these cases often involve overt efforts to expose them. While they are significant examples of state-sanctioned killing, they diverge considerably from both the rhetoric and practice of the death penalty. Moreover, death sentences handed down by military courts in case of war, although legally and theoretically defined as capital punishment, operated within a gated community with a restricted audience and did not require approval from any authority representing the “conscience of society.” These military court sentences remain both socially and archivally invisible. These do not focus on a single discourse or practice while obscuring other aspects; on the contrary, they remain closed off to nearly all components of society. In this way, they arrive at the same outcome as the exceptional “Courts,” but from the opposite direction.

Finally, it is important to recognize that certain sources, as well as some cases, fall beyond the scope of this dissertation. For example, while the representation of the death penalty in the media offers valuable debates and insights, these aspects will not be addressed here. I consider it more appropriate to reserve such topics for future research, as I discuss further in the

117 Turkey sent troops as part of the UN forces supporting the Republic of Korea at the beginning of the Korean War in 1950. The case in question concerns one soldier from these Turkish forces deployed during war. Decree no.1969, dated June 21, 1956.

Conclusion. This study is confined to parliamentary data, which forms the core of legislative and legal discourse. Focusing exclusively on Parliament may be seen as a limitation, especially given the central “distraction” argument of this study, where the media plays a significant role. However, as I will elaborate in Chapter 2, in the context of Turkey, Parliament constitutes a crucial nexus through which the entire process of capital punishment – from legislation to execution – was conducted by actors claiming to represent the “conscience of society.” Parliament simultaneously functions as legislator, interpreter, and final executor of the death penalty.

Although a comprehensive understanding of the death penalty cannot be achieved through a single institutional lens, examining Parliament remains both viable and essential. It involves actors who hold the greatest authority and responsibility, yet have been insufficiently studied. The academic emphasis on media and legal fields can itself be interpreted as reflecting these actors’ efforts to minimize their agency. While future research may encompass these dimensions, it is valuable first to scrutinize Parliament given its unique role within Turkey.

§ 1.5 Roadmap of the Study

I argue that the death penalty in Turkey served not only as a form of punishment but also as a mechanism that diverted attention from the socio-cultural, political contexts, and legal deficiencies in which capital crimes arose. My analysis identifies several mechanisms through which capital crimes and punishments served this obscuration. Before examining the mechanisms that reveal this argument, I will explain in the first theoretical chapter why the parliamentary system in Turkey is distinct and why it is important to look beyond the pro-con debate. By dehumanizing or legitimizing social actors – whether perpetrators or victims – capital punishment diverted attention from underlying unjust social structures, collective responsibility, and systemic inconsistencies. This forms the subject of the first thematic chapter. However, Parliament did not always and in every circumstance define “monsters” through legislation or debate. In fact, it generally avoids such discussions and often seeks to eliminate the very grounds for debate. In the second thematic chapter,

I will examine how the relationship between legal authority and lethal violence is masked through four main tactics camouflaging which entities hold the right over life and death: creating self-perpetuating procedural loops; silencing any dissent; generating years-long delays in executing death-row inmates; and producing a state of Limbo by unexecuting the sentences. Those tactics such as dehumanizing actors, shifting responsibility onto individual perpetrators, or quietly maintaining the legal basis for capital punishment did not always function effectively – especially in cases of politically motivated crimes. In the third thematic chapter, as the responsible actors and context become increasingly visible, we will observe how parliamentarians conceal themselves as “victims” of crimes, behind ambiguous identities such as the state, society, and the nation. Moreover, they fragmented these identities internally to interpret responsibility in varying ways, ultimately shifting accountability onto groups portrayed as “enemies” of the state or society. In the final chapter, as Conclusion, I explore Turkey’s journey toward abolishing the death penalty and reveal its enduring significance, before closing this study.

1.5.1 *Chapter 3: Behind the Monster’s Mask*

During the period under review in this dissertation (1926-1990), 8.7 out of every 10 death row inmates whose cases were individually discussed in Parliament were tried for capital murder, despite the varying circumstances of their offenses.¹¹⁸ The data in this chapter are organized around these individual capital murder cases brought before the parliamentary agenda and the relevant criminal laws that governed them. These cases and their legal provisions resemble a Renaissance-era cabinet of curiosities – a collection of unusual items that blur the line between myth and reality. Just as such cabinets displayed “exceptional” objects reflecting the collector’s interests and social status, these capital punishment cases reveal societal anxieties and values through their portrayal of monstrous fathers who killed their children, lunatic wives who

118 Between 1926 and 1984, of the 707 death-row inmates whose files were placed on the parliamentary agenda, 620 were sentenced to death under Article 450 of the TCK dated 1926, either explicitly stated or understood from the offense definition.

murdered their husbands, and perverted men who abducted girls. As Richard Slotkin notes:

The ultimate source of myth is the human mind itself, for man is essentially a myth-making animal. He naturally seeks to understand his world in order to control it ... Myths describes a process, credible to its audience, by which knowledge is transformed into power; it provides a scenario or prescription for action, defining and limiting the possibilities for human response to the universe.¹¹⁹

In this way, the mythical descriptions of perpetrators, victims, or the criminal acts themselves serve to create and reinforce social norms by defining what is considered abnormal or monstrous. This process reversely constructs what is seen as normal and renders invisible the whole history before they get a place in this Cabinet of Curiosity.

This chapter investigates the multifaceted role of capital punishment in Turkey, arguing that its significance extends far beyond the boundaries of the criminal justice system. This is not about the execution itself, but about the nature of the debate surrounding the death penalty. Building on the inseparability of law and narrative, the analysis foregrounds how parliamentary debates and legal discourse have functioned as symbolic courtrooms, shaping societal perceptions of crime, punishment, and the boundaries between “normal” and “abnormal.” Rather than simply reflecting legal norms, the death penalty operates in tandem with the wider social fabric – constructing certain personas, reproducing and challenging social norms, and ultimately shaping collective understandings of justice and deviance. I argue that capital punishment in Turkey operates as a form of social distraction, focusing attention on individual “monsters” rather than addressing systemic causes of crime. By reinforcing dichotomies and ambiguous categories, it conceals the full scope of collective responsibility, tolerates the inertia or deficiency of the legal system, and shapes public perceptions of justice, normality, and social order. What’s striking is not that a legal system defines what is normal, but that the very

119 Richard Slotkin, *Regeneration Through Violence: The Mythology of the American Frontier, 1600–1860* (Middletown, CT: Wesleyan University Press, 1973), 7.

same system often creates what is deemed abnormal. As discussed in Chapter 3, a legal system that legitimizes – or at least tolerates – an adult kidnapping and marrying a minor girl with her family’s consent, labeled someone who kidnaps a girl of the same age without marriage intentions as a monster. This system, which implicitly condones such acts or fails to provide adequate legal remedies, was masked by the brutality of the death penalty. While we focus on ensuring some “monsters” get what they deserve, we overlook the very conditions that produce others. A central theme is the concept of “distraction:” by focusing on individual acts of transgression and the supposed monstrosity of certain actors, capital punishment diverts attention from the contexts in which both crime and punishment arise. For instance, the ambiguous legal category of “monstrous feeling” exemplifies this dynamic, as it is invoked to justify the death penalty without clear criteria, thereby marginalizing defendants as irredeemable “others” and obscuring the broader conditions that contribute to criminal behavior. In parliamentary and legal narratives, this ambiguity allows for fluid and case-specific definitions of normality and deviance, often reinforcing existing power structures such as patriarchal family values, social hierarchies in love affairs, or conventional understanding of familial bond.

The chapter further explores how capital punishment not only criminalizes and punishes but also legitimizes, empathizes with, or forgives social actors, depending on the shifting categories such as honor, morality, emotion, and social status. These categories are not fixed referents but performative constructs – constantly redefined in response to particular cases and social anxieties. For example, the portrayal of women who commit infanticide or individuals involved in honor crimes fluctuates between depictions of “pure evil” and “miserable,” rarely addressing the underlying socio-cultural oppressions at play. The emotional framing of cases serves to construct “others” as monsters or traitors further distancing society from any sense of collective responsibility for the conditions that foster crime.¹²⁰ Furthermore, the emotional underpinnings of punishment – fear, bloodlust, vengeance – fuel the exceptionalisation of certain crimes and offenders, while masking the shared social

120 Sara Ahmed, *The Cultural Politics of Emotion* (Edinburgh: Edinburgh University Press, 2004), 2.

context that shapes both “normal” citizens and criminals. Ultimately, the chapter argues that capital punishment in Turkey has functioned as a powerful social performance: it delineates the boundaries of normality, legitimizes certain forms of violence, and distracts from systemic problems by individualizing blame. By reinforcing fluid and ambiguous categories of deviance, the legal and legislative discourse of death penalty allows society and the legal system to present themselves as righteous arbiters of justice, while conveniently ignoring their own roles in perpetuating the very conditions that lead to crime.

1.5.2 *Chapter 4: Behind the Silence*

By dehumanizing actors of capital crimes and focusing on individual cases, the system diverts scrutiny away from broader social context and also the actors who legitimize and administer executions. Drawing on Foucault’s insights – “It is ugly to be punishable, but there is no glory in punishing” – this chapter argues that legislative actors have concealed their own roles through procedural silence, legal ambiguity, and the politics of waiting to obscure responsibility for state-sanctioned killing, by transforming executions from acts of “crime” (i.e. murder) into depersonalized “punishments.”¹²¹ A central theme is the phenomenon of “mystification” – the deliberate obscuring of who holds the power over life and death, and shifting blame away from them. The legislative and judicial actors avoid open debate on the death penalty, creating a cyclical pattern of silence.

The first section of this chapter argues that Turkey’s parliamentary system has deliberately camouflaged its role in capital punishment through a self-perpetuating cycle of silence. Although Parliament holds ultimate authority over executions and capital laws, it routinely approves death sentences without debate, citing judicial independence to justify its silence. When rare debates do arise, dissent is suppressed, and responsibility for executions is shifted back and forth between Parliament and the judiciary. The procedural rules of Parliament served to create a paradoxical, self-perpetuating loop where accountability is continuously evaded. This strange coexistence of judicial

121 Michel Foucault, *Discipline and Punish: The Birth of The Prison*, trans. Alan Sheridan (London: Penguin Books, 1991), 10.

independence and parliamentary authority produces a state of non-agency, where the maintenance of capital punishment persists amid widespread silence. While most decisions were tacit and repetitive, rare moments of parliamentary debate reveal both the ambiguity of Parliament's role and the efforts to suppress discussion. This section will first examine these moments when the silent loop was disrupted and then analyze how this cycle was subsequently restored, highlighting that the loop was a symptom rather than the root cause of the problem.

The second section identifies two other forms of non-agency, but crystallized within the politics of waiting. This phenomenon of waiting without execution manifested itself in two distinct forms: Undiscussed death sentences and unexecuted death sentences. First, this section will address the undiscussed sentences, the period of literal silent waiting that is referred to as semi-moratorium. During the semi-moratorium periods from 1964 to 2004, Parliament refrained from bringing death penalty cases to the agenda for decades, neither executing nor pardoning inmates. Many prisoners spent years – sometimes over a decade – in Limbo, awaiting a decision that never came. Second, it will discuss hypothetical situations and a *sui-generis* case study in which legislators decided neither to execute nor to commute a death sentence, but to opt for a nebulous “un-execution” instead of just waiting. Parliament chose to leave condemned individuals in a state of legal uncertainty, effectively waiting without knowing their legal status or what they were waiting for. This section argues that such non-execution and prolonged waiting do not constitute a better alternative to execution, nor a transitional step toward abolition, nor a lesser evil; rather, they constitute another insidious form of state violence, serving to obscure the regime's reluctance to take responsibility for both the legal and social dimensions of the death penalty.

Ultimately, this chapter argues that the issue is not only about the execution of death sentences but also about the persistence of capital punishment in law and the evasion of accountability it entails by any form of silence. By demystifying the parliamentary narrative and exposing the silences that surround capital punishment, the chapter seeks to clarify where a part of control and responsibility lie within Turkey's death penalty regime.

1.5.3 *Chapter 5: Behind the Victim's Veil*

In 1964, during an exceptional and heated parliamentary debate on the death sentence of four retired soldiers accused of attempting to overthrow the government, a deputy remarked that:

What is the reason for bringing the death penalty cases to Parliament? Constitutional scholars, they have written tons of books on this, and if lawyers were here, they could talk for years. This is not my area, nor my job. Everyone should go to their own field.... Under this [case in the list of agenda], there are five or six more people sentenced to death, as Ahmetoğlu Mehmet, Hasanoğlu Hüseyin, born from Fadime... Tomorrow, [your] arms will be raised one by one, and they will be gone. There is no noise about it. Why? Because there is no politics there. Politics... politics is happening right here now.¹²²

It would not be far wrong in saying that this quotation encapsulates the mise-en-scène of both the fourth and fifth chapters. A parliamentarian can describe the functioning of the very Parliament he is part of – and which he governs – as “not my area.” He acknowledges that executions were routinely approved through a silent “raising of the arms.” Moreover, he admits that cases were only debated when it is politically convenient to shift blame onto others.

This chapter explores how the Parliament, when confronted with its responsibility for state-sanctioned killing and unable to evade accountability as in previous chapters, employed rhetorical and legal strategies to mystify its agency and obscure responsibility. Even in moments when Parliament’s decisive role was unmistakable, it depicted itself as a mere agent of abstract entities – such as the state, society, or nation – rather than as a body of individuals exercising power. The non-agency image in the previous chapter was replaced by a shadowy agency. This allowed the ultimate decision to execute or pardon to be framed as an expression of collective self-defense or retribution on behalf

122 Discussions in the National Assembly, the death sentences of Talât Aydemir, Fethi Gürcan, Osman Deniz and Erol Dinçer; Law no. 480, enacted June 26, 1964. Tahsin Demiray (İstanbul), *Millet Meclisi Tutanak Dergisi*, D.1, T.3, C.26, B.41, January 28, 1964, 36.

of society – or, in other words, on behalf of the victim – rather than as a political act by identifiable actors.

Building on theoretical insights from scholars such as Alan Hunt and Timothy Mitchell, this chapter argues that the boundaries between the state and society are neither fixed nor real, but are continually produced and performed through legal discourse and parliamentary practice. This chapter examines how political order and “the right to kill” were constructed and justified in practice by invoking the rhetoric of state and society. The first section analyzes legal frameworks and parliamentary debates that reveal how the concept of the state was abstracted through law and legislative narrative – yet repeatedly invoked to justify the actions of both executor and executed by claiming they acted for the sake of the state, particularly in cases of “crimes against the state.” These debates and legal texts often expose the ambiguity and multiplicity of definitions of the state, as well as the ways in which responsibility is deflected onto those abstract concepts. This section analyzes how politically motivated crimes in Turkey reveal complex power struggles between regimes, where the legitimacy of the state and its representatives is contested. When crimes are framed as “crimes against the state,” the targeted actors – defining themselves as the state – often support the death penalty, while successor or opposition groups, who also claim to represent the state, tend to advocate for pardon by denying the attacked regime’s legitimacy. This dynamic shifts blame away from broader social and political contexts, portraying either the perpetrator or the targeted group as “others” and excluding political actors and society from responsibility in the socio-political unrest.

Moreover, as will be examined in the second section, the politically dominant actors obscure their own roles in political violence by individualizing conflicts as personal antagonisms, especially following the turmoil of the 1970s. In this context, ideological conflicts are depoliticized and reframed as personal animosities, allowing the civilian or military regime to distance itself from responsibility while reinforcing the image of a unified society threatened by monstrous “others.” Capital punishment is portrayed as society’s response to those who disturb its peace, rather than as a direct act of the “state,” excluding marginalized groups from the community that actually systematically legitimizes such violence. Differentiating from the first section, this part focuses

on legally defined “crimes against persons,” although the actors involved and legislators were often highly ideologically motivated. In Turkey, certain social groups – particularly defined by their ethnic, racial, or ideological identities – have been marginalized and placed at the fringes of society. The rhetoric of “public conscience” regarding the death penalty did not encompass the entire population. While this marginalization resembles the exclusion of “deviants” discussed in Chapter 3, it is fundamentally distinct in its basis and implications; these groups were treated as self-evident “others,” systematically excluded by the regime.

This chapter highlights how capital punishment reinforces a sense of “social consensus” among included groups, legitimizing the state violence while obscuring its underlying dynamics. The ambiguity surrounding who holds the “right of death” and who is considered part of “society” or the “state” enables dominant actors to selectively define these boundaries. In doing so, they shape narratives around politically motivated or politically interpreted crimes, concealing their own complicity. The actors, defining themselves as the state, the nation, and society, render their involvement invisible by portraying themselves as separate from – and even victims of – these crimes.

The exact meaning of the presence of capital punishment in Turkey cannot be precisely defined; however, it is possible to be certain about what it is not. The death penalty practice of Parliament resembles the “not-a-cat” syndrome in international human rights law – something defined more by what it excludes than what it is.¹²³ According to the legislative and judicial narratives surrounding the death penalty, it is neither merely a crime-control mechanism nor simply a weapon wielded by the politicians against its adversaries. It is not just the codification of established norms, nor is it solely a challenge to traditional practices. Likewise, non-execution was not merely a step toward abolitionism, nor was execution an indispensable prerequisite for eliminating so-

123 The “not-a-cat syndrome” is a term classified by Philip Alston to describe a challenge in international human rights law regarding non-state actors – entities that are not states, not fit the traditional legal categories, but play significant roles in global affairs, such as NGOs, insurgents, and armed groups. See: Philip Alston, “The ‘Not-a-Cat’ Syndrome: Can the International Human Rights Regime Accommodate Non-State Actors?” in *Non-State Actors and Human Rights*, ed. Philip Alston (Oxford: Oxford University Press, 2005), 3-36.

called “monsters.” This spectacle of condemnation takes on various forms but ultimately operates as a structure that obscures or diverts attention away from the responsible actors, conditions, and underlying dynamics.



Beyond Legal and Ethical Debates: The Legislative Peculiarities of the Death Penalty in Turkey

The rhetoric surrounding capital punishment, along with the ensuing legal and moral debates, functions like a black hole within the legal order that absorbs all other related issues.¹ Once invoked, it becomes nearly impossible to discuss any related topic without being drawn into this dominant moral discourse or at least having to reference it. This dynamic effectively diverts attention from other important concerns. The light that could reveal who or what truly bears responsibility for the flaws in the social and legal structure – whether by creating, enabling, ignoring, failing to prevent, or simply remaining inert to them – cannot easily escape the death penalty’s gravity. In this study, I choose to focus on areas that have been deliberately or inadvertently overshadowed by the pro-con debate dominating both the literature and parliamentary discussions in Turkey. I argue that one of the key spaces where these overlooked areas become visible is the Parliament of Turkey. Specifically regarding capital punishment, Parliament – as legislator, interpreter of legal norms, and final decision-maker – a suitable case for examining what the legal

1 I would like to especially thank my former official, and now de facto advisor, Assoc. Prof. Umut Türem, for recommending the “black hole” allegory, which I believe perfectly captures the argument of this study.

existence of capital punishment entails beyond conventional crime control mechanisms and how it functions within this broader context.

§ 2.1 Positioning Between Debates: Tendencies on the Death Penalty

Before exploring the significance of legislative performance in Turkey's death penalty practice, my initial curiosity about how this punishment operates led me to examine academic studies, particularly legal scholarship, on the death penalty in Turkey. Most literature on the death penalty focuses on its legal aspects, particularly debates on its necessity or inhumanity.² However, the death penalty's role extends beyond crime control, serving other social functions. Legal analyses that ignore these social dimensions are incomplete from this study's perspective.

It is partially understandable that, during the era when capital punishment laws were still in force – prior to its complete abolition in 2004 – the dominant tendencies in Turkey's literature emerged primarily from legal and/or activist standpoints rather than contextual perspectives.³ The pre-2004 literature of Turkey was largely dominated by the polarization between retentionist and abolitionist debates, commonly referred to as pro-con debates within death penalty discourse.⁴ However, this phenomenon is not peculiar to Turkey. Cass

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- 2 For notable works addressing the death penalty in Turkey, which is often framed as a pro-con debate, refer to footnote 31 in Chapter 1.
 - 3 Law no.5170, issued May 7, 2004 (*Türkiye Cumhuriyeti Anayasasının Bazı Maddelerinin Değiştirilmesi Hakkında Kanun*) abolished capital punishment for all crimes.
 - 4 Certain retentionist legal studies: Prof. Dr. Hıfzı Veldet Velidedeoğlu, *Hayat, Hukuk ve Cemiyet* (İstanbul: Nebioğlu Yayınevi, 1944); Prof. Dr. Nurullah Kunter, *Muhakeme Hukuku Dalı Olarak Ceza Muhakemesi Hukuku* (İstanbul: Fakülteler Matbaası, 1978); Kunter, "Ceza Kanunu Projesi Hakkında Düşündüklerim II–Cezalar," *Adliye Ceridesi* 33, no.5 (1942): 564-572; Kunter, "Ölüm Cezasının İlgası Sorunu," *Adalet Dergisi* 7 no.2 (March-April 1980): 123-128; Sıtkı Tunçer, "Ölüm Cezası," *Adalet Dergisi* 44, no.3 (1953): 264-272; Hakkı Demirel, "Ölüm Cezası," *Ankara Üniversitesi Hukuk Fakültesi Dergisi* 12, no.1 (1956): 152-171; Abdullah Pulat Gözübüyük, "Ceza Verme Hakkının Esası," *Yargıtay Dergisi* 8, no.3 (July 1982): 301-303.

R. Sunstein and Adrian Vermeul, two pro-death penalty scholars from the United States, have accused abolitionist scholars of presenting “a conclusion masquerading as an argument” in their study of the morality of capital punishment.⁵ It can be argued that the reverse may also be true in Turkey. In the pro-con debate on the death penalty, the edges of an argument, a hypothesis, or a conclusion often become blurred. As Tom Daems observes, both “proponents [of the death penalty] and their abolitionist adversaries perpetrate myths and half-truths that distort the fact,” revealing how the discourse often relies on selective or incomplete information.⁶

I argue that this genre of literature is based on or tends to produce “half-truths” because it attempts to impose its own predetermined judgments at the cost of consciously concealing or unconsciously overlooking some critical information. For instance, statistical studies on the death penalty’s impact on homicide rates are frequently cited to argue for its effectiveness as a crime control measure, making this one of the most dominant data-driven debates in the literature. Isaac Ehrlich’s controversial econometric study is a key case in the debate over the crime control purposes and the “deterrence effect” of capital punishment. In his 1975 paper, Ehrlich argued that each execution of a murderer prevents approximately seven or eight potential victims by incapacitating the offender and deterring others from committing similar crimes.⁷

Certain abolitionist studies: Erşen Şansal, “Ölüm Cezaları Suçları Önleyemiyor,” *Bilim ve Sanat* 59 (Ankara: 1985): 35; Nevzat Toroslu, “Ölüm cezası ile İlgili Bazı Sorunlar,” *Türkiye Barolar Birliği Dergisi* 6 (1989): 919-923; Erem, *Bir Ceza Avukatının Anıları*, Erem, *Adalet Psikolojisi*; Prof. Dr. Turhan Tüfan Yüce, “Temel Hakların Özü Kavramı ve Sınırlanması Problemi,” *AÜHF Yayınları* 351 (1975): 637-656; Kayıhan İçel, Bülent Tanör, Necmi Yüzbaşıoğlu, *1982 Anayasasına Göre Türkiye Anayasa Hukuku* (İstanbul: YKY, 2002); Füsün Sokullu Akıncı, İzzet Özgenç, Adem Sözüer, Fatih Selami Mahmutoğlu, Yener Ünver, *Yaptırım Teorisi*, (İstanbul: BETA, 2002).

- 5 Cass R. Sunstein and Adrian Vermeule, “Is Capital Punishment Morally Required? Acts, Omissions, and Life-Life Tradeoffs,” *Stanford Law Review* 58, no. 3 (December, 2005): 739. <http://www.jstor.org/stable/40040279>.
- 6 Tom Daems, “A Peculiar Sociology of Punishment,” *Oxford Journal of Legal Studies* 31, no. 4 (Winter 2011): 818. <http://www.jstor.org/stable/41418843>.
- 7 Isaac Ehrlich, “The Deterrent Effect of Capital Punishment: A Question of Life or Death,” *The American Economic Review* 65, no. 3 (June 1975): 397-417. <http://www.jstor.org/stable/1804842>;

Furthermore, Sunstein and Vermeule advocate for the deterrence effect using both deontological and consequentialist approaches, presenting evidence that death sentences and executions significantly reduce the homicide rate in the United States.⁸ They argue that it is not merely permissible but morally required, suggesting the remarks for each execution saves innocent lives. They contend that the state's failure to execute murderers results in preventable deaths and that the government has a moral obligation to minimize such killings.⁹

This view has been highly contested for five decades.¹⁰ The empirical evidence is deeply divided, reflecting broader moral and methodological complexities inherent in assessing the death penalty's social impact. Empirical studies may vary depending on location, time-series, or sample. Due to the fragility of evidence and methodological flaws, different data-sets can produce wildly different results. While the deterrence argument suggests that each execution saves innocents, Joanna M. Shepherd and Carol S. Steiker showed that capital punishment may actually increase the homicide rate through what they deemed "a 'brutalization effect' by which capital punishment worked to

Ehrlich, "The Deterrent Effect of Capital Punishment: Reply," *The American Economic Review* 67, no. 3 (June 1977): 452-458, <http://www.jstor.org/stable/1831413>.

8 Sunstein and Vermeule, "Is Capital Punishment Morally Required?" 710-16.

9 Daniel R. Williams, "The Futile Debate Over the Morality of the Death Penalty: A Critical Commentary on the Steiker and Sunstein-Vermeule Debate," *Lewis & Clark Law Review* 10, no. 3 (2006): 625-38, https://law.lclark.edu/law_reviews/lewis_and_clark_law_review/past_issues/volume_10/number_3.php.

10 For some prominent responses to Ehrlich's work, see: Alfred Blumstein, Jacqueline Cohen, and Daniel Nagin, eds., *Deterrence and Incapacitation: Estimating the Effects of Criminal Sanctions on Crime Rates* (Washington, DC: National Academy of Sciences Press, 1978); Brian E. Forst, "The Deterrent Effect on Capital Punishment: A Cross-State Analysis," *Minnesota Law Review* 6 (May 1977): 743-67, <https://scholarship.law.umn.edu/mlr/902>; Deryck Beyleveld, "Ehrlich's Analysis of Deterrence," *British Journal of Criminology* 22, no.2 (April 1982): 101-23, <https://www.jstor.org/stable/23637058>; Peter Passell and John Taylor, "The Deterrent Effect of Capital Punishment," *The American Economic Review* 67, no.3 (Jun. 1977): 445-51, <http://www.jstor.org/stable/1831412>; William J. Bowers and Glenn L. Pierce, "The Illusion of Deterrence in Isaac Ehrlich's Research on Capital Punishment," *The Yale Law Journal* 85, no. 2 (December 1975): 187-208, <https://doi.org/10.2307/795412>.

devalue human life and affirm the legitimacy of retaliatory violence.”¹¹ Moreover, beyond the data, “however valid the lesser evil approach may be in some domains, it fails when invoked to defend state violations of the right to life and other fundamental human rights.”¹²

Deterrence and brutalization effects are just two examples among many data-driven theories based on crime rates. Beyond these, prominent retentionist and abolitionist arguments focus on several key issues, including incapacitation, the problem of arbitrariness in the capital punishment system, the high cost of the execution process, the possibility of miscarriages of justice (such as the wrongful conviction of innocents), the question of proportionality in punishment, the restoration of unjust social structures, and retributivism (understood either as *lex talionis* or as revenge-seeking).¹³ As penological

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- 11 Joanna M. Shepherd, “Deterrence Versus Brutalization: Capital Punishment’s Differing Impacts Among States,” *Michigan Law Review* 104, issue 2 (2005): 204-56, <https://repository.law.umich.edu/mlr/vol104/iss2/13>; Carol S. Steiker, “No, Capital Punishment Is Not Morally Required: Deterrence, Deontology, and the Death Penalty,” *Stanford Law Review* 58, no. 3 (December 2005): 787, <https://www.stanfordlawreview.org/wp-content/uploads/sites/3/2010/04/steiker.pdf>.
 - 12 Eric D. Blumenson, “Killing in Good Conscience: What’s Wrong With Sunstein and Vermeule’s Lesser Evil Argument for Capital Punishment and Other Human Rights Violations?,” *New Criminal Law Review* 10, no.2 (2007): 210-38, <https://doi.org/10.1525/nclr.2007.10.2.210>.
 - 13 *Lex talionis* is a Latin term meaning “eye for an eye,” referring to the principle of exact retaliation in law.

For instance, the use of the deterrence effect by deontological and consequentialist approaches can be observed in the debate between Steiker and Sunstein-Vermeule regarding the moral requirement of the death penalty. Similarly, utilitarian and retributive perspectives on miscarriages of justice are reflected in the discussions between Bedau-Radelet and Markman-Cassell. See: Sunstein and Vermeule, “Is Capital Punishment Morally Required?,” Steiker, “No, Capital Punishment Is Not Morally Required.” Hugo Adam Bedau and Michael L. Radelet, “Miscarriages of Justice in Potentially Capital Cases,” *Stanford Law Review* 40, no. 1 (November 1987): 21-179, <https://doi.org/10.2307/1228828>; J. Markman and Paul G. Cassell, “Protecting the Innocent: A Response to the Bedau-Radelet Study,” *Stanford Law Review* 41, no. 1 (November 1988): 121-160, <https://doi.org/10.2307/1228837>; Bedau and Radelet, “The Myth of Infallibility: A Reply to Markman and Cassell,” *Stanford Law Review* 41, (November 1988): 161-170, <https://doi.org/10.2307/1228838>.

theories, philosophical debates on the ethics of punishment have a similar effect, influencing recent studies from pro-con debates. In this literature, very different, even opposite, hypotheses can refer to the same punishment theories. For instance, some retributive retentionist refer to Kantian discourse that “evil should be responded to by evil,” and some utilitarians invoke Beccaria, believing in the deterrence effect of punishment.¹⁴ However, some abolitionists also refer to Kant and Beccaria to challenge retentionist arguments. Against the deterrence effect of punishment, they argue that “punishing people ... to deter others is a violation of the Kantian prohibition against using people merely as means to the well-being of others.”¹⁵ Furthermore, the Beccarian tradition is more likely seen in the abolitionists studies because of his well-known argument for life imprisonment as the most common and preferred substitute punishment for the death penalty.¹⁶ However, Beccaria argues that life imprisonment should be the most severe punishment, not because it is more humane, but because he believes “it is worse and more terrifying than death,” challenging common abolitionist claims about humanity in

Debates on the discretionary nature of capital punishment, such as the view of it as “a ruling-class conspiracy,” can be found in influential social histories of crime. For instance, Douglas Hay, “Property, Authority and the Criminal Law,” in *Albion's Fatal Tree: Crime and Society in Eighteenth-Century England*, ed. Douglas Hay, Peter Linebaugh, John G. Rule, E. P. Thompson, and Cal Winslow (London, 1975).

It is not possible to fully explain these principles within the scope of this dissertation; however, the study by Michael L. Radelet and Marian J. Borg provides a helpful summary: Radelet and Borg, “The Changing Nature of Death Penalty Debates,” *Annual Review of Sociology* 26 (2000): 43-61, <http://www.jstor.org/stable/223436>.

- 14 Kant writes that “any undeserved evil that you inflict on someone else among the people is one that you do to yourself.” Immanuel Kant, *The Metaphysical Elements of Justice, Part I of The Metaphysics of Morals*, trans. John Ladd (Indianapolis: Hackett Publishing 1999), 101; Joachim J. Savelsberg, “Knowledge, Domination, and Criminal Punishment” *American Journal of Sociology* 99, no. 4 (January 1994): 923, <http://www.jstor.org/stable/2781735>; Ernest Van den Haag and John P. Conrad, *The Death Penalty: A Debate* (New Jersey: Plenum Publishing Corporation, 1986).
- 15 Jeffrie G. Murphy, “Marxism and Retribution,” *Philosophy & Public Affairs* 2, no. 3 (Spring 1973): 118-17, <http://www.jstor.org/stable/2264911>.
- 16 Cesare Beccaria, *On Crimes and Punishments and Other Writings*, ed. Aaron Thomas, trans. Aaron Thomas and Jeremy Parzen (Toronto: University of Toronto Press, 2009).

punishment.¹⁷ None of these perspectives is unreasonable or worthless. However, the morally biased tendencies lead to translating the death penalty directly into one specific data-driven or theory-driven academic lens. Each research method creates a peculiar image of capital punishment, emphasizing its certain features and characterizing it in a specific perspective while inherently hiding or omitting other aspects of the issue. Penological theories (or criminology) focus on the useful, beneficial, and cost-effective outcomes of punishment measures. In contrast, philosophical theories of punishment are concerned with the morally justifiable ends of the same measures. However, neither usefulness nor moral justification alone is sufficient to grasp the multifaceted character of punishment.

Beginning especially in the 1990s, comparative studies on the death penalty emerged.¹⁸ Other major data-driven approaches – beyond crime-control perspectives – analyze socio-economic indicators, regime types, societal religion, and public opinion toward the death penalty, each using various dependent variables.¹⁹ Although it is impossible to completely separate these factors, there are also approaches described as theory-driven, such as political economy, international integration politics, legal-institutional factors, and

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- 17 Ebru Aykut, “İdam Cezası Karşıtı Bir Osmanlı Münevveri: Ahmed Midhat Efendi,” in *Günebakan Düşlerimiz: Kamusalılık, Gündelik Hayat ve Tecrübe Üzerine Yazılar*, ed. Tülin Ural and Bahadır Vural (2021), 122.
 - 18 For some studies focusing on comparative perspective: Peter Hodgkinson and Andrew Rutherford, eds., *Capital Punishment: Global Issues and Prospects* (Winchester: Waterside Press, 1996); William A. Schabas, *The Death Penalty as Cruel Treatment and Torture: Capital Punishment Challenged in the World's Courts*, (Boston: Northeastern University Press, 1996); Roger Hood, “Capital Punishment – A Global Perspective,” *Punishment & Society* 3, (2001): 331–54, <https://doi.org/10.1177/1462474501003003001>; Peter Hodgkinson and William A. Schabas, eds., *Capital Punishment: Strategies for Abolition*, (Cambridge, UK: Cambridge University Press, 2004).
 - 19 For some relevant insights from the literature, see: Eric Neumayer, “Death Penalty: The Political Foundations of the Global Trend Toward Abolition,” *Human Rights Review* 9, no. 2 (2008): 241–68, <https://doi.org/10.2139/ssrn.489628>; David F. Greenberg, and Valerie West, “Sitting the Death Penalty Internationally,” *Law & Social Inquiry* 33, Issue 2 (May 2008): 295–343, <https://doi.org/10.1111/j.1747-4469.2008.00105.x>.

democratic governance.²⁰ All these arguments are regularly refuted depending on the perspective adopted in international literature. For example, while both data and theory claim that “democratic” regimes have moved away from the death penalty, different cases provide contrasting evidence.²¹

It seems safe to argue that less democratic states (in the participatory sense) seem to have an easier time abolishing capital punishment, since they can expect less resistance by a population overwhelmingly supportive of it. But neither the motivation nor the timing of abolition seems to have any necessary relationship with regime types.²²

For instance, in Kyrgyzstan, the authoritarian President ceased executions in 1998 and abolished the death penalty in 2007.²³ Moreover, the United States, “as the world’s largest stable democracy and a supporter both of human rights

20 Relevant discussions can be found in these works: Franklin E. Zimring, Gordon Hawkins, and Sam Kamin, eds., *Punishment and Democracy: Three Strikes and You’re Out in California* (Chicago: Chicago University Press: 2001); Peter A. Hall and Rosemary C. R. Taylor, “Political Science and the Three New Institutionalisms,” *Political Studies* 44, issue 5 (1996): 936–57, <https://doi.org/10.1111/j.1467-9248.1996.tb00343.x>.

21 According to the calculation of Sarat and Boulanger, “[t]he more authoritarian a country is, the more it is likely to have the death penalty. Of 194 independent countries rated by Freedom House in 2003, 71 of 90 countries classified as ‘Free’ were abolitionist (de jure or de facto), about 80%, versus 19 which were classified retentionist. For ‘Partly Free’ countries, the ratio is 33 (62%) abolitionist to 20 retentionist. On the other hand, of the 48 countries rated as ‘Not Free’ three-fourths (36) had the death penalty on the books and had executed someone in the last ten years, compared with 12 abolitionist countries” cited from Austin Sarat and Christian Boulanger, “Putting Culture into the Picture: Toward a Comparative Analysis of State Killings,” in *The Cultural Lives of Capital Punishment: Comparative Perspectives*, eds. Austin Sarat and Christian Boulanger (Stanford, CA: Stanford University Press, 2005), 5. For data sources: Amnesty International (2003); Freedom House (2003).

22 Sarat and Boulanger, *The Cultural Lives of Capital Punishment*, 9.

23 I used the term “authoritarian” in reference to Freedom House’s categorizations to assess the country’s political regime. See: Freedom House, “Kyrgyzstan,” <https://freedomhouse.org/country/kyrgyzstan>.

Penal Reform International, *The Abolition of the Death Penalty and Its Alternative Sanction in Central Asia: Kazakhstan, Kyrgyzstan and Tajikistan* (London: Penal Reform International, 2012).

and of capital punishment,” complicates this correlation and challenges simple generalizations.²⁴

In this study, I neither challenge nor defend the legitimacy of the death penalty, nor do I aim to transcend the pro-con debate or claim to reveal a singular truth. Although I generally follow Garland’s approach of describing and explaining the death penalty rather than defending a single position, I do not entirely agree with his claim to maintain an unbiased position between proponents and opponents, as evident in his *oeuvres*.²⁵ Hayden White’s insight regarding historians is relevant here: they choose to believe that they can transcend fiction.²⁶ I think that impartial position or omniscient knowledge is impossible or unnecessary. After all, I personally oppose any form of state-killing. Nevertheless, presenting a comprehensive picture – regardless of which perspective it may favor – allows us to understand how the death penalty has been operated. Although I argue that the death penalty is an indefensible practice due to its role in concealing many underlying factors, as I will demonstrate, I present this position as a conclusion rather than the initial aim of this study. Consequently, I aim to move beyond the pro-con debate and situate my work within the field of socio-legal studies.

Before 2004, when efforts in Turkey mainly focused on promoting or preventing abolition, contextual analysis often played a secondary role amid strong moral and political divisions. However, as I mentioned before, despite abolition, scholarly attention remains largely on the punitive and human

24 Sarat and Boulanger, *The Cultural Lives of Capital Punishment*, 5.

25 For studies, which Garland argued for an unbiased theoretical stance regarding capital punishment and punishment more broadly: David Garland, *Peculiar Institution: America’s Death Penalty in an Age of Abolition* (Cambridge: The Belknap Press of Harvard University Press, 2010), 7; Garland, “Sociological Perspectives on Punishment,” *Crime and Justice: Review of Research* 14, (1991): 115-165, <https://www.jstor.org/stable/1147460>; Garland, “The Problem of the Body in Modern State Punishment,” *Social Research* 78, no. 3, (Fall 2011): 767-798, DOI:[10.1353/sor.2011.0033](https://doi.org/10.1353/sor.2011.0033); Garland, *The Culture of Control: Crime and Social Order in Contemporary Society* (Chicago: University of Chicago Press, 2001).

26 Hayden White, *The Content of the Form: Narrative Discourse and Historical Representation* (Baltimore, 1987): 24, 66, quoted in Lloyd S. Kramer, “Literature, Criticism, and Historical Imagination: The Literary Challenge of Hayden White and Dominick LaCapra,” in *The New Cultural History*, ed. Lynn Hunt (Berkeley: University of California Press, 1989), 101.

rights aspects of the death penalty, with overall academic interest declining since then. Furthermore, adopting a linear understanding of history that moves simply from the legal existence of capital punishment to its formal abolition risks placing abolition at the center of the study, potentially overlooking broader historical and contextual complexities. This might mislead us toward Eliasian “civilizing process” and “development of mentalities” that lead to “ultimate disappearance” of the death penalty.²⁷ As Richard J. Evans discusses the case of Germany, the death penalty—whether through its enforcement, abolition, or halted abolitionist efforts—served more as an instrument of state policy than as a component of penal policy.²⁸ Therefore, I endeavor to avoid falling into “the common teleological trap of assuming that the death penalty only exists for, through, and in a trajectory toward its abolition,” as Taïeb warned us.²⁹ Anyway, the case of Turkey challenges such a straightforward trajectory. Firstly, Turkey’s experience with the death penalty has not theoretically followed a linear path, even when it comes to carrying out the sentence. There has not been a “progression” following steps such as retention, moratorium, de facto abolition, and formal abolition.³⁰ In Turkey, there was not one period

27 Petrus Cornelis Spierenburg, *The Spectacle of Suffering: Executions and the Evolution of Repression: From a Preindustrial Metropolis to the European Experience* (Cambridge, UK: Cambridge University Press, 1984), xi.

28 Richard J. Evans, *Rituals of Retribution: Capital Punishment in Germany 1600-1987* (Oxford: Oxford University Press, 1996).

29 Emmanuel Taïeb, *Hiding the Guillotine: Public Executions in France, 1870-1939*, trans. Sarah-Louise Raillard foreword by Mitchel P. Roth (Ithaca and London: Cornell University Press, 2020), 2.

30 Declaring the “moratorium” on capital punishment is a temporary suspension of executions. It describes the occasion that a state delays or suspends further executions of individuals on death-row, even while capital punishment remains legally in force and judicial authorities continue to issue death sentences. It should be also noted the difference between abolition and de facto abolition of capital punishment. Amnesty International defines de facto abolitionism as the states “retain the death penalty in law but have not carried out any executions for the past 10 years or more.” Although the time frame has changed in recent years, the latest definition recommends a minimum of 10 years.

See: Roger Hood*, “The Enigma of De Facto Abolition of the Capital Punishment,” in *Libro homenaje al profesor Luis Arroyo Zapatero: un derecho penal humanista*, ed. de Vicente

of moratorium that led to the abolition, but three.³¹ For reasons that will be explained in the following chapters, it might be more accurate to describe them as semi-moratorium. In each period when Turkey ceased to execute the death sentences, this semi-moratorium was suspended by an active retentionist policy until the third one, which ended with disappearance of capital punishment from the criminal law. Secondly, there is no linear history because abolition itself is not merely an endpoint or a peak in a “civilization” process. Like capital punishment, its abolition also serves various purposes beyond

Martínez R (Madrid: Agencia Estatal Boletín Oficial del Estado, 2021), 925–38. (*“Roger Hood had written a full draft of this essay when he fell ill and asked his colleagues for comments. Carolyn Hoyle and Saul Lehrsfreund returned to it after his death and completed it for this collection.”); Amnesty International, “Moratoriums on Executions: Report of the Secretary-General on the Implementation of the UN General Assembly Resolution 62/149,” AI Index: ACT 50/019/2008 (London: Amnesty International, 2008), 5.

- 31 There were three distinct periods related to capital punishment in Turkey. However, I have deliberately categorized them into five groups. Due to the enactment of two general amnesty laws during the semi-moratorium era, the dossiers of death-row inmates were withdrawn from the Parliament. These amnesty laws did not suspend the moratorium periods. But, technically, there are five groups within three time periods, as follow:
1. From Law no.480, dated June 23, 1964 (*Talât Aydemir, Fethi Gürcan Hakkındaki Ölüm Cezasının Yerine Getirilmesine, Osman Deniz, ve Erol Dinçer Hakkındaki Ölüm Cezasının Yerine Getirilmemesine Dair Kanun*) to Amnesty Law no. 780, dated August 03, 1966 (*Bazı Suç ve Cezaların Affı Hakkındaki Kanun*).
 2. From Amnesty Law no. 780, dated August 03, 1966 to Law no. 1426 dated June 08, 1971 (*Kâmil Akman Hakkındaki Ölüm Cezasının Yerine Getirilmesine Dair Kanun*).
 3. From Law no.1586, dated May 02, 1972 (*Deniz Gezmiş, Yusuf Arslan Ve Hüseyin İnân'ın Ölüm Cezalarının Yerine Getirilmesine Dair Kanun*) to Amnesty Law no. 1803, dated May 15, 1974 (*Cumhuriyet'in 50. Yılı Nedeniyle Bazı Suç ve Cezaların Affı Hakkında Kanun*).
 4. From Amnesty Law no. 1803, dated May 15, 1974 to Law no.2308 dated October 06, 1980 (*İsa Armağan ile Mustafa Pehlivanoglu Haklarındaki Ölüm Cezalarının Yerine Getirilmesine Dair Kanun*).
 5. *From Law no.3052, dated October 04, 1984 (*İlyas Has'ın Ölüm Cezalarının Yerine Getirilmesine Dair Kanun*) to Law no. 5218, dated July 14, 2004 (*Ölüm Cezasının Kaldırılması ile Bazı Kanunlarda Değişiklik Yapılmasına İlişkin Kanun*).

*Between 1984 and 2004, amnesty laws were enacted to commute death sentences. However, as the flow of moratorium was not interrupted by new execution laws during this period, it was unnecessary to further subdivide these years. Furthermore, this final period aligns most closely with the international definition of a moratorium.

ending executions. For instance, “peer pressure” toward embracing international human rights and European abolitionism was an important part of Turkey’s abolitionist era, overlapping with the path to European Union (EU) membership, and with the extradition and trial of a prominent suspect, Abdullah Öcalan, who was charged with the crime against Turkey’s territorial integrity.³²

The death penalty is not merely an “evil” practice destined to eventually disappear, not simply a criminal instrument serving certain purposes; it is a social phenomenon which unceasingly shapes and is shaped by identities. As Geertz described, law is “part of a distinctive manner of imagining the real.”³³ Furthermore, capital punishment legislation has a capacity to maintain this distinctive manner even after the public executions were officially prohibited and ultimately abolished.³⁴ It is a ghost that haunts the “mentalities and sensibilities” of society. I invoke this concept in reference to Garland, who suggests that cultural patterns cover mentalities (as the phenomena of cognition, the way of thinking) and sensibilities (as the affect or emotion, the way of feeling).³⁵

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- 32 For the term of “peer pressure:” Sangmin Bae, “International Norms, Domestic Politics, and the Death Penalty: Comparing Japan, South Korea, and Taiwan,” *Comparative Politics* 44, no. 1 (October 2011): 56, <http://www.jstor.org/stable/23040657>.
Amnesty International, “Death Sentence After Unfair Trial: The Case of Abdullah Öcalan,” AI Index: EUR 44/40/99 (London: Amnesty International, August 1999).
- 33 Clifford Geertz, *Local Knowledge: Further Essays in Interpretive Anthropology* (New York: Basic Books, 1983), 184.
- 34 The official dates are 1965 and 2004, respectively.
- 35 In *Punishment and Modern Society*, Garland synthesizes the works of major sociological theorists of punishment – including Durkheim, Marx, Foucault, Elias, Spierenburg, Rusche and Kirchheimer – and critically examines the limitations of their perspectives. Contrary to reducing punishment to any single theoretical framework, Garland advocates for “a cumulative argument for the necessity of a multidimensional interpretative approach which sees punishment as an overdetermined, multifaceted social institution.” I adopt Garland’s view of punishment as a complex social phenomenon which should not be reduced to any set of general theory. Furthermore, it must attend to its “cultural” aspect that “refers to all those conceptions and values, categories and distinctions, frameworks of ideas and systems of belief which human beings use to construe their world and render it orderly and meaningful. It thus covers

[T]hese (socially constructed) sensibilities and mentalities have major implications for the ways in which we punish offenders. These cultural patterns structure the ways in which we think about criminals, providing the intellectual frameworks ... through which we see these individuals, understand their motivations, and dispose of them as cases.³⁶

While culture provides legitimacy to punishment and shapes it, punishment, in turn, produces cultural and socio-political identities and images. Although capital punishment directly affects only a narrow segment of society, it is more deeply embedded in minds, in collective consciousness than any other penal sanction. Even the discourses of politicians cited earlier are encouraging enough to deserve further research. They demonstrate a key feature of the death penalty: its abolishment has not essentially eliminated its presence in other forms of discourse, nor rendered such usage unnecessary; rather, it has only changed it. There is a legal disenchantment accompanying the abolition of the death penalty: Because it can operate even after the abolition; because it has never operated merely within the legal realm; because the *idea* of the death penalty makes room for the normalization of certain categories, not the *law* of death penalty itself.

As explained in Chapter 1, this dissertation aligns with the current critical socio-legal perspective and offers an alternative critical legal history by focusing on the legislative space within which the death penalty operates in Turkey. Focusing on Turkey's Parliament – responsible for enacting laws and approving executions – it shows how legislative performance depersonalize responsibility by shifting blame onto “others” and obscuring systemic violence. This occurs in three ways: first, over-individualizing crimes and dividing society into victims and villains, allowing key actors to evade accountability; second, legislators obscure their role, masking who holds the right over life and death and creating a silent, cyclical process; third, the system hides legal flaws,

the whole range of mental phenomena, high and low, elaborated and inarticulate, so that philosophies, sciences, and theologies are included alongside traditional cosmologies, folk prejudices, and ‘plain common sense.’” cited from David Garland, *Punishment and Modern Society: A Study in Social Theory: Studies in Crime and Justice* (Oxford, UK: Clarendon Press, 1990), 220-40.

36 *Ibid.* 222

framing the death penalty as lawful collective revenge designed to serve ruling actors while excluding many despite claims of inclusivity. These arguments illuminate how parliamentary rhetoric obscures the socio-political factors behind crime. I will explore these three phenomena in greater detail in the following chapters. But first, I will outline why I focus on Parliament as the key legal space for seeking answers.

§ 2.2 Between Law and Nemesis: The Parliamentary Performance of Capital Punishment in Turkey

The death penalty in Turkey operates by codifying certain forms of violence as illegitimate while simultaneously obscuring various forms of structural violence embedded in society – such as discursive practices, internalized norms, moral hierarchies, or legal unaccountability – that arise from the same underlying violence of the perpetrator. The existence of capital punishment laws in jurisprudence, along with ongoing moral and legal debates, serves to obscure shared responsibility for violence broadly through two mechanisms: criminal law and sovereign exceptionalism. Capital criminal law individualizes violence, focusing on the actions of specific perpetrators while rarely referring to the systemic violence embedded in the social context. Sovereign exceptionalism, on the other hand, allows the political regime to legitimize state-violence as a “moral necessity,” even as it condemns similar acts committed by non-state actors.³⁷ Within this framework, at every stage of the death penalty’s performance – from the initial enactment of capital laws to the ultimate approval of executions of death sentences – Parliament acts as an entity composed of juridico-political elites who concentrate this power. I will explain three distinct but interconnected roles of legislation: as law-maker, decision-maker, and representative of society. Let us begin by examining the peculiarity of Parliament’s role as the final decision-maker on executions, a function that distinguishes it from the more familiar role of law-maker in other parliamentary regimes.

37 Fernando Coronil and Julie Skurski, eds., *States of Violence* (Ann Arbor: University of Michigan Press, 2006).

2.2.1 *Parliament as Life-and-Death Decision-Maker*

To better comprehend Parliament's role in the procedural choreography of the death penalty, it is essential to analyze the constitutional framework and the allocation of powers among the legislative, judicial, and executive branches. In Turkey, legislative power is solely held by Parliament, which is charged with drafting, debating, and passing laws. After a law is enacted, the judiciary is empowered to interpret and enforce it. Consistent with the constitutional principle of separation of powers, neither the executive nor the legislative branches possess the authority to commute, modify, postpone, or reverse sentences issued by the judiciary.³⁸ Generally, once a competent court issues a formal conviction, the sentence should be promptly enforced by the appropriate authorities. However, the death penalty represents an exception to this standard procedure. The execution of a death sentence required prior approval by Parliament. This process is distinct from the constitutionally granted powers of the legislature and, to a limited degree, the head of state to grant general amnesty or pardon (a distinction that will be further examined in Chapter 4).³⁹ For punishments other than death, the sentence would be carried out unless Parliament explicitly expressed its intention to grant a pardon. However, in the case of capital punishment, mere silence or inaction by Parliament was insufficient; each death sentence required explicit and separate approval. It

38 Article of 54/2 the Constitution of 1924: "Neither the legislative nor executive power may modify, alter, delay execution of decisions of the courts;" Article 132 of the Constitution of 1961: "Legislative, executive organs, and the administration ... shall in no manner whatsoever alter court ruling or delay their execution;" Article 138 of the Constitution of 1982: "Legislative and executive organs and the administration shall comply with court decisions; these organs and the administration shall neither alter them in any respect, nor delay their execution."

39 Article 26 of the Constitution of 1924, Article 64 of the Constitution of 1961, and Article 87 of the Constitution of 1982 explicitly empower the Assembly to declare general and special amnesties within the scope of its duties and powers. Similarly, Articles 42 (1924), 97 (1961), and 104 (1982) of the respective Constitutions explicitly vest the President with the authority to commute or remit sentences for individuals affected by chronic illness, disability, or advanced age.

was not a discretionary act of the legislature but a constitutional obligation.⁴⁰ Hence, capital punishment did not invariably result in execution in every case. Even after a conviction was upheld on appeal, there remained the possibility that the sentence could be commuted or pardoned by Parliament. Parliament served as the pivotal gatekeeper between judicial sentencing and the actual implementation of the death sentence.

Judicial independence and constitutional requirement of final consent for carrying out death sentences have coexisted in a notably exceptional manner. However, this feature is unique to capital punishment itself, not to Turkey. In fact, it is common across many countries for death sentences to require authorization from a body other than the judiciary prior to execution.⁴¹ What distinguishes Turkey, however, are the actors entrusted with granting this approval. In many countries, the authority and responsibility to make the final decision regarding the execution of capital punishment typically rests with “the head of state” – whether as president, monarch, or executive authority. This practice has been observed in many Anglo-Saxon, European, North and Middle American, Central and South Asian, Middle Eastern, and East and Southeast Asian countries alike.⁴² Turkey diverges from the common practice

40 Article 26 of the Constitution of 1924: “The Grand National Assembly itself ... decrees partial or general amnesty; mitigates sentences and grants pardons;... executes definitive sentences of capital punishment handed down by the courts.” Article 64 of Constitution of 1961: “The Grand National Assembly is empowered ... to pass resolutions in regard to proclaiming pardons and amnesties, and to the carrying out of definitive death sentences passed by courts.” Article 87 of the Constitution of 1982: “The functions and powers of the TBMM comprise ... deciding on the proclamation of amnesty and pardons excluding those who have been convicted for activities set out in Article 14 of the Constitution; confirming death sentences passed by the courts.”

41 Amnesty International, “Death Sentences and Executions 2020,” ACT 50/3760/2021, Global Report, April 2021), <https://www.amnesty.org/en/documents/act50/3760/2021/en/>.

42 For Anglo-Saxon examples, the British Parliament did not have the direct right to approve or commute individual executions of death sentences. The actual power to pardon or commute death sentences historically rested with the monarch via “the royal prerogative of mercy,” exercised on the advice of government ministers. In European examples, this was also true for France, where the power to grant clemency and commute death sentences belonged exclusively to the President of the Republic, not to

among its peers by vesting the ultimate authority to decide on the execution of death sentences in its legislature, rather than in the head of state or executive bodies. According to constitutional provisions, criminal codes, and parliamentary by-laws and jurisprudence, death sentences must first be reviewed by the parliamentary commissions before being presented for a vote in TBMM.⁴³ Only after parliamentary approval can the sentence be ratified and published in RG. For much of the period during which death penalty cases were debated in Parliament, the President of the Republic did not even possess veto power following parliamentary approval. As will be discussed in more detail later, until 1962, Parliament's decisions on the execution of death sentences were issued as parliamentary decrees rather than formal laws, thus falling outside the President's veto authority.⁴⁴ Even after the introduction of presidential veto powers, there is no record of any President exercising a discretionary veto in

Parliament. Similarly, in Germany, although the President had the authority to grant pardons, including for death sentences, this power could be delegated to other officials such as the Chancellor or Minister of Justice as a part of the executive branch.

In North America, Canada's power of pardon – sometimes criticized for its inconsistent application as a lottery – was exercised by the Governor General (the representative of the monarch) on the advice of ministers. Similarly, in the United States, there is “the power of the state's governor, or the President (in federal cases), to reduce the punishment imposed by the courts.”

The execution of a death sentence required the approval of the head of state, head of government, or executive body in various countries across Central and South Asia and the Middle East (such as Kyrgyzstan India, Palestine, and Israel), as well as in East and Southeast Asia (such as Japan, China, Singapore, and South Korea).

Amnesty International, “Death Sentences and Executions 2020,” Rob Turrell, “It's a Mystery: The Royal Prerogative of Mercy in England, Canada and South Africa,” *Crime, Histoire & Sociétés / Crime, History & Societies* 4, no. 1 (2000): 83–101, DOI:[10.4000/chs.850](https://doi.org/10.4000/chs.850); Death Penalty Information Center, “About The Death Penalty: Stages in a Capital Case,” <https://deathpenaltyinfo.org/resources/high-school/about-the-death-penalty/stages-in-a-capital-case>; Sarat and Boulanger, *The Cultural Lives of Capital Punishment*.

43 Article 26 of the Constitution of 1924, Article 64 of the Constitution of 1961, and Article 87 of the Constitution of 1982; Article 12 of the TCK dated 1926; By-law of the TBMM dated 1927 and 1973. For a more detailed explanation, see the section titled “Capital Punishment as an *Ouroboros*” in the fourth chapter of this study.

44 Constitutional provisions on the Presidential veto: Article 35 of the Constitution 1924; Article 93 of the Constitution 1961, and Article 89 of the Constitution 1982.

these cases. Furthermore, it should be noted that the presidential veto is not absolute power. If Parliament re-adopts the law with an absolute majority, the President is obliged to promulgate it, as there is no right to a second veto.⁴⁵ This distinctive parliamentary role as the final arbiter in capital punishment underscores the legislature's central position in Turkey's procedural framework for enforcing the death penalty.

Any standard death sentence dossier in Parliament follows this road: After *Yargıtay* finalized the criminal courts' verdicts on death sentences, the dossier was submitted to the Ministry of Justice and subsequently presented to the Prime Ministry.⁴⁶ However, access to the records held by the Ministry of Justice and the accompanying files of *Yargıtay* is currently unavailable. It is important to note that only the resolutions issued by the Ministry of Justice and the Prime Ministry (*Adliye Vekaleti/Adalet Bakanlığı Tezkeresi, Başvekalet/Başbakanlık Tezkeresi*) are accessible through the parliamentary database; the complete dossier of lawsuits is not. These two documents contain exclusively technical and bureaucratic content. Consequently, I was only able to review the legal decisions summarized by the Ministry of Justice in the documents distributed to legislators prior to parliamentary sittings and appended to the parliamentary records.

The next step following the finalization of court decisions on death sentences was referral to the Justice Commission. This commission would

45 Constitutional provisions on publication of laws by the President of the Republic: *ibid*.

46 Until 2016, it was not entirely possible to categorize *Yargıtay* strictly as either the Court of Cassation or the Court of Appeal. In theory, an Appeal court is a higher court authorized to review first-instance court decisions on both law and facts, focusing on factual errors. Cassation, on the other hand, is a higher court above the Appeal that deals with procedural errors and does not have authority to review evidence. However, in Turkey, before 2016, *Yargıtay* functioned as a second-instance court overseeing first-instance decisions. With the establishment of the Regional Courts of Justice (Courts of Appeal/*İstinaf Mahkemeleri*) on July 20, 2016, a three-tier judicial system was introduced. Until then, *Yargıtay* was the sole higher court reviewing decisions from local courts. Since no name change occurred during this process and *Yargıtay* performed both functions, I prefer to refer to it by its original Turkish name in this study; because, it is important to bear in mind that, during the capital punishment era, the two distinct stages of the appeal process in Turkey were consolidated into a single authority.

examine the case and prepare a legislative text recommending either approval or disapproval of the execution of the sentence. This commission represents the final stage for death penalty dossiers before submission to Parliament. As an expert body, the Justice Commission is responsible for matters related to justice affairs, civil codes, criminal law, codes of obligations, civil and military jurisdiction, amnesty laws, and issues concerning courts, judges, prosecutors, and attorneys. The Justice Commission Report is an informative document that provides a comprehensive summary and analysis of the actors involved, the crimes committed, the litigation process, and technical details pertinent to capital punishment cases. This report serves as an advisory document for consultation prior to formal parliamentary debate. Based on the report's findings, the Commission drafts a decree or law offering an opinion on whether to carry out the execution, grant a pardon, or commute the sentence in each case. In instances where consensus was lacking, the report sometimes included judicial justifications (*gerekeçe*) for the decision, although this was not mandatory. This report is the most informative source regarding the trajectory of capital punishment verdicts, as it incorporates previous bureaucratic correspondences as attachments, complete with relevant dates and information.

The draft decree or law and the Justice Commission Report were then introduced to Parliament and added to the agenda. The parliamentary sitting constituted the final opportunity before enactment, during which legislators could adopt, reject, amend, reconsider, or return the draft to the Commission by simple majority vote. The decree or law on the death sentence was ultimately enacted upon publication in the RG. Parliamentary minutes documenting these processes and discussions form a cornerstone of this study. It should be noted that, although the main procedure remained unchanged, there were four major exceptions to this procedure in the context of military courts, military regimes, procedural changes in the bicameral system, and the withdrawal of dossiers by the Prime Ministry due to retrials, correction of judgments, and the application of amnesty laws, as will be explained in the appendix titled "The Path of Capital Punishment Dossiers in Parliament."

The legislative body was constitutionally vested with the authority to decide on the execution of death sentences from the adoption of the first Constitution of the Republic of Turkey on April 20, 1924, until the abolition of the

death penalty on May 7, 2004.⁴⁷ Furthermore, this legislative power was not confined to periods of civilian rule; even during military regimes following the 1960 and 1980 coup d'états, when Parliament was dissolved, the authority to make decisions regarding capital punishment remained with those performing legislative functions.⁴⁸ It should be also noted that the authority of the Parliament to decide on the execution of death sentences was grounded not only in the legal frameworks of the Republic but also in traditions predating the establishment of the Republican regime. Prior to the Constitution of 1924, there existed no legal basis for determining who held this authority. Following the establishment of the Grand National Assembly in 1920, neither *Teşkilât-ı Esâsiye Kanunu* (Constitution of 1921) nor the constitutional amendments made after the proclamation of the Republic contained any provision regarding the authority responsible for deciding on the execution.⁴⁹ However, from 1920, when the first Assembly was inaugurated, until 1924, when the first Constitution of the Republican regime came into force, Parliament exercised the

47 For all constitutional provisions granting the legislature the right and duty to decide on the execution of death sentences, please refer to footnote 40.

Law no.5170, dated on May 7, 2004 abolished the capital punishment for all crimes.

48 From the coup d'état on May 27, 1960 to January 5, 1961, the MBK had the legislative power with no exceptions for the decision for execution of capital punishment verdict. (Article 6 of Law no.1, issued June 12, 1960). During the Constituent Assembly period (January 6 to October 25, 1961), the MBK continued to monopolize decisions to carry out executions (Law no.157, issued December 13, 1960). Following the September 12, 1980 coup d'état until October 23, 1981, the authority for executing death penalties, along with all other legislative and executive powers, belonged to the MGK (Article 9-14 of Decree no.1, enacted September 25, 1980). From October 23, 1981, until the end of the de facto regime on December 6, 1983, decision-making authority was exercised jointly by the Advisory Assembly and the MGK, but hierarchically in favor of the latter (Article 86 of By-law of Advisory Assembly, enacted November 20, 1981).

49 Law no.85, enacted January 20, 1921 (*Teşkilât-ı Esâsiye Kanunu*); Law no.364, enacted October 29, 1923 (*Teşkilât-ı Esâsiye Kanunun Bazı Mevaddının Tavzihan Tadiline Dair Kanun*).

authority to decide on executions.⁵⁰ This power was officially defined only after the adoption of the 1924 Constitution.⁵¹

Certain legal scholars and some members of legislature have argued that granting this power to Parliament is not logically justified but can be explained by historical legacy. According to their view, a discernible pattern emerged in the Ottoman Empire whereby the authority to decide on executions was vested in the Sultan.⁵² When the First Grand National Assembly usurped the Sultan's executive, legislative, and judicial powers, it was understood that this authority – as power over life and death – was likewise transferred to Parliament.⁵³ Briefly, the Parliament represented a continuation of sovereign power

50 This right and duty can be traced back to Article 8 of Law no. 2, issued on April 29, 1920 (*Hıyanet-i Vataniye Kanunu*), as well as Article 5 of Law No. 249, issued on July 31, 1922 (*İstiklal Mahkemeleri Kanunu*).

There were twenty-five death penalty cases discussed in Parliament, involving a total of thirty-six perpetrators. From *TBMM Zabıt Ceridesi*, D.1, İ.1, C.1, İç.1, April 23, 1336 to *TBMM Zabıt Ceridesi*, D.2, C.8/1, Y.2, İç.42, April 20, 1340.

51 Article 26 of the Constitution of 1924.

52 Osman Nuri Uman, *Ana Yasa Hukuku*, 152, cited in Tahsin Adam, "Af Salahiyeti," *Adliye Ceridesi* 32, issue 11 (Ankara: 1941), 856; Mehmet Semih Gemalmaz, *Türkiye'de Ölüm Cezası (1920-2000): Zihniyet, İnfazlar, Mevzuat, Yargı ve Siyaset*, I, (İstanbul: Beta Yayınları, 2001), 603; Turhan Feyzioğlu, "Meclisin İdam Hükümlerini İnfaz ve Hususi Af Salâhiyetleri Hakkında," *Ankara Üniversitesi Siyasal Bilgiler Fakültesi Dergisi* 2, no. 3 (February 1947): 422. Alongside the explanations provided by legal scholars, some legislators have also voiced their own arguments regarding the parliamentary historical role in capital punishment. For example, in a parliamentary sitting on November 21, 1927, Minister of Justice Mahmut Esat Bey (İzmir) stated, "It is well known that during the Sultanate, death sentences were submitted to the Sultans for execution. After the destruction and annihilation of the personal sultanate, this right, like many other rights that had been lost, was transferred to the nation and its representative, the Grand National Assembly." See: *TBMM Zabıt Ceridesi*, D.3, C.1, İ.1, İn.9, November 21, 1927. Similarly, in 1947, the Speaker of Parliament declared that "this duty, which was carried out by the former Sultan, was considered by the Assembly itself with full authority, since it is the sovereign of the law itself." See: *TBMM Zabıt Ceridesi*, D.8, C.6, İ.1, B.70, June 9, 1947.

53 It is a matter of speculation why the authority to decide on the execution of death sentences was given to the Parliament rather than to the head of state. For example, Feyzioğlu's source quotes from *Memories from Atatürk* in the weekly magazine *Millet*, stating that Atatürk himself insisted this power be assigned to the Parliament and not to the President. (*Millet*, August 7, 1947, vol. 79, no. 5). Feyzioğlu, "Meclisin İdam Hükümlerini," 422.

within the Republican framework, embodying the transfer of authority from the Ottoman sultanate to a national legislative body grounded in popular sovereignty. The Parliament's authority in this regard differs from other sovereign powers because the death penalty, the notion of the state, and sovereignty are, in a way, mutually constitutive structures.

Historically, a key justification for capital punishment has been that it is necessary for the survival of a state, indicating that capital punishment is linked to state sovereignty itself. Such a justification implies that capital punishment may not be merely one particular aspect of a legal system, but rather a core around which an entire legal and political order is built.... [T]he issues of capital punishment and of sovereignty are not purely issues of power, but also of representation. The execution is not just a punishment, but a performance of a narrative about what the state stands against, as well as an attempt to eliminate an alternative narrative of the state.⁵⁴

A significant part of the symbolic power to define what the state is and what society includes resides in the Parliament. The legislators have exercised this power sometimes actively by participating in the creation of norms, and at other times passively by silently sheltering behind these definitions. Furthermore, neither in theory nor practice was Parliament regarded as a mere bureaucratic body obligated to simply ratify death sentences handed down by the judiciary without discussing the essence of criminal cases and actors involved. Some leading legal scholars argue that Parliament's power to decide on the execution of death sentences did not constitute the exercise of judicial authority; rather, it reflected just a sovereign power embodying "the conscience of the public," as will be discussed later.⁵⁵ One of the main reasons for the lack

54 David Pan, "Merging Sovereignty and Meaning in Capital Punishment: Franz Kafka's *Der Proceß* and Bertolt Brecht's *Die Maßnahme*," in *Death Sentences: Literature and State Killing*, ed. Birte Christ and Ève Morisi, NED-New edition, vol. 49 (London: Modern Humanities Research Association, 2019): 100.

55 I do not employ the term "public" in the Habermasian sense of the public sphere, which implies a critical-rational debate. Rather, I use it in the sense of the Turkish term *kamu*, referring

of studies focusing on the role of Parliament in the existing literature on the death penalty – beyond its legitimacy and legal foundations – appears to be this very interpretation. However, regardless of interpretations by legal scholars, Parliament has persistently formulated its own understandings and exercised its authority in manners that occasionally blur the distinction between legislative and judicial functions. The question of how Parliament is supposed to function was problematized. Some legislators, emphasizing judicial independence, argued that Parliament should not re-examine convictions as *Yargıtay* does – by reviewing evidence, hearing testimony, or considering the defendant’s mental health.⁵⁶ Instead, they maintained that Parliament’s role should be limited to reflecting the “social conscience.”⁵⁷ Conversely, another deputy challenged this view by asking whether Parliament, by automatically approving executions without case examination, effectively becomes the hangman itself.⁵⁸ This fundamental inconsistency in defining Parliament’s role in the death penalty process has not been resolved by any legal interpretation. But either way, they were represented as the death penalty’s *Nemesis*, the Greek goddess of retribution and justice. As *Nemesis*, they transcended legal boundaries to ensure fairness by rewarding humility and punishing hubris.⁵⁹

This is why the preference between the legislative body and the head of state for the decisive responsibility over executions is not merely a technical and insignificant matter. If Parliament’s role were limited to a mere

to ‘ordinary’ citizens – that is, the entire population of a country – implicitly acknowledging the existence of the state.

Adam, “Af Salahiyeti,” *Gemalmaz, Türkiye’de Ölüm Cezası*, I, 603-634; Feyzioğlu, “Meclisin İdam Hükümlerini,” Sami Selçuk, “Anayasada Ölüm Cezası,” *Yargıtay Dergisi* 4, no. 4 (Ankara: October 1978): 415-37; İlhan Arsel, *Türk Anayasa Hukukunun Umumi Esasları I: Cumhuriyetin Temel Kuruluşu* (Ankara: Mars Matbaası, 1965), 352-54; Ahmet Şeref Gözübüyük, *Anayasa Hukuku*, 19th ed. (Ankara: Turhan Kitabevi, 2013); Kemal Gözler, *Türk Anayasa Hukuku* (Bursa: Ekin Kitabevi Yayınları, 2000), 462.

56 For a detailed historical definition of *Yargıtay*, refer to footnote 46.

57 Discussions on the Decree no. 1337 dated May 17, 1943, *TBMM Zabıt Ceridesi*, D. 7, C. 2, İçtima F, May 17, 1943.

58 Dr. S. Ali Dilemre (Rize), *Ibid.*

59 Amy Weber, “Nemesis (deity),” *EBSCO Research Starters*, 2022, <https://www.ebsco.com/research-starters/religion-and-philosophy/nemesis-deity>.

bureaucratic function of ratification, or if ultimate authority rested solely with the executive body or the President, the death penalty cases would follow a linear path: the legislature would define capital crimes in criminal law, the judiciary would impose death sentences based on those laws, and the executive would make the final decision regarding execution. However, in Turkey, the process deviated from this linear model, and instead followed a circular path, with each individual death sentence returning to the very beginning of the cycle, to legislation. In summary, across all three constitutional periods in Turkey, the same actors were empowered both to decide on the execution, commutation, or pardon of individual death sentences and to enact or abolish the death penalty law itself. However, they choose to silently endorse the final court's verdict, or to remain completely silent without rendering decisions on the cases.

From the enactment of the Republican regime's first criminal code codifying the death penalty in 1926 until the last individual case was discussed in 1984, nearly 80.6% of death-row inmates whose file were brought before the parliamentary agenda were concluded – whether by approval of execution or commutation – without a single word being spoken about them.⁶⁰ Furthermore, during almost half of the time between 1926 and the formal abolition of the death penalty in 2004 (46.6%), individual cases of death sentences were not even submitted to the parliamentary agenda, leaving the condemned in a state of indefinite waiting.⁶¹ Legislators choose to operate in a self-consuming loop. This silent operation of the system fostered an impersonal atmosphere that distanced individuals from the decision-making process – characteristic of a routine bureaucratic function in the Weberian sense – rendering the death penalty a banal and anonymous part of everyday life.⁶² As a result, the connection between the act of law and the act of killing became obscured. As Hannah Arendt famously stated,

60 From 1926 to 1984, Parliament individually reviewed 659 dossiers concerning 707 death row inmates. Of these, 148 files concerning 136 persons were discussed for procedural matters such as comments, questions, requests, or warnings.

61 For a detailed periodization and chronology, see footnote 31.

62 Max Weber, *The Theory of Social and Economic Organization*, trans. A. M. Henderson and Talcott Parsons, ed. Talcott Parsons (Glenco, Illinois: The Free Press, 1947), 340.

Bureaucracy is the form of government in which everybody is deprived of political freedom, of the power to act; for the rule by Nobody is not no-rule, and where all are equally powerless, we have a tyranny without a tyrant.⁶³

However, it was an illusion in the context of Turkey's experience with the death penalty. Under the guise of this "rule of nobody," the constellation of responsible factors surrounding the crime – beyond the perpetrator alone – was also concealed beneath this silence. By quietly maintaining the death penalty on the statute book, regardless of whether Parliament chooses to authorize executions, it conceals or shifts responsibility for the violence inherited by society, for the structural conditions that tolerate or overlook such violence, and for the violence perpetrated by the state-apparatus' themselves.

2.2.2 *Parliament as "Society's Conscience" and "State's Representative"*

I consistently use the term "Parliament" to refer to various periods in Turkey's history; however, it is important to recognize that the Turkish parliamentary institution has never been a monolithic or static entity. First and foremost, Parliament itself, along with other parliamentary institutions involved in matters related to capital punishment, has undergone continuous transformation due to military interventions and constitutional amendments.⁶⁴ Beyond these institutional changes, the composition and functioning of the parliamentary system experienced significant shifts during the period under study. This included the transition from the single-party regime to multi-party regime, as well as the adoption of a bicameral legislature. Such processes drastically changed the parliamentary actors. Even when individual actors remained in place, their agency was reshaped by the evolving political and legal contexts. Moreover, parliamentary actors themselves have hinged on certain "mentalities and sensibilities" which were partially reproduced by them. Legislators were not detached from the society; they were both products and producers of social fabric. For example, in the debate surrounding a case in which a father killed his own son, the meaning of "fatherhood" was depicted not only by

63 Hannah Arendt, *On Violence* (New York: Harcourt, Brace & World, 1970), 38.

64 Refer to footnotes 48 in this Chapter, and footnotes 51 and 52 in Chapter 1.

the perpetrator but also by members of Parliament as a part of society. A deputy remarked that “does every father in a difficult situation kill his son? We are all fathers, and we all live for our loved ones (*ciğerparelerimiz*).”⁶⁵ The parliamentary actors were both the producers and the consumers of the representations created by the death penalty. After all, even parliamentary immunity could only temporarily shield legislators from prosecution for capital crimes in Turkey.⁶⁶

Research on the re-socialization of the death penalty, of course, requires tracing the legislators’ perspectives and arguments regarding the laws and verdicts submitted to Parliament. However, my intent is not to analyze how actors from specific political parties discussed this punishment, nor to reveal their “real” intentions and “personal” beliefs. First, personal beliefs and social, political, or legal positions are interconnected. Isolating them from each other is

65 Feridun Fikri Düşünsel (Bingöl), Decree no.1338 dated May 17, 1943, *TBMM Zabıt Ceridesi*, D.7, C.2, İ. F, İn.24, May 17, 1943, 99.

66 Legislative immunity, also known as parliamentary immunity, is “[a] legal doctrine that protects legislators from being sued for all actions taken in the sphere of legitimate legislative activity. The purpose of legislative immunity is to ensure that the legislative function may be performed independently without fear of outside interference.” See: Legal Dictionary and Encyclopedia of the Legal Information Institute of Cornell Law School. According to the Article 83 of the Constitution of 1982, “A deputy who is alleged to have committed an offence before or after election shall not be detained, interrogated, arrested or tried unless the Assembly decides otherwise. This provision shall not apply in cases where a member is caught in *flagrante delicto* requiring heavy penalty and in cases subject to Article 14 of the Constitution as long as an investigation has been initiated before the election.... The execution of a criminal sentence imposed on a member of the TBMM either before or after his election shall be suspended until they cease to be a member; the statute of limitations does not apply during the term of membership.” Briefly, legislative immunity is a “relative” (*nispi*) immunity. First, there were derogations. Immunity did not protect members caught in *flagrante delicto* committing capital crimes. Second, the Assembly had the power to lift the legislators’ immunity, meaning members can be prosecuted for capital offenses if the Parliament so decides. Third, even if they did not commit a crime in *flagrante delicto* and preserved their legislative immunity, the non-authorization of prosecution was temporary. After a member’s term ends, prosecution may proceed without limitation periods, and previously imposed sentences must be executed. Kemal Gözler, “Yasama Dokunulmazlığı: Bir Karşılaştırmalı Anayasa Hukuku İncelemesi,” *Ankara Üniversitesi Siyasal Bilgiler Fakültesi Dergisi* 56, no 3 (July-September 2001): 71-101.

already challenging in any social issue, but it is virtually impossible for political actors in this case. Second, even if one attempted to study only the allegedly “personal” ideas of actors, appropriate primary sources separated from political and legal contexts are generally unavailable. Finally, even if such a study were possible, it would be an unnecessary or merely supplementary effort to understand the performance of the death penalty in Turkey. Capital punishment has not only defined socially acceptable identities for victims and perpetrators, but also for legislators themselves. Therefore, I persisted in contextual research to interpret how the death penalty both reflects and is reflected by society.

“Parliament” does not imply it is a singular, homogeneous entity transcending human agency. Instead, it is shaped by various actors and reflects broader societal divisions. However, drawing on performance-historiography, I do not seek individual intentions but “strive to describe historically specific cultural configurations that make certain thoughts, intentions, and actions possible and appear logical, positive, self-evident – and others illogical and false.”⁶⁷ I also argue that Parliament emerges as, if not the sole, then the most concentrated, complete, and tangible embodiment of Turkey’s death penalty regime, acting as symbolic “conscience of society.” Parliament was legally and discursively seen as society’s legitimate representative, with the “national conscience” guiding sentencing decisions.⁶⁸ While “conscience” in Turkish often implies compassion or divine moral values, Freud’s view – that conscience

67 Jürgen Martschukat “Nineteenth-Century Executions as Performances of Law, Death, and Civilization,” in *The Cultural Lives of Capital Punishment: Comparative Perspectives*, ed. Austin Sarat and Christian Boulanger (Stanford, CA: Stanford University Press, 2005), 50-51.

68 Article 4 of the Constitution 1924, Article 76 of the Constitution 1961, Article 80 of the Constitution of 1982. For the full text of articles: Refer to footnote 6 of Chapter 5. For examples referencing the concepts of the “public” and “national conscience,” see: Muhittin Baha Pars (Bursa), *TBMM Zabıt Ceridesi*, D.6, C.20, İ.1, İn. 78, September 15, 1941; Yusuf Demirdağ (Trabzon), *Cumhuriyet Senatosu Tutanak Dergisi*, D.1, C.19, T.3, B.49, March 10, 1964; Nuri Erdoğan (On behalf of the DP parliamentary group, İstanbul) and Muammer Ertem (Manisa), *Millet Meclisi Tutanak Dergisi*, D.3, C.23, T.3, B.58, March 10 1972; Muzaffer Yurdakuler (On behalf of MBG, Natural member), *Cumhuriyet Senatosu Tutanak Dergisi*, C.4, T.11, B.42, March 16, 1972.

reflects internalized social rules – offers a more useful lens.⁶⁹ Parliament both shapes and is shaped by social rules, producing, tolerating, legitimizing, or delegitimizing them. It constituted both the first and final step in the legal life of the death penalty, acting as the highest conscience and representative of both “society” and the “state.” This leads us to ask: What exactly is the state or society?

In academic literature, particularly since the 1970s, there have been numerous attempts to deconstruct the coherence of the category of the state. Historical materialists have employed terms such as Marx’s “abstraction,” Anderson’s “imagination,” Abrams’s “mask,” and Taussig’s “fetish” to analyze the state.⁷⁰ According to this approach, “[t]he state is not the reality which stands behind the mask of political practice. It is itself the mask which prevents our seeing political practice as it is.”⁷¹ Post-structuralists, meanwhile, often invoke Foucault’s concept of “discourse,” arguing that the idea of the state primarily functions to conceal the political realm inherent within it.⁷² Despite the valuable insight provided by Foucault’s “all-inclusive conception of power – that power is everywhere and in everything,” it remains important to recognize the command capacity of centralized legal institutions.⁷³ As Alan Hunt notes, “[w]hile law cannot be reduced to the commands of some political superior or sovereign, it is nevertheless wrong to lose sight of the command capacity of the centralized legal institutions.”⁷⁴

69 Sigmund Freud, “The Ego and the Id,” in *The Standard Edition of the Complete Psychological Works of Sigmund Freud*, vol. 19, ed. and trans. James Strachey (London: Hogarth Press, 1953), 1–66.

70 Derek Sayer, *The Violence of Abstraction: The Analytic Foundations of Historical Materialism* (New York: Basil Blackwell, 1987); Benedict Anderson, *Imagined Communities: Reflections on the Origin and Spread of Nationalism* (London: Verso, 1991); Philip Abrams, “Notes on the Difficulty of Studying the State (1977),” *Journal of Historical Sociology* 1, no. 1 (March 1988): 58–89; Michael Taussig, “Maleficium: State Fetishism,” in *The Nervous System*, 1st ed. (London: Routledge, 1992).

71 Abrams, “Notes on the Difficulty of Studying the State,” 58.

72 Michel Foucault, *The Archaeology of Knowledge and The Discourse on Language*, trans. A. M. Sheridan Smith (New York: Pantheon Books, 1972).

73 Alan Hunt, *Explorations in Law and Society: Toward a Constitutive Theory of Law* (New York: Routledge, 1993), 253.

74 *Ibid.*

While I emphasize the significance of the state beyond notions of “false consciousness,” I do not seek to advance the rigid distinction between state and society as posited by system theorists or statist approaches. I reject both the statist perspective that views the state as an independent, self-contained entity and the critical perspective that dismisses the state as merely a conceptual abstraction. Instead, I prefer to embrace Timothy Mitchell’s “third approach” to understand the emergence and functioning of political order. Like Poulantzas, Mitchell contends that “the boundary of the state (or political system) never marks a real exterior”⁷⁵ However, this does not imply that the line between the modern state and society is illusory. Rather, “[p]roducing and maintaining the distinction between state and society is itself a mechanism that generates resources of power.”⁷⁶ The illusion does not lie in the distinction or separation between the concepts of state and society, but rather in the assumption that either or both possesses a unified and consistent essence. Cases involving the death penalty, especially those highlighting the state and society, offer a valuable opportunity to explore the intricate political processes through which “the uncertain yet powerful distinction between state and society is produced.”⁷⁷

Terms such as the state, society, and nation, like other performatively constituted entities, exist only through specific performances that must be continuously repeated to achieve stability and appear self-evident.⁷⁸ However, in line with Jürgen Martschukat’s interpretation of performance theory, the fact that these are cultural and historical configurations does not diminish their “reality;” they have real effects on human lives and are deeply embedded within social and power structures.⁷⁹ In the context of the death penalty, these effects are not merely symbolic – they have direct and literal consequences on people’s lives. I prefer to draw on Yael Navaro-Yashin’s interpretation, which emphasizes a Žižekian and Lacanian notion of “fantasy.” She contends that

75 Timothy Mitchell, “The Limits of the State: Beyond Statist Approaches and Their Critics,” *American Political Science Review* 85, no. 1 (1991): 90, <https://doi.org/10.2307/1962879>.

76 *Ibid.*

77 *Ibid.*, 77-96. 77.

78 Martschukat, “Nineteenth-Century Executions,” 52.

79 *Ibid.*, 51-52.

“even when we know that the state as an abstraction does not exist, the objects and life processes that have been put into activity in the name of the state continue to exist.”⁸⁰ Capital punishment, in this context, is described by the “state” law, interpreted and executed by the “state” agents on behalf of the “state” and “nation.” Hence, in this study, the term state and nation are employed in a Lacanian sense. The “state” ultimately gives you power. Pierre Bourdieu and Loïc J. D. Wacquant define a particular form of capital – “statist capital” – which encompasses the accumulation of various forms of power. They argue that,

the construction of state goes hand in hand with the constitution of the field of power understood as the space of play in which holders of various forms capital struggle in particular for power over the state, that is, over the statist capital that grants power over the different species of capital and over their reproduction.⁸¹

There are nearly objective positions of powers and subjective dimension in individual behaviors as powerholders. After all, in the Weberian sense, the state is “a human community that (successfully) claims the monopoly of the legitimate use of physical force within a given territory.”⁸² Within this framework, the Turkish Parliament, as a human community itself, has been presented as the sole legitimate representative of the broader community – whether conceived as the nation or society. As will be discussed in Chapter 5, however, Parliament was highly fragmented internally. What I challenge is precisely Parliament’s homogeneous and omnipotent image as the state. I will examine its power to project the appearance of a unified whole despite its internal divisions and the exclusion of certain segments of society, and to embody a supra-human entity despite being composed of individual actors. When examining the structure of the death penalty, which serves to obscure responsibility, legislators appear to exercise this “statist-capital” in three

80 Yael Navaro-Yashin, *Faces of the State: Secularism and Public Life in Turkey* (Princeton: Princeton University Press, 2002), 160-61, 187.

81 Pierre Bourdieu and Loïc J. D. Wacquant, *An Invitation to Reflexive Sociology* (Chicago: University of Chicago Press, 1992), 114.

82 Max Weber, “Politics as a Vocation,” in *From Max Weber: Essays in Sociology*, ed. and trans. Hans H. Gerth and Charles W. Mills (New York: Oxford University Press, 1948), 77–128. 78.

primary ways. First, their rhetoric surrounding the death penalty can obscure the fact that certain forms of violence, legitimized within society, can pave the way for capital crimes. Second, they can make everyone complicit in the violence of capital punishment by portraying Parliament as the true representative mechanism (as the state) that decides to kill a citizen on behalf of society and the nation. Third, legislators can operate silently, like a bureaucratic and homogeneous machine, making their partial responsibility for violence completely invisible. But in each of these scenarios, accountability was systematically obstructed.

2.2.3 *Parliament as Law-Maker: Law, Violence, and the Construction “Abnormal”*

Although I consistently argue that capital punishment extends beyond solely legal and political realms, legal texts and legislative as well as executive practices remain the primary focus of my inquiry. This is because law – whether be produced or consumed – operates as a field where the meaning of violence is categorized, regulated, and distributed. Drawing on Walter Benjamin’s insights, lawmaking “does not dismiss violence; rather, ... [l]awmaking is power making, and, to that extent, an immediate manifestation of violence.”⁸³ This is especially true in the context of criminal law and, more specifically, capital punishment law. The establishment and regulation of violence is directly connected both to the criminal acts underlying capital offenses and to the bodily execution of the punishment itself. Robert Cover’s observation that “[l]egal interpretation takes place in a field of pain and death” aptly captures the reality of capital punishment cases.⁸⁴ All forms of violence, whether physical or not, are framed and standardized by law. While the determination of what constitutes violence and the justification for death are complex and contested, legal practices not only articulate what is normal in these domains but also produce an effect of consensus regarding which deaths are deemed justifiable and

83 Walter Benjamin, “Critique of Violence,” in *Reflections: Essays, Aphorisms, Autobiographical Writings*, trans. Edmund Jephcott, ed. Peter Demetz (New York: Schocken Books, 1986), 277–300, 298.

84 Robert Cover, “Violence and the Word,” *The Yale Law Journal* 95, no.8 (1986): 1601, : <https://www.jstor.org/stable/796468>.

which are criminalized, through legislative and judicial bodies. Although the penal system maintains a reciprocal relationship with society at large, criminal law is ultimately shaped by a minority – those with legal expertise and/or political authority.

We now return to Parliament's legislative function, its primary and most conventional role. This is, after all, the starting point from which the law originates, leading to the prosecution of individuals whom they ultimately decide to execute or commute. Christian Boulanger and Austin Sarat mentioned that,

Looking at elites [read as political and legal elites] only would obviously not be sufficient to understand the cultural lives of capital punishment.... [E]lites have little control over the results of their strategies to accommodate (or offend) public sensibilities about capital punishment. Popular culture has a life of its own, replete with alternative sources of value, resistances, and unforeseen resonances in which the public accommodates itself to, or criticizes, the regime of state killing.⁸⁵

While I do not fully believe that popular culture, or any other social entity, has a life of its own, my approach nevertheless echoes their assertion that focusing solely on elites is insufficient for a comprehensive understanding. However, I propose not solely, but mainly focusing on them because of the very nature of punishment.

P. W. Adam Immink observes that “in common parlance the term ‘punishment’ is never used unless the person upon whom the penalty is inflicted is clearly subordinate to the one imposing the penal act.”⁸⁶ This distinction is crucial for differentiating punishment from other forms of retribution. If an actor can *punish* others, rather than *revenge on* them; in other words, if the disciplinary meaning can be attributed to vengeance of an actor while others have not such a right, there is a hierarchical relationship – where the punisher holds a position of subordination over the punished. In terms of criminal justice, this ability to subordinate is exclusively vested in judicial and legislative

85 Sarat and Boulanger, “Putting Culture into the Picture,” 17-18.

86 Petrus Wernerus Adam Immink, *La liberté et la peine: Étude sur la transformation de la liberté et sur le développement du droit pénal public en Occident avant le XIIe siècle* (Assen: Van Gorcum, 1973). It is cited in Spierenburg, *The Spectacle of Suffering*, 2.

domains. In Turkey, I argue that this hierarchical relationship becomes particularly evident within the legislative and executive branches concerning cases of capital punishment. Judicial actors, of course, have the direct authority to punish, and play a crucial role in this relation. However, it is Parliament that embodies the law itself. And this Parliament, as well as law, significantly represents one of the faces of regimes' subordination in people's minds.

Law is neither just a reflection of power nor merely a codification of certain social practices. It can drive social change or reinforce existing social dynamics. In either case, it has tangible and significant effects on individuals. Law, drawing on the seminal work of Cover, operates in a normative universe of social actors creating legal meanings beyond the decision of official institutions.⁸⁷ This normative universe is not simply a system of rules but a lived world, shaped by narratives that give law its meaning and authority. This narrative that interprets the law can (and should) be traced across various parts of society, but I choose to focus on the parliamentary narrative. Parliament is often excluded from culturally embedded and everyday life-oriented legal literature, which is unsurprising given its role as the legislative authority. In Turkey, Parliament rarely interprets the laws it enacts.⁸⁸ However, the unique nature of the death penalty allows Parliament to function simultaneously as a court and as a "reflection of the public conscience" – in other words, a collective agency that interprets the law it has created from the ground up. Perhaps one of the most striking examples of how existing laws can continuously create and recreate reality is found where the lawmaker and interpreter are the same actors. While the parliamentary narrative alone is insufficient to fully understand death penalty laws, it holds particular significance in Turkey, as it

87 Robert M. Cover, "The Supreme Court, 1982 Term: Nomos and Narrative," *Harvard Law Review* 97, no. 4 (1983): 4–68, <https://www.jstor.org/stable/1340787>.

88 "Until the 1960s, the parliament also adopted interpretation decisions (*tefsir kararı*), interpreting the norms in force. Moreover, in this earlier period, the Ministry of Justice published various circulars (*tamim*) and dicta (*mütalaa*) providing its own interpretations of the criminal code. Thus, historically speaking, formal statutory interpreters were not only judges and prosecutors in this country." cited from Nazife Koşukoğlu Polatel, "The Transformations of the Regime of Intimate Violence in Turkey," Phd diss., Boğaziçi University, 2022, 38.

embodies a method of punishment that is both legally sanctioned and socially accepted.

Finally, capital punishment is a law like any other criminal law. The legal procedures that enact, carry out, and abolish it are quite similar to those of other laws. However, as Hugo Adam Bedau notably observed in American jurisprudence, “death-is-different.”⁸⁹ The death penalty laws represent an exceptional form of punishment that directly affects very few people within the entire legal system. The death penalty regulates the extreme. Yet, it is precisely because of this extremity that it must be examined closely. Duncan Kennedy’s passage emphasizes the difference between the frequency of law’s invocation and its broader social impact:

Most people go through their lives without ever invoking them one way or another. Most men aren’t rapists.... Very few blacks are lynched. Most people pass their whole lives with little or no direct contract with the legal system.... It is clear that background rules *may* be important even if *never* invoked. The prohibition against murder would have the greatest, not the smallest, impact on everyone’s bargaining power vis-a-vis everyone else, if the rules against it were successful in completely eliminating murder. So the mere frequency of invocation doesn’t mean much.⁹⁰

In the next three Chapters, I will examine how the death penalty operates through distinct legislative mechanisms based on the relationship between Parliament and the death penalty outlined here.

89 It broadly means that the death penalty’s irreversibility and moral weight set it apart from all other punishments, demanding unique legal safeguards and ethical consideration. See: Hugo Adam Bedau, *Death Is Different: Studies in the Morality, Law, and Politics of Capital Punishment* (Hanover, NH: University Press of New England, 1987); Michael Davis, review of *Death Is Different: Studies in the Morality, Law, and Politics of Capital Punishment*, by Hugo Adam Bedau, *Law and Philosophy* 8, no. 3 (December 1989): 412–419.

90 Duncan Kennedy, *Sexy Dressing Etc.: Essays on the Power and Politics of Cultural Identity* (Cambridge, MA: Harvard University Press, 1993), 106–107.

Behind the Monster's Mask: Villains, Victims, and Capital Murder Cases¹

I imagine that one of the reasons people cling to their hates so stubbornly is because they sense, once hate is gone, that they will be forced to deal with pain.

– James Baldwin, *Notes of a Native Son* (1955), 101.

Legal scholars generally underline the significance of analyzing codified legal norms alongside legal practices operated in courtrooms. I recognize the importance of legal texts and symbolic messages conveyed by them. Yet, within this “normative universe,” where the law plays a crucial role in its creation, as Robert M. Cover points out, law and narrative are inherently related.² An examination of the parliamentary narrative can assist in comprehending a more “ordinary” interpretation of what is projected as criminal act, punishment, violence, and ultimately, the difference between exceptionality and normality. The term “ordinary” is employed here to describe the actors in the

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- 1 **Trigger Warning** / The content of this chapter contains potentially distressing topics that may be emotionally challenging. It includes representations of excessive or gratuitous violence, sexual abuse, as well as themes of death and dying.
 - 2 Martha Minow, Michael Ryan, and Austin Sarat, eds., *Narrative, Violence, and the Law: The Essays of Robert Cover* (Ann Arbor: University of Michigan Press, 1992).

Parliament because they have not been exclusively composed of professional legal actors. My intention is not to imply that they are authentic representatives of ordinary citizens. Regardless of whether they genuinely embody the voices of the general public or not, the effect of “representing the society” has changed the tone of discussion. During parliamentary debates on capital punishment, several members of the legislative body have acted as de facto lawyers. In such instances, Parliament has generally functioned in a manner resembling an imaginary courtroom devoid of both a defendant and a plaintiff. The absence of both the perpetrator and victim can lead to devaluation of their agency. The lack of human agency establishes more room for sterile dichotomies such as lawful vs. illegal, legitimate vs. illegitimate, and right vs. wrong. Through this particular feature, the Parliament has been a prominent actor in the question of defining “normal” and “abnormal,” “self” and “others.” I argue that capital punishment in Turkey has attributed the responsibility to those “others,” thereby obscuring “our” own role in the socio-political, socio-economic, and cultural contexts which establish a ground for criminal acts.

Capital punishment defines those deemed as “other” as abnormal. However, there is a notable absence of a systematic and coherent approach in relation to the normal or abnormal characterization of the actors involved in death penalty cases and the components of the legal cases. The death penalty has simultaneously created the oversimplified dichotomies and also gray areas. The coexistence of rigid and ambiguous categorizations does not represent a contradiction but rather reflects the incoherent feature of what is considered “normal.” The same act may be interpreted as licit in one case and illicit in another. The tolerated motivations for committing crimes or the acceptable emotions aroused by various occasions have been re-evaluated on a case-by-case basis, in accordance with the actors’ age, gender, socio-economic stratum, and other factors. Although the definition of what is “normal,” “just,” or “acceptable” is constantly changing, the pursuit of identifying normality persists.

The categories that define “normal” on a case-by-case basis – such as honor, morality, love – are not “socio-historical referents.”³ They are not

3 Harry E. Shaw, “Review of With Reference to Austin,” *Diacritics* 20, no. 2 (1990): 75–92, <https://doi.org/10.2307/465325>; John L. Austin, *How to Do Things with Words* (Cambridge, MA: Harvard University Press, 1962).

references to already-existing realities. They are “performatives.” From Jürgen Martschukat’s interpretation of the performance theory, the concepts like

society ... exists only as an ensemble of discourses, rules, practices, institutions, techniques, and performances which define ... which sort of behavior and attitude is considered adequate in this society or not, and what might be part of this society or not.⁴

The capital punishment system was both a part of this ensemble and an entity defined by the ensemble. Even if categories such as society or death penalty are performatively formed, they have “real” effects on people and they are “real” in the perception of some people. In the case of Turkey, Parliament operated in the center of this social construction. I endeavor to reframe unique causal effects of the entities on each other, both consolidating and preventing. The categories are not “just there.” They are produced by socio-economic, socio-political, and cultural contexts, as much as they produce them. My purpose in this chapter is to represent how the death penalty was a part of this mutual re-production – as a subject, an object, and/or a tool. And by doing that, represent how it has served as a distraction from socio-political, socio-economic, and cultural issues, by focusing on individual actors and by criminalizing or legitimizing them. By reinforcing, reflecting, and reproducing ideas of what is “normal”, this process conceals the full scope of responsibility, preventing us from seeing all those accountable. I am not superficially arguing that capital punishment has been used as a diversionary tactic to conceal some other problems in the social agenda. It is a distraction because the discussion of how social norms lead individuals to engage in criminal behaviors was prevented by reframing the debates merely on the criminal and moral ground. “It is related to a stronger focus on crime ... as public threats, and a lesser focus

4 Jürgen Martschukat “Nineteenth-Century Executions as Performances of Law, Death, and Civilization,” in *The Cultural Lives of Capital Punishment: Comparative Perspectives (The Cultural Lives of Law)*, ed. Austin Sarat and Christian Boulanger (Stanford, CA: Stanford University Press, 2005), 51.

on societal problems such as poverty and social inequality.”⁵ It placed the entire burden of responsibility on just a few individuals, on monsters.

References to “societal issues driving crime” in this chapter do not imply that offenders are inevitably compelled to commit offenses. Not every crime is a direct response to social injustice or a form of “self-defense.” However, crimes are often part of, or a product of, an uneven social landscape. In Turkey, crimes labeled as “capital,” especially capital murder, were portrayed as “abnormal,” even when they stem from very conditions that the legal and social order itself treats as “normal.” For example, this discussion goes beyond theft cases linked to income inequality. It is also not about a legal system that punishes spousal murderers as part of its stance against gendered violence. Instead, it focuses on actors who legitimize many forms of intimate violence but harshly punish selected murderers – seen as the most extreme version of the same violence – thereby projecting an image of zero tolerance for gendered violence while simultaneously enabling or failing to prevent it. Briefly, while social injustice does not fully excuse capital murderers, the brutality of their crimes should not absolve other, more subtle responsible parties, since “normals” and “abnormals” share the same ground. However, the debate on capital punishment has normatively described us and others, “friends and foes,” who are allowed to seek revenge and who deserve to be killed.⁶ Ultimately, legal and legislative authorities – and society more broadly – deflects responsibility onto others and condemn them to death or forgive them, portraying itself as a righteous dispenser of justice while conveniently ignoring its own potential role in conditions that led to the crime, even in the most gruesome cases. This is not about the execution itself, but about the nature of the debate surrounding the death penalty.

The death penalty operates as a form of distraction, and by definition, the notion of “distraction” requires an alternative focal point. This alternative focus is not always apparent in the widespread public debates or the brutal

5 Julia Eckert, “Death and the Nation: State Killing in India,” in *The Cultural Lives of Capital Punishment: Comparative Perspectives*, ed. Austin Sarat and Christian Boulanger (Stanford, CA: Stanford University Press, 2005), 213.

6 Gianfranco Poggi, *The Development of the Modern State: A Sociological Introduction* (London: Hutchinson, 1978), 6.

imagery associated with the death penalty itself. In this chapter, this other point of attention is various norms and categories that are reshaped by the operation of the death penalty, with a focus on how these norms and categories either hide or emphasize the social context. This concerns not only the execution of death sentences but also the ongoing debate surrounding them. Capital punishment recreates legitimate or illegitimate motivations, dubious or reliable personalities, detestable or compassionate, normal or abnormal situations. These categories are fluid. I mean that they can be constantly redefined and used for contrasting purposes in different circumstances. Those categories perform not only by criminalizing, punishing, and executing social actors, but also by legitimizing, empathizing, and forgiving them. Austin Sarat and Christian Boulanger point out “[p]unishment teaches us how to think about categories like intention, responsibility, and injury, and it models the socially appropriate ways of responding to injury done to us.”⁷ In the context of the death penalty, the punishment teaches not only socially appropriate ways to respond to harm, but also the appropriate way to kill. The effort to distinguish the murder committed by “monstrous feelings,” as a capital crime, from other forms of homicide may be a salient illustrative case.

The discrepancy between everyday language and legalese is significant in the context of Turkey’s jurisprudence.⁸ While the language of criminal codes may sometimes resemble common usage, this similarity is complicated by additional factors, especially in cases involving capital crimes. The legislation in question contains several ambiguous terms that define which crime fits which punishment. One such term is “the motive of a monstrous feeling.” Article 450/3 of the TCK enacted 1926 stipulated that if the murder was committed with the motive of a monstrous feeling or by torture and persecution, the

7 Austin Sarat and Christian Boulanger, “Putting Culture into the Picture: Toward a Comparative Analysis of State Killings,” in *The Cultural Lives of Capital Punishment*, ed. Austin Sarat and Christian Boulanger (Stanford, CA: Stanford University Press, 2005), 12.

8 *Legalese* is a highly distinctive legal language. On the nature of this language see; Robert W. Gordon, “Critical Legal Histories,” *Stanford Law Review* 36, no. 1 (1984): 57-125; Julia Black, “Regulatory Conversations,” *Journal of Law and Society* 29, no.1 (March 2009): 163-196, <https://doi.org/10.1111/1467-6478.00215>.

perpetrator shall be sentenced to death.⁹ Although murder by torture and persecution constitutes a distinct criminal act involving the infliction of severe mental or physical harm, murder driven by a “monstrous feeling” is associated with the perpetrator’s subjective manner and emotional state. Despite the abolition of capital punishment and the repeal of the TCK dated 1926, the element of crime of “monstrous feeling” remains a qualifying factor in the crime of intentional killing under the current criminal code.¹⁰ However, since its inception, there has been no objective definition or clear criteria for what constitutes a “monstrous feeling.” In the year 2019, the Supreme Court reaffirmed its prior rulings concerning the definition of “monstrous feeling:”

As emphasized in numerous judicial rulings, the killing solely for the sake of killing, for the pleasure of the deceased’s anguish, or for the purpose of testing a weapon, exemplifies murder driven by a “monstrous feeling,” characterized by a sadistic sentiment which pervades the act. Similarly, the act of killing motivated by hatred for a particular social class, belief system, or sectarian group is considered as a crime of murder with a monstrous motive.¹¹

9 *Canavarca bir his sevkile veya işkence ve tazip ile ika edilirse*, Article 450/3 of the TCK, numbered 765, enacted March 1, 1926.

It should be noted that although the terms “torture” and “persecution” (*tazip/eziyet*) are grammatically synonymous, they refer different statuses of perpetrators under both the Turkish criminal law and international law. “The term ‘torture’ means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from them or a third person information or a confession, punishing them for an act they or a third person has committed or is suspected of having committed, or intimidating or coercing them or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a *public official or other person acting in an official capacity*.” (emphasis added) However, “persecution” can be defined as the infliction of severe mental or physical pain on an individual by a non-state actor for a specific purpose.

UN General Assembly, Resolution 39/46 (December 10, 1984), “Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,” Part I, Article 1.

10 The new TCK numbered 5237, issued September 9, 2004, sets forth the term “monstrous feeling” in subparagraph (b) of Article 82.

11 *Yargıtay*, 1.CD., E.2017/905, K.2019/146.

Some legal professionals argue that the brutality of the killing method – such as using a stone to crush the head, inflicting multiple stab wounds, or dismemberment – does not inherently qualify this crime as an intentional killing driven by monstrous feelings.¹² The method by which the crime was committed cannot, by itself, serve as evidence of the existence of a monstrous feeling in the perpetrator. For instance, in 1945, a soldier murdered his comrade by striking his head three times with a mallet (*tokmak*).¹³ The perpetrator claimed that the victim had approached his bed in a military barracks at night and committed an act “that offended his honor (*izzet-i nefis*),” which allegedly provoked him to commit murder.¹⁴ However, the Military Court rejected the claim of provocation and instead imposed the death penalty, citing the perpetrator’s “monstrous nature” as the basis for its decision. This crime was classified as intentional and premeditated murder driven by a monstrous feeling, in accordance with Article 450/3-4. In May 1947, the Justice Commission (*Adalet Komisyonu*) recommended the approval of the death sentence execution by majority vote. However, Parliament subsequently commuted the sentence to eighteen years of aggravated life imprisonment. A deputy, who abstained from voting, noted the justification explanations (*gerekçe*) behind the proposal for commutation:

It cannot be definitively concluded whether this act was committed with a monstrous feeling. According to ... [eye-witness’] testimony, after the second blow, the murderer became overwhelmed by the copious blood loss from [victim’s] head. The dismemberment of the head with three strikes is an act likely to impact the human psyche; however, all instances of killing produce a similar effect. It is also implausible to

12 “Canavarca Hisle veya Eziyet ederek Öldürme Suçu,” *Ceza Hukuku*, Geyikli-Aydın Avukatlık Bürosu, December 6, 2021, <https://cezahukuku.web.tr/canavarca-hisle-veya-eziyet-ederek-oldurme-sucu>.

13 Decree no. 1527, dated May 16, 1947, *TBMM Tutanak Dergisi*, D. 8, C. 5, T. 1, B.57, May 7, 1947.

14 Kamil Coşkunoglu (The spokesperson of the Justice Commission, Manisa), *TBMM Tutanak Dergisi*, D. 8, C. 5, T. 1, B.58, May 9, 1947, 151.

claim that the murderer acted in a brutal and pleasure-seeking manner.¹⁵

The spokesperson of the Justice Commission presented a counter-argument, citing the testimony of an eye-witness who asserted that:

[Perpetrator] had struck [victim] twice, then once more with a mallet. He crushed ... [victim's] skull. Meanwhile, brain matter and blood spread out, and his blood carried pieces of the brain. Afterwards,...[perpetrator] calmly entered the bakery with his hands placed behind his back.¹⁶

The perpetrator's composure in the face of this brutal crime scene was represented as evidence of his monstrosity. The act of intentional and premeditated murder was not deemed to be a sufficient element in itself to be considered monstrous. Another deputy underlined the ambiguity surrounding this case by posing the following questions:

Is it not possible for a *human* to kill someone with a mallet, as happened here? Must such an act be committed only by *monsters*? Are other murderers different? Are their victims laid down with *tekbîr* and *tehlîl*? Does the killer use the knife in a manner that does not hurt? Does s/he select the sharpest knife? (emphasis added).¹⁷

The perpetrator, who crushed the victim's skull, was sentenced to eighteen years of aggravated life imprisonment, as Parliament remained unconvinced that the accused had acted with a monstrous feeling or premeditation. In contrast, the "monstrous feeling" associated with fourteen other convicted murderers, whose dossier reached to the Parliamentary agenda over the years, was

15 Sahir Kurutluoğlu (Kırşehir), Justice Commission Report / 118, *TBMM Tutanak Dergisi*, D. 8, C. 5, T. 1, B. 57, May 7, 1947.

16 Kamil Coşkunoğlu (The spokesperson of the Justice Commission, Manisa), *TBMM Tutanak Dergisi*, D. 8, C. 5, T. 1, B.58, May 9, 1947, 151.

17 Necati Erdem (Muğla), *ibid.*, 158.

never problematized, and their sentences of death were carried out without any attempt to address this phenomenon.¹⁸

[C]apital punishment could not be maintained except by invoking less the enormity of the crime itself than the monstrosity of the criminal, his incorrigibility, and the safeguard of society. One had the right to kill those who represented a kind of biological danger to others.¹⁹

This argument is relevant to Turkey's experience with the death penalty, but there is more to consider. At first glance, a detailed examination of this case study and the subsequent ones reveals more similarities than differences. Cases of murder characterized by a "monstrous feeling" share several common characteristics, including similarities in the perpetrator's identity, gender, and the brutal feature of the crime. In this regard, the unusual discussion and commutation in the former case was not due to any exceptional motivation behind the crime or distinctive characteristic of actors involved. Rather, it appears that the focus on the humanity or monstrosity of the perpetrator served to divert attention from a range of socio-political, socio-economic and cultural issues that occurred in this case. By repeatedly visualizing the harrowing details of the murder, it was effectively distracted from the broader concerns – such as the possible trauma associated with World War II in the context of military life of 1947, including allegations of sexual harassment in barracks, as well as insecurity which failed prevent a brutal murder within this confined space. Notably, these social commentaries were never mentioned even once during the parliamentary debate. This exceptional occurrence of debate seems to arise from an equally exceptional social context. The gore picture of monstrosity obscures the historical context in which crime was not prevented, even within a state apparatus.

The term "monstrosity" has remained legally ambiguous from March 1926 to the present day. However, it is reasonable to conclude that this ambiguity was not just an omission, but rather a deliberate strategy designed to leave

18 This number of files represents those introduced to the parliamentary agenda between 1926 and 1984.

19 Micheal Foucault, "Right of Death and Power over Life" from *The History of Sexuality 1*, in *The Foucault Reader*, ed. Paul Rabinow (New York: Pantheon Books, 1984), 260.

more room for individuality in each case. In jurisprudence of Turkey, certain elements of crime are explicitly defined by law, enabling clear delineation of the crime and the individuals involved. This clarity helps society to understand the situation and to develop either empathy or alienation toward the offender. In contrast, the vague boundaries of the category “monster” serve to legitimize the marginalization of those labeled as monstrous from the broader social order. Since it is unlikely that legally rational actors would self-identify as *monsters* – regardless of whether they committed a crime – a category of crime is fabricated that is neither empathizable nor intentionally committed. Whether or not the crime legally falls within that category, the concept of monstrosity has long been used as a means of creating the “other,” as exemplified by the statement of a deputy from 1972:

Human beings are naturally compassionate.... So, when someone commits a crime that does not fit with their humanity, our society calls it “monstrosity.” In other words, a perpetrator of a crime that is incompatible with human dignity, the meaning of humanity and human existence, is called a “monster.”²⁰

In 1959, another deputy argued that a death-row inmate motivated by nationalist feelings could not be considered a “monster” deserving of the death penalty, stating: “I am a doctor. We were taught by our professors that ... criminals and murderers are never motivated by *human feelings* such as nationalism, heroism, mercy, and compassion.” (emphasis added)²¹ After all, the rhetoric of punishing a monster, instead of a human being, serves as a conversation-stopper. The ambiguity of “monstrous feelings” would become a powerful tool for individualizing crime and punishment, thereby masking the broader social context. The category of monstrosity has been one of many that perform by punishing or forgiving social actors, who are represented as humans or “barely humans.”²²

20 Hüseyin Kalpkaloğlu (Kayseri), *Cumhuriyet Senatosu Tutanak Dergisi*, C.4, T.11, B.54, May 2, 1972, 385.

21 Aziz Uras (Mardin), *TBMM Zabıt Ceridesi*, C.11, D.6, İ.2, İn.21, January 7, 1959, 365.

22 David Garland, *The Culture of Control: Crime and Social Order in Contemporary Society* (Chicago: University of Chicago Press, 2001), 135.

In challenging the individualizing of crime and punishment, my intention is not to advocate for the collective criminalization of specific social segments, since it might ultimately lead to impunity. Rather, the focus lies in the circumstances that give rise to the crime, and the roles *we* play in those circumstances. After all, neither the criminal act nor the definition of crime can be regarded as arising from a void of temporality and spatiality, free from all driving elements. The aim of this chapter is to analyze the manner in which the fluid relationship between the perpetrator, the victim, and the capital crime itself is addressed, taking into account such variables, with particular focus on cases of death penalty. In the nexus of crime-criminal-victim, a “normal” social structure is both recreated and maintained by defining the boundaries of acceptability and condemnation. While the criminal act is inherently interwoven with the “abnormal” traits attributed to the individuals involved, the social constructions that directly cause, facilitate, or tolerate such criminal behaviors remain obscured. To summarize, I will seek to adapt Craig Haney’s perfectly neat observation about the media mystifications of “natural born killers” in the United States to the legislative narrative of Turkey:

[L]ocating the causes of capital crime exclusively within the offender – whose evil must be distorted, exaggerated, and mythologized – not only makes it easier to kill them but also to distance ourselves from any sense of responsibility for the roots of the problem itself. If violent crime is the product of monstrous offenders, then our only responsibility is to find and eliminate them. On the other hand, social histories – because they connect individual violent behavior to the violence of social conditions – implicate *us* all in the crime problem.²³

23 Craig Haney, “The Social Context of Capital Murder: Social Histories and the Logic of Mitigation,” *Santa Clara Law Review* 35 (1995): 559-60.

§ 3.1 Crimes Defending or Destroying “Family Values”

3.1.1 *Killer Parents, Daughters and Sons: Familial Love, Honor, and Familial Duty*

The emphasis on the distinctiveness of actors and cases has been strongly employed to individualize the crime and punishment, as well as defining the conventional norms within a given society. As Kaufman-Osborn argues in his work on the death penalty, nothing possesses inherent substance in itself.²⁴ In a Foucauldian sense, neither things nor ideas – whether law or punishment in this case – simply mirror preexistent meanings; rather, they performatively shape and re-shape those meanings.²⁵ Certain norms have been consistently cited, reiterated, and invoked within parliamentary narratives on the death penalty to establish stability and create the appearance of self-evidence. This repetition allows certain forms of violence to reach a status of normalcy. The reproduction of the concept of “family” in relation to capital crimes is an especially pertinent area in this regard. Crimes against “family values,” particularly murder committed against lineal descendants and ascendants (*fürû* and *usul*), has become a resonant term that both affected and was affected by the sense of justice, empathy, and hatred.

The Oedipus complex of Freud is based on the inevitability of the tragic fate of a man who fled his home to escape the prophecy of patricide. Thus, he fulfilled it by killing a stranger who proved to be his father.... Where Freud looks to the son, however, I look to the father, who set the tragedy in motion by attempting to murder his infant son.... the Oedipus cycle, in contrast to the “Oedipus complex,” represents not the unconscious passions of the small boy, but rather the

24 Timothy Vance Kaufman-Osborn, *From Noose to Needle: Capital Punishment and the Late Liberal State* (Ann Arbor: The University of Michigan Press, 2005), 5-6.

25 Michel Foucault, “Nietzsche, Genealogy, History,” in *Language, Counter-Memory, Practice: Selected Essays and Interviews*, ed. Donald F. Bouchard (Ithaca: Cornell University Press, 1977).

awareness of the life cycle in the larger context of the succession of the generations and their mutual interdependence.²⁶

In Sophocles' trilogy, the Oedipus Cycle, as examined above by Nancy Datan, we see the story of a cursed father (King Laius) who tries to get rid of his own son, and the tragic tale of a cursed son (Oedipus) who kills his own father. However, just as the first thing that comes to mind about the story of Oedipus, being the archetypal figure of a father-murderer, it took time for legislation of Turkey to treat the killing of someone's own child as a crime on an equal gravity with killing father. Historically, the legal system in Turkey evolved gradually in recognizing filicide as a capital crime comparable to patricide, reflecting broader shifts in legal reforms concerning family and child.²⁷ Until 1933, the murder of a family member was punishable by death only if committed against a parent or grandparent.²⁸ I agree with Nazife Koşukoğlu's statement that this was "an intentional omission resulting from the settled understandings of (in)violability and intimate hierarchies."²⁹ For instance, the civil code of this era had a specific article granting parents the right to discipline/chastise their children.³⁰ In contexts where violence against children was codified as a customary aspect of daily life, the practice of filicide could be perceived as a more "justifiable" course of action. Only after 1933, the premeditated act of parents who murdered their own child and grandchild was classified as a capital crime.³¹

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- 26 Nancy Datan, "The Oedipus Cycle: Developmental Mythology, Greek Tragedy, and the Sociology of Knowledge," *The International Journal of Aging and Human Development* 27, no. 1 (1998): abstract, <https://doi.org/10.2190/XAP9-UQP1-RNMW-V7R8>.
- 27 In the legal terminology, the terms of matricide, patricide, and filicide refer to the act of murder one's own mother, father, and child, respectively. As will be explained in more detail later, these categories also encompass individuals who have committed capital murder against their grandparents and grandchildren.
- 28 Article 450/1 of the TCK, enacted 1926.
- 29 Nazife Koşukoğlu Polatel, "The Transformations of the Regime of Intimate Violence in Turkey," Phd diss., Boğaziçi University, 2022, 107.
- 30 *Tedip hakkına mail olmak*, Article 267 of *Türk Kanunu Medenisi*, Law no. 743, enacted April 4, 1926.
- 31 Article 450/1 of the TCK amended by the Law no. 2275, issued June 8, 1933.

A total of fifteen cases of matricide, patricide, and filicide have been the subject of intense, and in some cases devious, illustration of parental rights and responsibilities in legal and parliamentary documents. A case from 1943 provides an appropriate example of a manageable shifting public perceptions that frame a perpetrator as either a “cruel” or “miserable” murderer. In this case, the perpetrator was sentenced to death for killing his six-years-old child by throwing him into a well with the intention of eliminating the burden of subsistence.³² He was sentenced to death by the court. However, the Justice Commission proposed, and the Parliament accepted to commute his penalty to the aggravated life imprisonment. The compassion that influenced this decision appears to have been primarily aroused by the alleged mental health issue of the perpetrator, rather than by any consideration of the socio-economic circumstances that may have compelled him to kill his own son.

At the parliamentary sitting in 1943, a deputy said that:

A father, no matter how poor he is, who kills his son – beating his head from stone to stone, throwing him into a well – using his poverty as only justification; it is not an act that a normal person would think and do.³³

The “normality” mentioned here refers to the insanity of the perpetrator. This argument of insanity has not been defended on the legal or medical grounds. There was no official medical report confirming the mental health issues of the perpetrator. In fact, the perpetrator was mentally sane according to the medical authorities designated by the Court. However, capital punishment has not operated on the grounds of merely official measures. Another legislator clearly stated that:

Why would a father kill his son because of poverty? How can this be?... Would a sane man, a human being, ever do such a thing? Not even a monster would. So, my personal opinion is that we are dealing with a horrible, injudicious, terrifying madman. But the medical report [did

32 Decree no.1338, dated May 17, 1943; *TBMM Zabıt Ceridesi*, D.7, C.2, İ. F, İn.24, May 17, 1943. The case of İbrahimoglu Halil İbrahim (also known as Ali İlil).

33 Dr. Osman Şevki Uludağ (Konya), *TBMM Zabıt Ceridesi*, D.7, C.2, İ. F, İn.24, May 17, 1943, 98.

not] say this, what's-his-name says that, *efendim*, the national consciousness (*milli şuur*) has the power to penetrate the depths like an X-ray machine and see the truth of the matter!³⁴

The insanity plea – even though it was not a real legal defense in this case – was used as a tool to individualize the crime, to empathize with the perpetrator, and to veil the social realities connected with the delinquency. These political actors argued that no father, regardless of financial hardship, could not ever murder his own child. By disregarding the impact of distress and hardship, the filicide case was framed as the act of a “naturally” insane father, rather than acknowledging a father who may have been driven to madness by social and economic challenges.

Non compos mentis is a legal term referring to a defendant's mental disorder at the time of the criminal act, therefore precluding criminal liability.³⁵ *Non compos mentis*, as all legal concepts, cannot be explained by a single variable, nor is it simply a unidirectional tool used to mask socio-economic issues. On the contrary, ignoring both mental health issues and socio-economic problems could be operated in tandem, reinforcing each other's effects. For instance, a deputy made a claim that exactly opposed the argument for mitigation derived from insanity. However, he maintained the same veil that obscures any possible link between a murder and a major impoverishment. He said that:

Should the punishment be mitigated or aggravated because of the son who was killed and the father who killed him? If a punishment more severe than death exists, it must be inflicted upon him. Then it seems

34 Feridun Fikri Düşünsel (Bingöl), *ibid*, 99.

35 It can be translated as “unsound mind” or “not of sound mind.” According to legal dictionary and legal encyclopedia of the Legal Information Institute of Cornell Law School; “In specifying the term's legal scope, the Court of Civil Appeals of Alabama, in the 1985 *Goza v. Goza* holding, noted that ‘[m]ere emotional instability or depression’ does not qualify as *non compos mentis*, and that while the term “does not necessarily denote a total destruction of the intellect, ... there must be at least such a severe impairment of the mental faculties as to make the movant incapable of protecting himself or of managing his affairs.” Legal Dictionary and Encyclopedia of the Legal Information Institute of Cornell Law School, “Non Compos Mentis,” https://www.law.cornell.edu/wex/non_compos_mentis.

that he did it to relieve himself of the burden of feeding [his son]. This is the worst. A father does not kill his son to escape the burden of feeding him; he would first kill himself. Basically, a father works hard and feeds his children. In fact, there are no hungry people in Turkey. *At such a time*, everyone cuts his bread in half [to share with others] and gives it to them. (emphasis added)³⁶

An implicit reference to an exceptional time period demonstrates an important variable: World War II.

During this total war, in a state striving to remain neutral, the Parliament synchronously ignored any possibility of socio-economic and moral collapse of society. In the case where a father murdered his son due to poverty, some argued that there was no evidence of “hunger” in a community “like Turkey.” Others acknowledged the possibility of severe economic conditions but contended that it would not be enough to compel someone to kill their own child. They suggested that the motive behind the crime was likely the perpetrator’s insanity. A member of the Justice Commission explained that in this case, there is no deprivation of livelihood, “no financial difficulty severe enough to cause a criminal act as murder. This family is only deprived of a broad subsistence. They fully provided for, but in a narrow sense.”³⁷ Although the parliamentary discourses that overlook or deny the harsh economic conditions of the country, they commuted the capital punishment of a father, who felt compelled to kill his own child because of starvation, by tricking him with milk and yogurt which he could eat at his grandmother’s house. They silently commuted his punishment to aggravated life imprisonment. Not a single statement was made about social realities underlying this crime. Yet, this remains one and only filicide case in which the Parliament commuted the sentence.

The entire debate revolved around the idea that it is impossible for a “normal” father to kill his own child. For some, this act was seen as a monstrosity deserving a punishment even harsher than death; for others, it was a state of insanity warranting mercy. However, no explanation for the ultimate commutation appears in any speech or document. The only feature that distinguishes

36 Yusuf Karşlıoğlu (Yozgat), *TBMM Zabıt Ceridesi*, D.7, C.2, İ. F, İn.24, May 17, 1943, 99.

37 Şinasi Devrin (On behalf of the Justice Commission, Zonguldak), *ibid.*, 97.

this case from others seems to be the context of Turkey *at such a time*. Amid the chaos of World War and widespread economic collapse, neither the ruling actors nor Parliament acknowledged – whether real or not – any responsibility for the social conditions that may have contributed to this tragedy. Even if we may never uncover the true reason behind the commutation, it is clear that the paternal discourse surrounding the Parliament’s narrative overshadowed other important issues that deserve discussion.

This case represents a rare example of filicide. Only two capital punishment cases related to filicide are documented in the parliamentary records. However, the intentional killing of one’s own or a related child is a complex crime, particularly when committed against an “illegitimate” newborn to “save mother’s honor.” According to Article 448 of the TCK dated 1926, anyone who intentionally kills a person shall be sentenced to fifteen to eighteen years of aggravated imprisonment. Nevertheless, if the crime of intentional murder was premeditated and/or committed against a linear descendent (such as one’s own child or grandchild), the perpetrator shall be sentenced to death – respectively in accordance with the fourth and first paragraphs of Article 450 since the amendment of 1933. However, even in cases involving premeditation and/or the murder of a linear descendant, the mitigating factors of “honor” and “illegitimacy” – which legally refer to the status of children begotten and born outside of matrimony – have served not only as a basis for reducing the sentence below the death penalty but also as mitigating factors in the criminal act of intentional murder.

The provision of the Article 453 of same criminal code was that the crime of intentional murder is committed against an illegitimate child before officially registered and within five days after the birth, “in order to save the honor of the perpetrator, or their wife, or their mother, or their daughter and granddaughter, or their adopted daughter, or their sister; the perpetrator shall be sentenced to five to ten years of aggravated imprisonment.”³⁸ While the parents

38 Article 453 of the TCK dated 1926.

The Italian Penal Code requires that an infant’s birth be officially registered within five days. This legal requirement forms the basis of the TCK’s position on the matter. *TBMM Zabıt Ceridesi*, D.4, İ.2, İn. 66, June 5, 1933.

who intentionally killed their own child or grandchild were sentenced to death, those who killed an illegitimate newborn were not only saved from the capital punishment, but also avoided a prosecution for intentional murder without any matter in mitigation. For instance, if a woman had intentionally killed her newborn nephew, she would have been tried for intentional murder under Article 448 and sentenced to fifteen to eighteen years in prison.³⁹ If the victim had been her own newborn son, this time she would be tried for filicide under Article 450 and sentenced to death. However, if she had killed her own “illegitimate” son to “save her honor,” she would benefit from Article 453 and be sentenced to five to ten years of aggravated imprisonment.⁴⁰

As stated by Joseph R. Gusfield, “law is not only a means of social control but also symbolizes the public affirmation of social ideals and norms.”⁴¹ In the similar vein, there were two turning points in 1933 and 1991 that represent how an infanticide is represented as criminal but relatively legitimate act in cases of “illegitimacy,” how a murderer of a newborn become “miserable murderer” on the grounds of moral norms, and how “normal family” has been depicted by the agency of death penalty.⁴² The murder committed against linear descendants and ancestors was amended as a capital crime to Article 450 in 1933. In line with the new definition of filicide as a capital crime, it could have been

For further reading on infanticide committed “to save honor:” Koşukoğlu Polatel, “The Transformations of the Regime of Intimate Violence in Turkey;” Dicle Koğacioğlu, “The Tradition Effect: Framing Honor Crimes in Turkey” *Differences: A Journal of Feminist Cultural Studies* 15, no. 2 (Summer 2004): 118-51. <https://doi.org/10.1215/10407391-15-2-118>.

39 In this example, the sentence length was determined based on the criminal law effective from June 1933, when capital punishment for the murder of lineal descendants was enacted, until June 1936, when the penalty for intentional murder was increased.

40 The imprisonment length specified by Article 453 has been relatively reduced. The minimum and maximum sentences under Article 448 for intentional murder have changed over time. The length of sentences, which had been fifteen to eighteen years in 1926, was increased to eighteen to twenty-one on June 11, 1936, and then to twenty-four to thirty on July 9, 1953. However, the imprisonment length under Article 453 for infanticide related to “honor” remained unchanged until 1991.

41 Joseph R. Gusfield, “On Legislating Morals: The Symbolic Process of Designating Deviance,” *California Law Review* 56, no. 1 (1968): 57. <https://doi.org/10.15779/Z38QZoW>.

42 The term infanticide is legally defined as the intentional murder of a baby under the age of twelve months.

expected the abrogation of Article 453 that provides a mitigation factor for infanticide's punishment which lesser than ordinary intentional murder. However, the amendment bill proposed only that the time frame during which the crime of infanticide could be committed should be shortened. In 1926, the element of time had been provisioned as "before the new-born officially registered and within five days after their birth." In 1933, it was argued that if the crime was committed against the new-born "only at birth or immediately after," this might be considered as a mitigating factor related with honor.⁴³ It was an attempt to shorten the five-days period. It was broadly meant that a mother who murdered her illegitimate child as soon as born could benefit from mitigation, whereas a mother who committed the same crime after two days would be sentenced to death. Nevertheless, this attempt to shorten the time period was not accepted by the Parliament. The parliamentary discussion on this amendment ended with uncertainty of period instead of its limitation. But it ended with the certain depiction of who constitutes family, and who deserves to be killed by the state or by relatives for the sake of family values. As a preeminent instance, I quote the full speech of a deputy who spoke during the debate on the amendment of Article 453:

The death penalty for killing lineal descendants and ascendants is derived from the concern for family ties. It is impossible to imagine such a family bond with an illegitimate child. Therefore, there are no circumstances which allow for increased punishment. He [who killed an illegitimate child not right at birth, but later] should get the same sentence as anyone else who commits intentional murder. That means fifteen to eighteen years in prison, not the death penalty like the murderer of a father or mother. For example, a man gets up in the morning and works until the evening. He comes home in the evening, seven or eight hours later, and he finds out that his sister or daughter has given birth to an illegitimate child. A bastard is screaming and crying.... He grabbed the child by the leg and hit them on the immoral woman's

43 The legislative proposals numbered 1/561 and I/645 regarding the amendment of certain articles of the TCK and the Justice Commission Report, *TBMM Zabıt Ceridesi*, D.4, C.16, İ. 2, İn.66, June, 05, 1933.

head. The child died. We will execute a man who did this to save his honor and dignity. According to Article 256 of the Italian Penal Code, anyone who kills their legitimate descendant and ancestor is sentenced to life imprisonment, which is equivalent to the death penalty in our country. I am not going to say anything about Italian morals. However, the concern for honor has always been more important in the Turkish community than in the Western community. In the West, there are probably very few people who would commit murder for honor. But here, there are too many to count. (“Bravo” voices)⁴⁴

After this statement, Article 453 was returned to the Justice Commission for re-writing in accordance with the principles explained. The article rewritten was accepted without any discussion in 1933. The new amendment had no time limit, neither as “before officially registered and within five days after the birth” nor as “only at birth or immediately after.” In 1991, maternal infanticide became the only legitimate intentional murder among the act of murders toward newborn child to “save her honor.” The time limit remained unidentified. And the length of imprisonment was decreased. Five to ten years of aggravated imprisonment became four to eight years.⁴⁵ The absence of time limit and length of imprisonment made more room for legitimizing the act of infanticide in the name of honor and family. Capital punishment has operated in accordance with the representation of legitimate family ties.

The importance of these projections for the creation of subjective identity is that they operate on the boundaries between the normal and the deviant, forming a counterpoint to the more positive identifications – role models, exemplary individuals, heroes, and so on. Penalty highlights the characteristics of the normal social self by policing its failures

44 Sait Azmi Bey, *TBMM Zabıt Ceridesi*, D.4, C.16, İ. 2, İn.66, June 05, 1933, 60. During the debates on Law no.2275 issued June 8, 1933.

45 By Law no. 4928/1, issued July 15, 2003, the phrase “from four years to eight years” in this article was amended to “from eight years to twelve years” and inserted into the text.

and pathologies, and spelling out more precisely what one is expected, minimally, to be.”⁴⁶

Thereby, the state has the right to kill someone who destroyed the family values by murdering their own parents, grandparents, children, or grandchildren in accordance with Article 450/1. Except those children were not born outside of matrimony. When this happened, the family bond between a mother and her own child could be recklessly ignored. Furthermore, the right to kill on behalf of the protection of family values could be partially transferred to some family members including the parents.

Some deaths, such as infanticides or even the death penalty itself, were seen as necessary evil to protect honor of family. Some individuals were empathized while others were dehumanized under the same criminal code. However, it can be argued that what they have in common is the normalization of violence against socially defined “deviants.” By mitigating sentences and normalizing various violent acts, criminal law became a potential catalyst for the re/production of such violence. In the specific context of infanticide cases, social norms and the law that follows them normalize certain child murders, thereby opening the door to other possible child killings. However, the actors that view the killing of an illegitimate newborn as relatively legitimate can ignore their own potential role when the same crime is committed for other reasons. They portray themselves as noble dispenser of justice intolerant of such atrocities and shifts responsibility onto the “abnormal.” And while the debate surrounding capital punishment has focused on “abnormal” individuals, it has diverted attention from the context where both legally tolerated and sanctioned violence are intertwined within the same cycle of violence. Through the death penalty – a spectacle that draws all attention – legal and legislative actors manage to position themselves not as one that mitigates sentences for child killers, but as one that punishes them with the harshest penalties. While some “virtuous” killer parents were quietly shielded by the law, others were loudly punished and hanged, as if they did not share the same mindset.

46 David Garland, “Punishment and Culture: The Symbolic Dimensions of Criminal Justice,” *Studies in Law, Politics, and Society* 11 (1991): 191–222, ISBN:1-55938-375-5.

While parliamentary debates on filicide/infanticide cases and laws were observed during capital punishment era, there was no direct discussion of patricide or matricide cases falling under Article 450/1. However, despite the absence of parliamentary discussion, nearly all documentation related to these cases consistently portrays the perpetrators as “evil.” Even in periods when the motivation behind the given crime was not mentioned on the parliamentary documents, the cases concerning the murderers of parents were exceptionally explained with considerable detail. The Justice Commission Reports meticulously listed all social boundaries the perpetrator had transgressed, whether or not they were directly relevant to the parenticide case. From 1926 to 1984, a total of thirteen individuals were responsible for the murder of their ascendants, either as perpetrators or as instigators.⁴⁷ Such cases were often depicted as arising from disputes over inheritance, financial matters, or allegations of moral corruption.⁴⁸ It is noteworthy that in approximately three-quarters of the Justice Commission Reports on the murder of parents, the perpetrators were described in derogatory remarks, as “illegitimate,” “drunk,” “junky (*esrarkeş*),” and “gambler.”⁴⁹ For instance, in a case of matricide, it was highlighted that the perpetrator had already been abandoned by his wife and children, had “lustful feelings for (*göz koymuş*) his own niece” with whom he lived, and returned home after drinking two bottles of beer on the day of the

47 Five of the perpetrators were responsible for the death of their mothers, six for that of their fathers, and two for that of their grandfathers.

The aforementioned case, namely the Law no. 419, issued 4 May, 1964, which pertains to the incitement to murder, was not encompassed by the provision of Article 450/1, although the victim was the father of one of the perpetrators, Hasan Güney. Güney hired a contract killer (Kerim Özkan) to murder his father. Both Güney and Özkan were sentenced to death under Article 450/4, which covers premeditated murder. However, since the victim was murdered by his own son’s intent, I prefer to categorize this case as one of patricide.

48 Five of the thirteen cases involved motives related to inheritance, money, and jewelry. Two cases concerned illegitimate relationships. In one case, the perpetrator murdered his father “because his father had scolded him,” while in another, the perpetrator killed his father “because his father had cohabited with a woman without marriage (*nikahsız karı aldığı için*).” The reason behind the remaining four cases was not specified.

49 Law no. 391, issued September 4, 1963; Decree no. 854, dated April 17, 1935; Law no. 2786, issued January 21, 1983; Decree no. 917, dated December 26, 1935.

incident.⁵⁰ Or else, the case of two brothers, in 1976, who jointly murdered their grandfather, provides an illustrative example of what is meant by “family values.”⁵¹ According to the parliamentary minutes, the deceased grandfather had previously evicted his daughter and son-in-law from his house eight to ten years before the incident, “because they could not provide good care for him.”⁵² He then began living with his grandson. Nevertheless, he later had a falling-out with this grandson. In order to maintain his own livelihood, he was compelled to sell his fields one by one. Disturbed by the loss of their expected inheritance, his two grandchildren jointly carried out the murder of their grandfather. In the absence of the “normal” prerequisites for family status – in this case, fulfillment of caregiving responsibilities for an elderly relative – the actions of victim – specifically the de facto disinheritance following the dispute – were not regarded as an unjust provocation but rather as a form of victimization.

“The parallelism of son-subject/father-sovereign,... reveals the sacred figure, the abstract place of authority as such. A banal idea, but a superb technique!” says Jérôme Bourgon in an impressive work on the different resonances of the “Oedipus complex,” regicide, and parricide in different cultures.⁵³ In ancient Chinese law, murdering one’s father was not more serious than murdering another member of the clan, as long as the victim was older than the perpetrator.⁵⁴

Whereas in the West, the murder of the father constitutes the essence of patricide, the model of the crime against nature,... in China, the

50 Law no. 2786 issued January 21, 1983, *Danışma Meclisi Tutanak Dergisi*, C.13, Y.2, B.39, January 6, 1983; the explanation of Judge/Colonel (*Hâkim Albay*) Ersin Eserol as the President of the Justice Commission on this case (3/19), *Milli Güvenlik Konseyi Tutanak Dergisi*, C.8, B.128, January 21, 1983.

51 Law no. 2774 issued January 12, 1983; *Danışma Meclisi Tutanak Dergisi*, C.13, Y.2, B.32, December 20, 1982; *Milli Güvenlik Konseyi Tutanak Dergisi*, C.8, B.127, January 11, 1983.

52 *Ibid.*

53 Jérôme Bourgon, “Lapsus de Laius: Entre régicide et parricide, l’introuvable meurtre du père,” in *Extrême-Orient Extrême-Occident* no. 1/hors-série: *Père Institué, Père Questionné / The Father In Question* (2012): 317, <https://www.jstor.org/stable/42636056>.

54 *Ibid.*

murder of the father is nothing in itself: Either it is regicide, the murder of a sovereign who also happens to be a father; or the father is confused with many other relatives [*parents* in the original text in French] in the definition of the crime of patricide, so that his murder is no more serious than that of a grandfather in the maternal line.... [The] authority, which seems to us to be unilaterally paternal and therefore masculine, seems in China to combine the paternal and the maternal, the masculine and the feminine.⁵⁵

Although not an exact parallel to Bourgon's explanation for China, a clear similarity can be observed in Turkey's experience of the death penalty. The killing of a parent, mother or father; or of a lineal-ancestor, whichever one, appears to be associated with the killing of authority, "the significance of parricide [has been] eclipsed by that of the regicide."⁵⁶ Patriarchy is not a monolithic structure defined solely by male oppression; rather, it consists of subjective, negotiable power relations. Therefore, it would be inaccurate to say that the patriarchal order in Turkey only means "killing the father" or simply men's oppression over women. From the late Ottoman period to the Republic, both women and men have been subjects and enforcers of patriarchal norms, especially through concepts like family honor.⁵⁷ This also involves what Deniz Kandiyoti famously calls "patriarchal bargains:" "Different forms of patriarchy present women with distinct 'rules of the game' and call for different strategies to maximize security and optimize life options with varying potential for active or passive resistance in the face of oppression."⁵⁸

In all documented cases of parenticide in the parliamentary minutes, the perpetrators challenged the patriarchal social order by disobeying parents, violating the family's moral standards, failing to fulfill care-giver duties or

55 *Ibid.*, 315.

56 "Abstract in English" in the online page of "Article de revue" of *Extrême-Orient Extrême-Occident*, *ibid.* <https://shs.cairn.info/revue-extreme-orient-extreme-occident-2012-1-page-313?lang=fr>.

57 Nükhet Sirman, "Feminism in Turkey: A Short History," *New Perspectives on Turkey* 3, no. 1 (Fall 1989): 1–35, DOI: 10.15184/So896634600000704.

58 Deniz Kandiyoti, "Bargaining with Patriarchy," *Gender & Society* 2, no. 3 (September 1988): 274–90, <http://www.jstor.org/stable/190357>.

attempting to disrupt the order of succession. This goes beyond mere “bargaining;” it is crossing a boundary. This transgression embodies the death of authority figures. The murder of “father” is thus conceptualized as a plot against authority. The punishment for the plot to subvert the authority was imposed by another authority figure. In such cases, the right to kill in the name of the protection of family values was reserved for the state. Patricide and matricide were often equated with attacks on the entire patriarchal order. For example, in this case, father-killers were also portrayed as “ungrateful children” who neglect their duty to care for elderly family members. The lack of a social support system that could ease the burden on the younger generation – usually young women – responsible for caring for both the elderly and children was not even considered. What I mean to say is not that such mechanisms would necessarily prevent capital murders. Rather, grouping and discussing these two issues (murder and attack on patriarchy) under the same heading as capital punishment can risk blocking a critical examination of the patriarchal order.

However, it would be erroneous to conclude that capital punishment merely upholds the “traditional” understanding of family and the prevailing social order based on these examples of filicide, matricide, and patricide alone. What is considered normal is constantly reframed according to specific contexts. For instance, the legal prohibitions on abortion have never been entirely compatible with the act of killing a baby born out of wedlock. Or, the concepts of family ties and honor were conceptualized in a different manner in the capital crime cases of blood-feud (*kan davası*) or the abduction of girls (*kız kaçırma* / which implies a violation of their virginity, and was a different crime from any other form of abduction in Turkey’s jurisprudence). Dicle Koğacioğlu, for example, articulated “the importance of gender in institutional attitudes towards crimes generated by ‘tradition’ such as blood-feud (targeting male victims) and honor crimes (targeting mainly female victims):

When it is men or the masculine public order that seem to be threatened by practices deemed traditional, state institutions seem keen on eradicating the effect of tradition. When it comes to traditions that threaten the well-being of women, however, these “traditions”

suddenly become resistant to change, and the law imagines itself as impotent to counter them.⁵⁹

This influential argument, along with many others, underscores the manner in which the legal system perpetually and differently defined “normal” across various levels. The gravity of the death penalty within this framework is such that it grotesquely highlights the abnormal, deviant, and monstrous ones. The following section will examine the cases of blood-feud, which, once more, shift the focus away from the socio-political context and *our* role in this context. This time, however, the capital punishment operates by attempting to challenge the “traditional” crimes committed in the name of family honor. Furthermore, it avoids attributing the entire responsibility to a specific “beast” by individualizing the crime, but rather, it attempts to hold a unique, exceptional, “unlawful” and “barbarian” community accountable by collectivizing it.

3.1.2 *Killer Kin: Tradition, Retribution, and Power*

In certain cases of capital crime, the crime was associated with questionable characteristics of the actors that aroused suspicion and blame, whereas in others, it became associated with their empathized characteristics that evoked the positive emotional responses. Moreover, the “dubious” traits of actors were heavily operated to individualize the crime and punishment, while some other characteristics were used to collectivize it. It is important to note that the term “collectivity” as employed here is not to be understood as a reference to the overarching social structure which, I am arguing, engenders criminal behavior and is obscured by the death penalty. Rather, “collectivity” is used to denote the narrow and marginalized groups, which are typically characterized by particular geographic regions, tribal affiliations, ethnic backgrounds, lifestyles, and other such aspects. As a significant example of the capital crimes in which the collectivity is emphasized, the case of blood-feud (*kan gütme saiki* or *kan davası*) represent an area where it is implied that crime is not a broader issue

59 Koğacıoğlu, “The Tradition Effect,” 125.

of socio-political and legal order, but rather a problem of individuals belonging to a confined and “backward” social group.⁶⁰

The blood-feud is a generational cycle of violence driven by the pursuit of revenge. It is a state of hostility, whereby one family seeks to retaliate for the murder of a family member by targeting a member of the rival family.⁶¹ “Without individualizing guilt, the notion of collective responsibility for crimes has greater resonance, and it is easier for blame focused on a group to be passed from one generation to the next.”⁶² In a context where a legal retributive justice system that might mitigate victims’ sense of vengeance is not properly functioning, groups – in this context, families – attempt to avenge themselves. In line with Susan Jacoby and Peter Waldmann’s reference to the suppression of revenge within the taboo zones of Western societies, “violent self-help” was also regarded as “leftovers of an archaic epoch” in the context of Turkey’s blood-feud tradition.⁶³

60 Blood feuds have generally been portrayed as a tradition peculiar to eastern Turkey, particularly in Kurdish-populated areas. Uğur Ümit Üngör roughly described the early Republican period’s perspective on this region as follows: “The key discursive device which the Kemalist centre employed to represent their relationship with the Kurdish periphery was ‘civilization’ (*medeniyet*). The non-Turkish population of the eastern provinces was looked down upon as primitive and inferior, fit for colonial rule by a Turkish master nation which operated in the name of progress and rationality.” cited from Uğur Ümit Üngör, *The Making of Modern Turkey: Nation and State in Eastern Anatolia, 1913–1950* (Oxford University Press, 2011), 184.

This discourse of “backwardness” is not only pertinent to Turkey. For instance, in a study conducted on the reconciliation of blood feuds in Kosovo in the early 1990s, we find some citations that state “Yugoslavia as the most backward cultural space in the Balkans, as an antithesis of European political, social and economic development.” Nita Luci, “Transitions and Traditions: Redefining Kinship, Nation and Gender in Kosova,” *Anthropological Yearbook of European Cultures* 14 (2005): 143, <http://www.jstor.org/stable/43234710>.

61 Legal definition of blood-feud according to LSD. LSD Law, “Blood Feud,” <https://www.lsd.law/define/blood-feud>

62 Sara Darehshori, *Selling Justice Short Why Accountability Matters for Peace*, (New York: Human Rights Watch, July 2009), 6.

63 Susan Jacoby, *Wild Justice: The Evolution of Revenge* (London: Collins, 1985), 2 quoted in Peter Waldmann, “Revenge Without Rules: On the Renaissance of an Archaic Motif of Violence,” *Studies in Conflict and Terrorism* 24, no. 6 (2001): 435, DOI: 10.1080/105761001753210470.

Traditions, especially traditions of the “other,” are considered static cultural features,... resistant to change.... Consequently, not much effort goes into examining the ways in which an institution’s own acts may be participating in the perpetuation of this allegedly timeless “tradition.”⁶⁴

By departing from Koğacioğlu's “tradition effect,” the representation of a traditional group to which crime belongs collectively fades away the responsibility of the whole system by imagining that the “so-called modern institution ... stands outside them.”⁶⁵

The phenomenon of blood-feud was redefined as a capital crime within the criminal justice system of Turkey in 1953.⁶⁶ A new clause was added to Article 450 by the amendment, which states “if the act of killing is committed with the motive of blood-feud, the perpetrator shall be sentenced to death” without any further details regarding the definition and elements of blood-feud. Moreover, in the parliamentary discussions on such cases, the focus has shifted from the agency of “monstrous” perpetrators to a collective agency that enables, fosters, and legitimizes such “monstrosity.” However, it was strongly emphasized that this group constitutes a distinct and segregated exception from the “lawful” and “normal” community to which *we* belong. The legislative and judicial actors’ disproportionate focus on harshly punishing individuals who try to operate their own “archaic” justice system, which does not recognize the state authority, has effectively obscured the failure of the same state apparatus to diligently overcome its lack of capacity to provide justice, thereby perpetuating the vicious cycle of violence.

Out of the thirteen dossiers of blood-feud which reached to the parliamentary agenda, only one resulted in the commutation of the death sentence to the aggravated life imprisonment by the proposal of the Justice Commission and subsequent approval by the Parliament. This is the case of an eighteen-year-old death-row inmate convicted of murder in the motivation of blood-

64 Koğacioğlu, “The Tradition Effect,” 121.

65 *Ibid.* 120-21.

66 Law no.6123, issued July 9, 1953, (*Türk Ceza Kanunu’nun Bazı Maddelerinin Değiştirilmesi Hakkında Kanun*).

feud.⁶⁷ Approximately two and a half months earlier, the victim had murdered the perpetrator's uncle by stabbing him twenty times and crushing his head with a stone. In retaliation, the perpetrator killed his uncle's murderer while the latter was attending his trial in the courthouse corridor, in the presence of the gendarmerie and while handcuffed. This case was discussed in four separate parliamentary sittings between May 1957 and February 1958.⁶⁸ The debates that took place during the case appear to be exceptional for permitting the expression of diverse perspectives on family values, familial bond, and customary practices, and for resulting in the commutation of the death sentence. However, what is not exceptional is that, as will be discussed, rather than addressing the potential deficiency of the current judicial system, it was evading by focusing on two extreme positions – either the idealization of familial bonds or the condemnation of traditional practices that were perceived as deviant and unlawful.

The parliamentary discussion centered around the perpetrator's young age, familial bond, and disobedience to the state authority. Article 56 of the TCK stipulated that a person who, at the time of committing the crime, has reached the age of eighteen but not yet attained the age of twenty-one shall be sentenced to aggravated imprisonment for twenty-four years instead of the death sentence. Following the 1936 amendment law, the term of imprisonment was extended to thirty years; however, the age range remained unchanged until 1953.⁶⁹ The amendment law of 1953, which also introduced the provision of blood-feud into the legal framework, concurrently adjusted the minimum age of criminal responsibility and the age range eligible for the commutation of a sentence.⁷⁰ After 1953, the commutation clause was removed from Article 56, thereby establishing eighteen years of age as the minimum age of criminal responsibility in all cases involving the death penalty. The period between the date of the aforementioned crime and the enactment of the amendment was

67 Decree no. 2073 dated February 4, 1958, *TBMM Zabıt Ceridesi*, D.10, C. 19, İ. 3, İn. 75, May 31, 1957. The case of Fethi Oğuz.

68 *TBMM Zabıt Ceridesi*, D.10, C. 19, İ. 3, İn. 75, May 31, 1957; D.11, C.1, İ. 1, İn.29, January 24, 1958; D.11, C.1, İ. 1, İn.30, 27 January, 1958; D.11, C.1, İ. 1, İn.31, January 29, 1958.

69 Law no. 3038, issued June 11, 1936.

70 Law no.6123, issued July 9, 1953.

just over one year. At the time of the crime, the perpetrator had turned eighteen only two months earlier.⁷¹ The “unfortunate” timing of the crime was a possible reason for the debates over commutation. The perpetrator’s young age, the relatively recent legal recognition of blood-feud as a distinct capital crime, the grief and anger felt by the perpetrator following his uncle’s tragic murder, and the suffering endured by his uncle’s wife and three children collectively shaped the arguments presented by the deputies. These elements were served to evoke empathy and accentuate the “misfortune” of the perpetrator.

72

The overall argument was that the young perpetrator had deep affection for his uncle, “like that of a son for a father,” and that witnessing the brutal murder firsthand had deeply traumatized him. A deputy said that “I wonder whether seeking revenge for the brutal murder of his beloved, whose head was smashed, could really be classified as a blood-feud or premeditated murder in this young man’s case?”⁷³ The discussion surrounding blood-feud reached such intensity that there was an attempt to rectify the Court’s verdict, as if Parliament held a judicial authority to do so. It was argued that:

His uncle was killed two and a half months ago and [perpetrator] killed the person who killed him [victim]. It happened in the heat of the moment. We [the Justice Commission proposing the commutation] considered it premeditated murder. The penalty for premeditated murder is also the death penalty. However, if we do not recognize the blood-feud ..., if the uncle was killed by the victim, the court should have ruled it as premeditated murder. If the crime was premeditated and the court accepted this, then the death sentence should have been reduced to thirty years under Article 59.⁷⁴ (This article pertains to the Court’s

71 To be more precise, Fethi Oğuz was born on August 18, 1936, and the crime in question occurred on October 11, 1954. Furthermore, the legislation allowing sentence commutation for individuals aged eighteen to twenty-one was repealed by an amendment that came into force on July 9, 1953.

72 Kemal Özçoban (Afyonkarahisar), *TBMM Zabıt Ceridesi*, D.10, C.19, İ.3, İn. 75, May 31, 1957, 415.

73 Servet Sezgin (Çanakkale), *ibid*, 412-3.

74 *Ibid.*, 413-4.

discretionary grounds for mitigating penalties. It is argued that, in this case, the murder of a family member should be considered as a provocation.)⁷⁵

In a similar vein to some other members, another deputy criticized this endeavor, calling it an attempt to “act like a court.”⁷⁶ He insisted that the TBMM has no authority to alter the court judgments as will be discussed in the next chapter.⁷⁷ Regardless of the outcome, when familial love was invoked, the act was portrayed not as a blood-feud but as premeditated murder driven by vengeance, leaving no space for any emotion of love that might be present in a blood-feud.

In this case, as well as during the preceding two months of debate on the amendment of 1953 that codified blood-feuds as capital crime, the focus was centered on themes of familial love and retribution.⁷⁸ Those who opposed classifying all murder of rival family members as a blood-feud, in the sense of capital crime, argue that it should be categorized as premeditated murder. They argued that a murder of a family member was a tragic scene that can provoke strong feelings of vengeance. This previous murder of a loved one can be interpreted as an unjust provocation and therefore as a mitigating factor under the criminal law. For instance, at a parliamentary sitting in 1953, it was posited that the situation of a father who avenged his son’s murder by killing the perpetrator should be regarded as a mitigating factor.⁷⁹ Despite the lack of any possibility of tangible definition of familial affection, it was portrayed as a

75 Article 59 of the TCK 1926 was amended on July 9, 1953. It states that “in addition to the statutory mitigating factors, whenever the Court considers discretionary grounds to mitigate in favor of the perpetrator, it shall impose aggravated life imprisonment instead of the death penalty, and thirty years of aggravated imprisonment instead of aggravated life imprisonment.”

76 Muammer Alakant (Manisa), *TBMM Zabıt Ceridesi*, D. 10, C. 19, İ. 3, İn. 75, May 31, 1957, 413. The actors who have spoken out against the commutation of death sentence: İsmail (Hadımlı) Hadımlıoğlu, Sırrı Atalay, Nuri Ocakçoğlu, *TBMM Zabıt Ceridesi*, D. 10, C. 19, İ. 3, İn. 75, May 31, 1957; M. Kemal Biberöğlu, *TBMM Zabıt Ceridesi*, D. 11, C. 1, İ. 1, İn. 30, January 27, 1958.

77 *TBMM Zabıt Ceridesi*, D. 10, C. 19, İ. 3, İn. 75, May 31, 1957, 413-5.

78 Law proposals on the amendment of some articles of the TCK and the addition of some articles to this Code and reports of the Justice Committee from May 29, 1953 to July 15, 1953.

79 Hidayet Aydıner (Konya), *TBMM Tutanak Dergisi*, D. 9, C. 23, T. 3, B. 96, June 24, 1953, 217.

source of compassion in numerous capital crime cases. However, in the context of a blood-feud, the notion of love between family members was effectively excluded, rather than used to foster empathy. This deliberate neglect is partly due to legal technicalities. One of the fundamental tenets of criminal jurisprudence is that the element of a crime and its cause cannot be considered discretionary grounds for mitigation. The blood-feud is defined as a criminal act between two or more hostile family groups who murder of members of the opposing group as a form of collective retribution for past murders. The elements of this crime encompass family ties, revenge, and collective incitement to murder, regardless of the strength of the familial bond and love between the family members involved. In line with the criminal law principles, these sentiments – which could be considered as grounds for discretionary mitigation in another homicide case – cannot be applied here, since they constitute the very elements of crime itself.

As the emotional responses that foster empathy in other homicide cases were not considered as mitigating factors in the context of a blood-feud, the parliamentary debate shifted its focus to the social causes of crime. During the parliamentary sitting discussing the criminal code amendment, a deputy argued that “punishments and crimes are the property of the community as well as the individual.”⁸⁰ The parliamentary debate on blood-feud provided other insights into the speculations on root causes of crime. However, these are significantly narrow interpretations that serve purposes other than holding legal and social order accountable. In an exceptional instance, a deputy emphasized the absence of the state authority by questioning,

Why does the blood-feud occur in the East and not in the West? Because the authority is not established in the East, the murderer remains free. In our country, they have been unable to find and arrest a murderer for two years. They say: “Put him in jail or we will kill one of them.” This is the truth. It is not wise to impose such a severe

80 Celal Yardımcı (Ağrı), *ibid.*, 221.

punishment – the death penalty – in the case of blood-feud resulting from such a lack of authority.⁸¹

This spotlight on the underlying causes of criminal behavior – which surround the impunity, the wider community’s responsibility, and the lack of diligent response of the state actors – appears to resonate with the argument presented in my study. However, this statement remains as an exception. Moreover, once again, the focus of this discussion was irrevocably redirected toward the characteristics of actors from marginalized communities, as “the East of country,” rather than on the acts or omissions of the state agents.

The distinction between individual and community characteristics has not always been clear-cut. For instance, certain groups of people residing in specific neighborhoods, cities, or regions have been depicted as more prone to crime than others. During the debate on proposed criminal law amendments in 1953, the then-spokesperson of the Justice Commission stated:

For example, a boy, who lived in the Black Sea [region] earns his bread between the harsh and relentless waves of the Black Sea, from day to night and night to day. It is impossible and improbable not to consider the impact of such a life-style affects his mental state.⁸²

During the same parliamentary sitting, another legislator, who attempted to delineate criteria for the crime of blood-feud, highlighted the Black Sea region’s notorious “tradition” by stating that:

It is not right to sentence to death someone who killed the murderer of their son. Therefore, in my opinion – *and I ask my friends from the Black Sea region to listen carefully* – the principal objective of this paragraph [Article 450/10] is to address the acts committed against the murderer’s relatives. (emphasis added)⁸³

The association with “dubious characteristics” was not merely used to describe places or perpetrators; it also referred to victims. For example, victim

81 Ahmet Kemal Varınca (Gümüşhane), *ibid.*, 218.

82 Şemi Ergin (On behalf of the Justice Commission, Balıkesir), *ibid.*, 211.

83 Ahmet Başbüyük (Çorum), *ibid.*, 217.

blaming was clearly evident in the blood-feud case mentioned earlier, when a deputy stated that:

[T]he deceased [victim who had murdered the perpetrator's uncle] committed a heinous crime by leaving a family bereft of a head of house, a woman without a husband, and three young children without a father before they could even say "father."⁸⁴

He also stated that the perpetrator is just "a miserable murderer of a cruel murderer (*zalim bir katilin bedbaht katili*)."⁸⁵ On the other hand, a closer examination of this case reveals a more complex scenario than a murder resulting from a "psychological breakdown" caused by severe grief of a miserable murderer.⁸⁶ He did not shoot his uncle's murderer immediately after his uncle's murder. Instead, he killed the victim two months later in the courthouse corridor during the latter's trial. A deputy stated:

They say that Fethi Oğuz's [the perpetrator's] uncle was severely wounded and killed by crushing his head with a stone. Now, is the crime committed by Fethi Oğuz more humane? Is the manner in which the crime was committed against a person sitting in the corridor of the courthouse, handcuffed, under the protection of the state's right to punish, a person under the custody of state and under the guarantee of the public conscience (*âmmenin vicdan teminatı altında*), less serious than before? In this case, Fethi Oğuz's crime should be considered more serious.⁸⁷

The infringement of the state's right to punish was raised as a counterargument against claims of unjust provocation in the blood-feud case. Another deputy clearly expressed this perspective by stating,

For example, consider a case where a student injures or kills their teacher. In such an instance, if someone comes from outside and kills

84 Selim Soley (Ankara), *TBMM Zabıt Ceridesi*, D. 11, C. 1, İ. 1, İn. 29, January 24, 1958, 534.

85 *Ibid.*

86 *Ibid.*

87 Sırrı Atalay (Kars), *TBMM Zabıt Ceridesi*, D. 11, C. 1, İ. 1, İn. 30, January 27, 1958, 549.

that person, who is under the control of society, it is absolutely unacceptable to seek justification and to act with compassion for the perpetrator.⁸⁸

It is clearly stated that the perpetrator is a transgressor of social control, “someone coming from outside,” the “other;” whereas the victim belongs to “our” lawful community, to “us.” From this perspective, the perpetrator of blood-feud was regarded as nothing more than a cruel murderer of another wrongdoer.

The previous quotation encapsulates a pivotal question at the core of Turkey’s death penalty experience: How is a murderer characterized as a “cruel” versus “miserable?” Moreover, beyond the portrayal of actors as monsters, a more contentious issue is how this framing obscures our own role within the social context that drives someone to commit a crime. The scope of the parliamentary discussions and documents affected and was affected by the sense of justice and empathy. The narrative swung between portraying the perpetrators as a bereaved person deserving compassion and as a barbarian deserving punishment. However, whether the outcome was punishment or pardon, this two-dimensional focus of debate serves to divert attention from the deficiency of judicial and administrative proceedings and the discontent of perpetrators (and their communities) with this judicial and penal apparatus.

In this context, the criminal was not merely punished for the brutality or traditional aspect of their crime but also for the usurpation of the public authorities’ monopoly on violence and the dispensation of justice. Notably, four out of the thirteen blood-feud cases occurred during the murder trial of the victim or their relatives as defendants, or within or near courthouses or the penal institution.⁸⁹ In other words, at least 31% of capital cases for blood-feuds occurred within the boundaries of judicial and penitentiary institutions.⁹⁰ Moreover, a further four victims were individuals who had previously directly

88 İsmail Hadımlioğlu (Denizli), *TBMM Zabıt Ceridesi*, D. 10, C. 19, İ. 3, İn. 75, May 31, 1957, 416.

89 Decree no.2037, dated January 14, 1957; Decree no.2098, dated February 4, 1958; Decree no.2094, dated January 23, 1958; Law no.352, issued November 2, 1963.

90 This figure is “at least thirty-one” due to the absence or incompleteness of relevant parliamentary documents for three of the thirteen cases under consideration.

killed a relative of the perpetrator; that is to say, they were, or should have been, subject to prosecution for murder.⁹¹ For example, in one case dated 1982, the perpetrator murdered a victim, who had been incarcerated for murdering the perpetrator's uncle in 1964 and subsequently released in 1974 under an amnesty law.⁹² This killing was an act of retribution for the uncle's death. It remains unclear whether the motive for the murder was related to the amnesty law and the current justice system's failure to satisfy the relatives of the victims' sense of justice, or whether the vicious cycle of violence that would persist even if the victim had completed their twenty-year sentence. And it does not even matter which of these is the underlying motivation for this crime, as the very existence of blood-feud stems from the perception among certain groups that all forms of penalties imposed by the official authorities are deemed insufficient.

According to modern conceptions, it is the responsibility of the criminal justice authorities to prosecute criminals.... [H]ence, people often do not openly admit a wish to punish severely someone who has done them an injustice, and Western understandings of violent crime often fail to consider violence as cultural capital.⁹³

As this assessment of blood-feud in an ethnic Albanian context posits, it was equally challenging to create a restorative or retributive justice system in

91 Decree no.2037 dated January 14, 1957; Decree no.2098 dated February 4, 1958; Law no.2763 issued December 28, 1982; Law no.2807 issued March 28, 1983.

92 Law no.2763 issued December 28, 1982.

The victim, deceased Ahdil Güllü, had been sentenced to twenty-year of aggravated imprisonment for the murder of Ömer Ergün, who was the uncle of the accused Kâzım Ergün, on July 18, 1964. The sentence was approved by *Yargıtay*. However, Güllü was released from prison during his execution of the sentence, having been pardoned under the Amnesty Law, dated 18 May 1974 and numbered 1803. After his release, Ergün followed Güllü, who had murdered his uncle, and ultimately killed him on April 3, 1975. *Danışma Meclisi Tutanak Dergisi*, C.12, Y.2, B.29, December 13, 1982.

93 Aijmer and Abbinik 2000; Messner and Rosenfeld 2001: 11; Arsovska and Craig 2006 cited in Jana Arsovska, and Philippe Verduyn, "Globalization, Conduct Norms and 'Culture Conflict': Perceptions of Violence and Crime in an Ethnic Albanian Context" *The British Journal of Criminology* 48, no. 2 (2008): 227, <https://doi.org/10.1093/bjc/azmo68>.

Turkey without considering this “cultural capital” aspect. A penal system that fails to provide justice in the eyes of victims or allows impunity involves the legitimization of falsehood.⁹⁴ As Paz Rojas Baeza and M. M. Margaret Penrose argue, impunity is an act of violence and “forced silence, via impunity, is ... merely serves to perpetuate the cycles of violence.”⁹⁵ Capital punishment, with its inherent violence, effectively draws the curtain over the deficiency of the judicial system and the broader social context in which the alternative form of retributive violence can arise.

In drawing a connection between blood-feud and the failure of the judicial system, or in the other examples given, my intention is not to assert that these are the primary, most significant, or sole causes for capital crimes. These issues certainly extend beyond the implications of the death penalty. This study has only touched on the topics, which require further analysis to reveal their full scope. However, the motive here is not to uncover all the correlations, but to reveal the operation of the death penalty. The intention is to provide an illustrative example of these extensive correlations that were deliberately obscured by the agency of the death penalty. For instance, in the case of a mother who feels compelled to kill her newborn illegitimate child, the capital punishment law ignores to acknowledge the underlying patriarchal power dynamics within the family that contribute to this coercion. Instead, the discourse emphasizes emotions such as shame and loyalty. Conversely, in the case of a blood-feud, for instance, a grandchild who kills his grandfather's murderer, the capital punishment can overlook the role of emotions such as anger, love, and revenge in response to the murderer's impunity. Instead, this crime was regarded as just a reflection of patriarchal power dynamics, which challenged the power of the state. Even in blood-feud cases alone, sometimes the

94 Raul Soza, “The Church: A Witness to Truth on the Way to Freedom,” in *Impunity: An Ethical Perspective: Six Case Studies from Latin America*, ed. Charles Harper (Geneva: World Council of Churches, 1996), 60-66.

95 Meg Mary Margaret Penrose, “Impunity-Inertia, Inaction, and Invalidity: A Literature Review,” *Boston University International Law Journal* 17 (2000): 290; <https://ssrn.com/abstract=2510030>; Paz Rojas Baeza, “Breaking the Human Link: The Medico-Psychiatric View of Impunity,” in *Impunity: An Ethical Perspective: Six Case Studies from Latin America*, ed. Charles Harper (Geneva: World Council of Churches, 1996), *supra* note 3, 73, 75-76.

idealization of family bonds, love, and revenge was amplified to support commutation, while at other times these factors were completely ignored, and the “archaic” revenge system was condemned to justify execution. The repeated portrayal of perpetrators as either miserable or cruel murderers in parliamentary debates left no opportunity to address the justice system’s failures and how they might affect personal acts of retaliation. In Turkey’s capital punishment narratives, normality was sometimes reinforced by traditional practices and at other times presented in opposition to them. There is no simple causation between social conditions and legal punishment; rather, they are mutually interdependent. Nevertheless, a spot on anomaly continued to operate as a distraction, shifting responsibility onto a few individuals’ exceptional acts.

§ 3.2 Crimes of Devotion or Perversion

There is a complicated picture, with the distracter aspect of capital punishment hinging on the reproduction of normalcy. Cases such as “killer parents” or blood-feud represent only a fragmented part of this picture that I aim to portray. Capital punishment also conveys the social norms surrounding the appropriate response to the crime in terms of gender roles, gendered behaviors, and sexuality. It reflects the acceptable ways in which crimes could be committed due to uphold honor, to protect family values, and also to express lust and love. It shaped gendered, stereotypical perceptions of love, sexuality, and marriage. Capital punishment – or any legal norm in any society and period – cannot be understood merely as reflections of social/traditional values; rather, it is as a system which, in turn, protects, deconstructs, and re-establishes over and over again such values. It served to define who is perceived as lovable or desirable, by whom, and under what conditions. It determined the extent to which individuals can exercise their own agency within the context of this particular relationship. Thus, once again, while the crime is completely intertwined with the characteristics of actors, the social constructions which directly cause, facilitate, or tolerate the criminal behaviors are rendered obscure. Apart from their “exceptional” features, a “normal” social structure is both created and maintained.

3.2.1 *Killer “Lovers”: Abduction, Rape, and Intention to Marry*

In the jurisprudence of Turkey, it appears that the emotions of love and lust have been regarded as acceptable, or at least not entirely condemnable, in criminal behavior only when the perpetrators committed the crime with the intention to marry their victims. More specifically, this leniency applied only when male perpetrator committed the act against an unmarried female victim, with an intention to marry her, rather than vice-versa. Since 1926, the element of “intention to marry” has been recognized as a mitigating factor in abduction cases.⁹⁶ In 1936, the elements of “the sake of lust” and “the intention to marry” were amended to Article 429 for the crime of forced abduction (*cebreñ kaçırma*) of women.⁹⁷ Thereby, the perpetrator’s lust and desire to marry became an element of the crime, not just a mitigating factor. However, it can be generally observed that those convicted of such crimes tended to receive reduced sentences when the abducted individual was a woman who was not raped, was neither a minor nor married, and was abducted with the intent to marry – regardless of the victim’s consent.⁹⁸ The “intention to marry” was not interpreted as sufficient to exempt the perpetrator from the most severe penalty, only if the victim dies. In 1953, Article 439 of the TCK criminalized causing death during or as a result of abduction, establishing it as a capital crime.

As the abduction cases, from 1953 to 1990, the perpetrator of sexual assault and rape that resulted in the victim’s death was sentenced to death under Article 418.⁹⁹ The criminalization of abduction and sexual assault by the agency

96 Article 433 and 434 of the TCK, enacted 1926.

97 Article 429 of the TCK 1926, amended by Law no. 3038, issued June 11, 1936.

The phrase “whoever, by force, violence, threats or deceit; abducts or detains in a place a woman who is of full age or who has been rendered of full age, for the sake of lust or for the intention to marry, shall be punished with ... aggravated imprisonment” was added to Article 429 for the crime of forced abduction in 1936.

98 Article 429, 430, 431, and 433 of the TCK, enacted 1926.

99 Article 418 of the TCK dated 1926 (the amendment: Law no. 6123/1 issued July 9, 1953) Article 1 of Law no. 6123 issued July 9, 1953 stipulated: “If the acts and behaviors described in this article result in the death of the victim, the perpetrator shall be sentenced to death.” Those acts and behaviors encompass a range of sexual offences under Article 414, 415, 416, 417 of the TCK dated 1926 amended by the Law No. 6123/1 issued July 9, 1953. The offences covers rape

of capital punishment not only reflects but also influences the family values, social relations derived from matrimony, and gender norms across society that constitute the very foundation upon which these crimes themselves are built. Moreover, this categorization of such acts as capital murder surpasses any crime control attempt aimed at challenging the “traditional” social phenomena as child marriage or abduction of girls. Conversely, these social phenomena were attempted to be confined within the boundaries of conventional social norms. The system of categorization in question hierarchies certain crimes, victims, and perpetrators based on their perceived social “acceptability.” For instance, marital rape of a minor was not legally treated as severely as rape of a minor without the intention to marry, reflecting societal priorities. To illustrate, during the debate on the amendment to the Criminal Code in 1953, a legislator submitted a motion (*takrir*) regarding the article on rape and sexual assault involving individuals under the age of fifteen, emphasizing the legal distinctions and social considerations tied to the victim’s age and the perpetrator’s intention to marry. He situated that:

Dear friends, in our country, many marriages take place unofficially due to the young age of the bride. Two families decide to marry their children with good intentions, with the intention of seeing their children get married (*mürüvvetini görmek*) and finding a helper for their work. However, the girl’s age is under fifteen, and it is often difficult to get her age legally corrected. If such a marriage is conducted in a village wedding (*köy düğünü*) for these reasons, [the parents of the girl] may be sentenced to seven and a half years in prison, according to this article. Furthermore, the same punishment will be imposed on a wild bandit who captures and rapes an innocent child, which is not justifiable. It is, therefore, proposed that if a person is raped with the

or sexual assault of a minor under the age of fifteen; rape or sexual assault of a person over fifteen by using force, violence, or threats; rape or sexual assault of a person who is unable to resist the act due to their mental or physical illness, or reasons other than the act itself, or fraudulent means used by the perpetrator.

The term “death penalty” in Articles 418 and 439 were replaced with “aggravated life imprisonment” and incorporated into the text through Article 27 of the Law no. 3679, issued on November 21, 1990.

intention of marriage, the punishment should start from one year, instead of five.¹⁰⁰

Notwithstanding the rejection of this draft, the sentences would continue to be commuted under the other articles pertaining to the age and marital status of victim, and to perpetrator's intention to marry, in line with customary practices observed in rural Turkey.¹⁰¹ In this way, the murder of a minor through sexual assault was framed as the exceptionally brutal act of "a wild bandit" deserving execution, rather than as a possible consequence of legitimizing sexual relations with minors through "a village wedding." By focusing on the victim as either a pitied child or someone "on her way to becoming fully human," the death penalty narrative has emptied "out the significance of the contexts of early and forced marriage, and obscur[ed] what gives rise to the inequalities that fuel this practice."¹⁰²

Although the overall legislative framework does not initially appear directly related to the death penalty, a more detailed analyses of the capital punishment files within the Parliament pertaining to abduction and sexual assault reveals a more nuanced and interconnected picture of this policy. It is first necessary to note that there was only one capital punishment file in the Parliament concerning Article 418 (which covers "forcible rape, seduction of a minor, and crimes against chastity"), and no conviction for Article 439 (which involves "abduction of girls and women and men"). Nevertheless, this data represents only the legal basis for cases prosecuted specifically under Article 418 and 439. There are, however, capital crimes driven by sexual and/or marital intentions that were not tried under these articles, but rather under Article 450, which addresses other types of capital murder. Regardless of whether the law number was cited or not, a review of the motivations behind capital murder cases in the Parliament reveals that fifty-two death-row inmates were

100 Ahmet Başbüyük (Çorum), *TBMM Tutanak Dergisi*, D.9, C.23, T.3, B.93, June 8, 1953, 106.

101 Article 182, 423, 433 of the TCK dated 1926; Article 423 amended by Law no.2275, issued June 8, 1933; Article 423, 430 of amended by Law no. 3038 issued June 11, 1936 and Law no.6123 issued July 9, 1953.

102 Virginia Caputo, "Too Young to Wed": Envisioning a 'Generous Encounter' between Feminism and the Politics of Childhood," in *Feminism and the Politics of Childhood: Friends or Foes?*, eds. Rachel Rosen and Katherine Twamley (London: UCL Press, 2018), 206, 205.

convicted of murder with a motive related to rape or attempted rape; twenty-five for abduction of a girl or woman, nineteen for the intention to marry (but without involving rape and abduction); and seventeen for the illicit love affairs.¹⁰³ In the files on capital punishment submitted to the Parliament, the majority of rape cases were sentenced to death for murder with intent to prepare, facilitate or conceal an offence.¹⁰⁴ Similarly, the majority of abduction cases were sentenced to death for the same reason, alongside multiple murder at the same time.¹⁰⁵ Finally, all those who committed murder with the expressed intention to marry were sentenced to death for premeditated murder.¹⁰⁶ In other words, although many cases were categorized under Article 450 – or not categorized explicitly but linked to those elements – their introduction to the parliamentary agenda was accompanied by elements similar to Articles 418 and 439: murder arising from sexual assault, rape, or abduction.

It is of greater importance to note that these cases illustrate the actors who were perceived as being “normally” incapable of falling in love or being loved, as their sexual attachment was deemed to be out of the question, and therefore it was considered both morally and legally unacceptable for them to enter into marriage. These cases demonstrate that transgressing certain social norms in the name of love and lust carries serious consequences, with the ultimate

103 It can be observed that, between approximately 1926 and 1941–42, parliamentary documents did not typically include a specific reference to the legal basis of crime. In the parliamentary sitting on April 16, 1941, a deputy requested that the Justice Commission include the article number of the case in their report (*mazbata*). Although law numbers were occasionally mentioned before this date, from 1941 onwards, reports began to include the relevant articles and paragraphs of the TCK. In this study, I made a categorization based on the description of the crime (if it is specified) in documents of the years when the law number or article was not specified.

Nevzat Ayas (Bursa): “While describing the case and the murder, I would like to ask them to identify the article of the criminal code to which this incident relates, and to determine the relation between the provision of the law and the incident. At the very least, at the time of our judgment, inform us, on behalf of the legislator, which provision of the law is the basis of the verdict.” *TBMM Zabıt Ceridesi*, D.6, C.17, İ.2, İn.41, April 16, 1941, 65.

104 Article 450/7, 8, 9 of the TCK dated 1926. Additionally, a limited number of sentences were ruled on under Article 450/1, 5.

105 Article 450/5, 7, 8, 9 of the TCK.

106 Article 450/4 of the TCK.

punishment being death. But otherwise, the virtues of love and lust were amplified when the crime was committed within the “tolerable” limits of social norms. As Koşukoğlu observes “the ways in which state authority is entangled with masculine domination and reproduction of practices of intimate violence,” arguing that, in some periods of Turkey, “law had become remarkably more tolerant of violent men.”¹⁰⁷ As any other legal subject, legislative framework of gender regime projected what is normal and “[m]odern states can, did, and do allow people to rape, imprison, hit, and kill others.”¹⁰⁸ In 1982, a member of parliament questioned the morality of the death penalty in the case of abduction for the purpose of marriage, using a hypothetical scenario:

It is my intention to differentiate between the offenses committed by individuals, considering the social and political benefits that may arise. This opportunity must be granted to me.... Dear friends, there are numerous discrepancies in the legislation with regard to the imposition of death sentences, as evidenced by Article 439. Let’s say a young man (*delikanlı*) abducted a girl he deeply loves in a village. He forces her into his car, locks the doors, kidnaps her, and then drives away. They collided with an oncoming vehicle (100% fault of the oncoming vehicle) and the girl died. This driver, this boy, is sentenced to death. This is Article 439 of the TCK. Does this align with your conscience? Or the girl’s siblings may have attacked the car in an attempt to rescue her. Unfortunately, the girl was killed as a result of the shooting. The boy, abductor, was sentenced to death.... So, it’s clear that this type of death penalty cannot be equated with the death penalty meted out to an individual who enters a coffee house (*kahvehane*), lays innocent people face down, and kills them in a brutal manner, resulting in the deaths of five or six people.¹⁰⁹

If the perpetrator’s actions are ultimately intended to maintain a social norm (in this case, implicit references to encapsulate love and lust within the institution of marriage, to tame male sexual desire through legally and socially

107 Koşukoğlu Polatel, “The Transformations of the Regime of Intimate Violence,” 20–21, 26.

108 *Ibid.*, 30–31.

109 Fikri Devrimsel, *Danışma Meclisi Tutanak Dergisi*, C.5, Y.1, B.81, April 15, 1982, 45.

accepted norms), the perpetrator was victimized, and the law was depicted as blind to the social realities of the country. However, if the perpetrator commits the same crime but also transgresses beyond the limits of societal norms, for instance, abducting a woman who is already married with someone else, the criminal justice system imposes a harsher sentence than for abducting an unmarried woman.¹¹⁰ Focusing merely on those cases would be misleading to assume that the capital punishment system is purely sensitive to the socio-cultural realities/traditions of society. Yet, as seen in “traditional” cases such as the blood-feuds or the second-wife marriages (*kumalık*), there have been initiatives to stigmatize the actors involved and to challenge the *status quo* in these regards. This is not an incoherence; rather, it is exactly the way capital punishment operates. While the perpetrators who maintain or violate the established or desired social context are subjected to different treatment, while the system highlights morally “tolerable” or “wicked” personalities of actors, the focus is diverted from the reality which is one and same social and legal context that creates and is created by these crimes.

These cases represent one facet of the multifaceted narrative often presented as morally normal. The highly individualization of moral dimensions is not exclusive to perpetrators. It is true that the victim’s agency and consent are excluded from the scope of capital crimes in aforementioned cases, without any problematization. Nevertheless, when the victims are perceived as the transgressors (either alongside or instead of the perpetrators), the victim’s agency emerges as a novel centerpiece in legal and parliamentary documents. Various moral codes were employed to normalize/justify the murder on the

110 Article 431 of Law no. 765 issued March 1, 1926 “In the event that the abducted girl or woman is married or has been subjected to forced sexual assault, the perpetrator shall be sentenced to a term of aggravated imprisonment of at least five years;” Article 430 of Law no. 3038, dated June 11, 1936 “Whoever abducts or detains a minor by force, violence, threat, or deceit, with the intention of marriage or lust, or a woman for lust, shall be sentenced to aggravated imprisonment for a period between three and seven years;” Article 429 amended by Law no. 6123/1 dated July 9, 1953 “Whoever, by force and violence or threat or deception, abducts or detains an adult woman or a woman who has been brought of full age, for the purpose of lust or marriage, shall be sentenced to aggravated imprisonment for a term of three years to ten years. If the abducted woman is married, the penalty of aggravated imprisonment shall not be less than seven years.”

grounds of victims' socially "unacceptable" characteristics. For example, Article 438 of the TCK provided that crimes of rape and forcible abduction committed against "a woman engaged in the profession of prostitution" shall be considered a legal ground for mitigation.¹¹¹ As previously stated, since 1953, Article 418 and 439 have prescribed the death penalty when the victim dies as a direct consequence of sexual assault, rape, or abduction.¹¹² However, Article 438 was never amended to align with these changes in Articles 418 and 439. Moreover, it was not clarified that the death sentence, imposed in accordance with the provisions of Article 418 or 439, was transformed into what kind of penalty when Article 438 was applied (specifically, when the victim's identity as a sex-worker was considered a mitigating factor in sexual crime cases). In cases where a female sex-worker was killed as a consequence of the forcible abduction, sexual assault, or rape, the accused was not sentenced to death, however, it was ambiguous what their sentence would be.¹¹³ The absence of specification of this misogynistic mitigation factor created a legal gap until 1990, when Article 438 was completely abolished.¹¹⁴ The stigma attached to female sex-workers served to blur lines between sex-work and sexual exploitation such as rape, sexual assault, or abduction.

It becomes apparent that there was a relative normalization of the deaths of victims who possess "unconventional" characteristics, contrasted with a

111 According to Article 438 of the TCK dated 1926, when the victim of rape or forcible abduction is a female sex-worker, the penalties prescribed in the relevant articles (Article 418 and 439) shall be reduced by up to two-thirds.

112 Article 418 (sexual assault, rape) and 439 (forcible abduction) of the TCK 1926 were amended by Law no. 6123, issued July 9, 1953, to classify these crimes as capital crimes when the act results in the victim's death.

113 It is evident that there is no way to calculate two-third of death penalty when the crime in question is the murder of a female sex worker resulting from rape and abduction.

114 Some attempts have been made to overcome this legal gap. For instance, on September 2, 1960, Özdağ Muzaffer proposed a legislative amendment that would have resulted in the perpetrator defined by Article 438 being sentenced to ten years of aggravated life imprisonment in cases where the death sentence was required. However, it was not accepted and the legal uncertainty persists. The legislative proposal by Özdağ Muzaffer concerning amendments to certain articles of the TCK and the Social Affairs Commission Report (2/43), *Milli Birlik Komitesi Genel Kurul Toplantısı*, B.6, September 7, 1960.

This article was abolished by Article 28 of Law no. 3679, issued November 21, 1990.

greater tolerance for criminals who follow more “conventional” ways. Any kind of sexual relations framed by love, lust, or perversion highly emphasized in the death penalty dossier. The cases of rape provide an appropriate framework for examining how the spotlights on individual actors, as a lover or pervert, can serve to distract us from the broader social dynamics at play. A total of sixty individuals were killed by fifty-two perpetrators who were accused of rape or attempted rape in addition to their capital crime of murder. Among these victims, twenty-three were minors within the legal definition of term (eleven boys and twelve girls, including one perpetrator’s own daughter.) Notably, a significant proportion of death-row inmates convicted of murder for crimes associated with rape or attempted rape (44.2%) perpetrated this act against at least one child. It is unsurprising that children were defined as a group for whom it is unacceptable to have “lustful feelings,” to feel “love and affection,” and to “intent to marry.” However, it is crucial to note that the key factor of these cases is not necessarily the victims’ age, their lack of understanding of the nature of the act, their inability to give informed consent, or their position under the authority or supervision of their perpetrators. Rather, the determining factor is the extent to which the perpetrator violates social and legal boundaries.

To illustrate, there was only one case of forcible abduction and attempted to rape, in which the Commission proposed to commute the death sentence to twenty-four years of aggravated imprisonment.¹¹⁵ And the victim of this unique commutation case was a minor. In 1961, this dossier was submitted to the Parliament.¹¹⁶ In 1958, the defendant murdered of fourteen/fifteen-year-old girl whom he had attempted to rape, killing her out of anger caused by her resistance and opposition. He was sentenced to death for the murder under Article 450/8. However, the Social Affairs Commission of the MBK proposed commuting the death sentence, citing the absence of a “social benefit” from its execution and arguing that it was “incompatible with the notion of

115 Decree no. 64, dated August 5, 1961.

116 The dossier was actually submitted to the military committee and chamber of deputies responsible for the legislative functions at the time.

justice.”¹¹⁷ Despite the Parliament’s refusal to commute the sentence in the final instance and its approval of the death penalty, this case was distinguishable. Because, throughout Turkey’s history of capital punishment, proposals to commute death sentences by Commissions or Parliament in cases involving criminal sexual assault were rare and exceptional occurrences.

The judgment of *Yargıtay* and the reports of the Justice Commission both emphasized two factors that could be considered in seeking mitigating factors: first, the victim rejected “the perpetrator’s love,” and second, the perpetrator was still in his twenties at the time of the crime.¹¹⁸ According to the legal documents and parliamentary discussion,

The accused provided a sincere confession throughout all stages of the legal proceedings, stating that he had loved the victim for a long time and wanted to take her to his house with the intention of marrying her, and also admitted that he committed this crime in response to her resistance.¹¹⁹

It is also notable that, during this period, the age of eighteen was recognized as the age of criminal liability; thus, the focus on the perpetrator’s age drew attention to the socially-accepted phase of adolescence (*delikanlılık*) rather than any legal reference. The perpetrator’s youth, his “love and affection” for the victim, his alleged “intention to marry” her, and the lack of “defloration” (*bikrin izalesi*) resulting from attempted rape were deemed the tolerable elements of this crime. The victim’s lack of consent and the status as a minor were not part of discussion.¹²⁰ Ultimately, the death sentence was approved not based on these two mitigating arguments, but on the perpetrator’s attack on the patriarchal social order; as articulated by one of the deputies: “It is a very disastrous situation. He wants your daughter; you do not give her to him. The

117 Prime Ministry Resolution and Social Affairs Commission Report (3/119), *Milli Birlik Komitesi Genel Kurul Toplantı Tutanağı*, C.6, B.98, on August 1, 1961.

118 T.C. Temyiz Mahkemesi CD.1, E. 59/3455, K. 1898, T. 59/5012; T.C. Temyiz Mahkemesi Ceza Heyeti Umumiyesi, E. L/6, K.6, T. 961/269; *ibid.*, 5.

119 *Ibid.*

120 According to Article 416 of the TCK, minors between the ages of fifteen and eighteen are recognized as capable of giving consent to engage in sexual relations.

man rapes her and then kills her.”¹²¹ Given that the physical condition of the deceased showed at least an attempted rape, it was argued that it was inconceivable that she had been taken home with the intention of marriage. The crime was committed out of anger at the rejection of *lustful feelings*, not out of rejection of his *love*. He was labeled as a *pervert*, not a *lover*.

I assume that the primary reason for this case being subject to commutation was the challenge in determining whether social norms was “deadly” violated or not. A case-by-case analysis reveals that the “tolerable” aspects of this case were not tolerated consistently. Firstly, “love and affection” were not acceptable emotions when directed towards individuals deemed “unacceptable,” such as a married woman. For instance, in 1930, a gendarmerie sergeant murdered another man’s wife out of fear that she would tell his rape to her husband.¹²² His previous “intention to marry” her and desire for “illegitimate intercourse on the grounds of love and affection” were not framed as acceptable because the victim was married. Instead, these emotions were defined as part of “monstrous feelings.” Moreover, it would be inaccurate to suggest that the “intention to marry” was always an acceptable mitigating factor, even when both the victim and perpetrator were unmarried individuals. To illustrate, in 1939, a single man killed her ex-fiancé.¹²³ Their mutual intention to marry each other was not used as a mitigating factor because he forcibly deflowered her (*cebren kızlığını bozmak*).¹²⁴ The violation of the victim’s virginity shows itself as one of the insurmountable social boundaries. Briefly, while capital punishment may appear to forgive “lovers” and punish “perverts,” it rarely addresses

121 Sami Küçük, *Milli Birlik Komitesi Genel Kurul Toplantı Tutanağı*, C.6, B.98, on August 1, 1961, 7.

122 Justice Commission Report on Decree no.588, *TBMM Zabıt Ceridesi*, D.3, C.22, İ.4, İn.8 on November 27, 1930.

123 Justice Commission Report on Decree no.1076, *TBMM Zabıt Ceridesi*, D.5, C.29, İ.4, İn.27, on January 26, 1939.

124 In then-existing legal framework of Turkey’s jurisprudence, this crime was categorized as “forcible deflowering” (*cebren kızlığını bozmak*) instead of rape, as it involved penetration by an object rather than by the perpetrator’s genitals. However, in this dissertation, the acts of criminal sexual assault/abuse are grouped under the same category. Legal texts narrated the crime as follows: “He took her to the moor and attacked her to deflower her. But when he could not do it himself,... he planned and intended by using a stick.” *ibid.*

the socio-cultural norms that enable such murderous behavior. It fuels the patriarchal social order by labeling some as “tolerable” and others as “wicked.” By maintaining this focus, it attempts to shift responsibility away from the broader legal and social systems that promote violence embedded in gender norms – such as the tolerance of early marriage, intimate violence, or sexual exploitation. After all, “our perceptions of what options or paths are available to us are often more important than whatever, in fact, exists.”¹²⁵

3.2.2 *Killer Partners: Illicit Love Affairs and Gendered Agency*¹²⁶

Love and lust did not always lead to the crimes of forcibly abduction or rape, but these emotions could still drive capital murder for other reasons. In thirty-five cases, the motive behind the capital crime was to eliminate a current spouse, or lover’s spouse, or other obstacles in order to continue a legally illegitimate relationship, or “to obtain” someone (*elde etmek*), or to marry them.¹²⁷ A review of capital punishment cases involving “illicit love affairs,” excluding rape and abduction, reveals that the majority of actors were married women. In sixteen of the nineteen cases where “intention to marry” motivated the capital murder, either the perpetrators or the person they wanted to marry was already married.¹²⁸ Additionally, the dossiers of seventeen death-row inmates whose murders were motivated by “illicit intercourse” but not “intention to marry” reached the Parliament. In fifteen of the seventeen cases, either the perpetrators themselves or intended partners had already been married. It can be speculatively argued that the reason why the majority of the actors were

125 Haney, “The Social Context of Capital Murder,” 594.

126 I use the term “illicit love affair” to describe romantic and/or sexual relationships between individuals who are not legally married to each other. In this sense, the term includes, but is not limited to, adultery, which was a criminal offence under Article 440 of the TCK and could only be committed by married women.

127 I did not interpret the term “obtaining someone” in the parliamentary minutes and legal texts as referring to sexual assault crimes, since a distinct term – “forcible rape” – exists for that crime. The term “obtaining someone,” as used in parliamentary discourse, is ambiguous.

128 A total of sixteen perpetrators were identified: three were responsible for the death of their wives, three for their husbands, five for the husband of their lovers, and five for a married woman who was either wanted to marry or whose relatives or husbands by seeking revenge or retribution.

married is that those targeting single women with marriage intentions were less likely to face capital punishment initially, or if they did, mitigating factors may have reduced their sentences to the second most severe penalty in the legal system.

The actors responsible for the crime in question were frequently already in a matrimony, and the perpetrators were not exclusively male. Since 1926, of the 686 male perpetrators whose capital punishment files were submitted to the Parliament's agenda, only thirteen were convicted of uxoricide (the murder of their wives) for various reasons. In comparison, out of twenty-one female death-row inmates considered by Parliament, ten were involved in mariticide (the killing of their husbands).¹²⁹ This means that while 48% of all female perpetrators whose dossiers reached the Parliament committed mariticide, only 1.9% of all male death-row inmates were convicted of uxoricide. Furthermore, the overwhelming majority of mariticide cases (nine out of ten) were committed by women motivated by a desire to marry someone else or to continue their legally illegitimate relationship without hindrance.¹³⁰ However, among all men who murder their wives, only three out of thirteen did so with the intention of marrying another woman. Parliamentary records indicate that, in contrast to the women who murdered their husbands, none of the male perpetrators appeared to have done so for reasons related to ongoing illicit love affairs.

The lack of capital cases where male perpetrators murder their wives to continue their extramarital relationships free from interference can be attributed to various gendered tendencies. For instance, the practice of taking multiple wives, known as *kumalık*, was referenced in parliamentary minutes but not classified as an "illegitimate relationship," despite being legally unrecognized. Instead, it was regarded as a customary institution of polygamy, rather than an "ordinary" act of adultery, which could be tolerated socially for a man. It appears that the prominent issue in the uxoricide cases was not the

129 When a wife murders her husband, it is legally called "mariticide." Moreover, "uxoricide" is the term for the murder of a wife by her husband. LSD.Law.

130 In the Report of the Justice Commission on the sole remaining mariticide case (Decree no.1281 dated May 6, 1942), it is stated that she committed murder "to get rid of her husband." However, no explanation for her motive is provided.

social legitimacy of their extramarital relationships but their legal legitimacy. In this case, the socially and “traditionally” acceptable aspects were overlooked in comparison to, for instance, crimes involving marriage with under-age girls. It can be observed that, in general terms, the concept of *kuma* was highlighted and punished in a manner that is comparable to cases involving blood-feud. Especially after 1953, traditions such as *kumalık* and blood-feuds were described as “false traditions.”¹³¹ Thus, they were depicted as outside established social norms rather than part of them. The jurisprudence of death penalty has not sought to codify existing social norms; rather, it has attempted to reshape them in this case. By shifting the parliamentary debate toward condemning and excluding these “false traditions,” we risk overlooking that the tolerable extramarital affairs of men arise from the very same grounds as the intolerable *kumalık*.

In other respects, engaging in an extramarital affair (except for *kumalık*) or dissolving an existing marriage might be seen as more socially acceptable for men and might not lead to capital crimes. However, the situation differs sharply for women. First, the term *kumalık* is inherently gendered and therefore cannot be applied to women who want to marry multiple men. Second, the decision to divorce is a challenging one for women due to the absence of adequate economic means for survival, the fear of potential social stigma, and the lack of family support or acceptance. As Jeffrey Reiman argues,

If people are subjected to remediable unjust social circumstances beyond their control, and if harmful actions are a predictable response to those conditions, then those who benefit from the unjust conditions and refuse to remedy them share responsibility for the harmful acts—and thus neither their doing nor their cost can be assigned fully to the offenders alone.¹³²

131 “Sakat gelenek.” For Velidedeoğlu’s talk and the comments of other scholars who spoke in response, see Velidedeoğlu, “Evlenme ve Boşanma,” 71-125, cited in Koşukoğlu Polatel, “The Transformations of the Regime of Intimate Violence,” 223.

132 Jeffrey H. Reiman, “Justice, Civilization, and the Death Penalty: Answering van den Haag,” *Philosophy and Public Affairs* 14, no. 2 (Spring, 1985): 131, <http://www.jstor.org/stable/2265453>.

While killing a current husband is not a legitimate response to gendered inequality, this pervasive inequality does imply that the killer may not bear sole responsibility for the crime.

It can also be argued that women involved in an illicit love affair and who murdered their husbands for this reason were perceived by society as committing a crime that warrants the most severe punishment. In contrast, men who kill their wives, particularly in domestic violence cases, were often regarded as less culpable and rarely faced the death penalty. Women who commit a crime deemed “unforgivable,” such as murdering their husbands, have been frequently excluded from “patriarchal forgiveness.” In a powerful work on the Ottoman female poisoners who murdered their husbands, Ebru Aykut stated: “The judges often granted female offenders a sort of ‘patriarchal forgiveness’ on the ground that women at large were supposedly ‘ignorant of the law’ or ‘incapable of appreciating the consequences of their actions.’”¹³³ The sentencing process is beyond this dissertation’s scope, but I can examine the final decision-making process of the capital punishment for mariticide. It is evident that, in this process, the parliamentary period of Turkey significantly deviated from its Ottoman past. Among women sentenced to death for murdering their husbands in the Republican area, only one of them seems to have received such forgiveness – in the first year of the new penal code, in 1926.¹³⁴ Although many of these women acted at the behest or with the help of lovers, their agency was acknowledged equally. Disobedience to the patriarchal norms was

133 Ebru Aykut, “Toxic Murder, Female Poisoners, and the Question of Agency at the Late Ottoman Law Courts, 1840–1908,” *Journal of Women’s History* 28, no. 3 (Fall 2016): 129, DOI:[10.1353/jowh.2016.0027](https://doi.org/10.1353/jowh.2016.0027).

“*In Crime, Cultural Conflict, and Justice in Rural Russia, 1856–1914* (Berkeley: University of California Press, 1999), 29, Stephen P. Frank uses patriarchal forgiveness to explain the paternal treatment Russian peasants received from the courts due to their alleged ‘backwardness’ or ‘ignorance.’ See Petrov, ‘Everyday Forms of Compliance,’ 747–49.” cited in *ibid.* 136.

134 Decree no.284, dated December 6, 1926. Halilkızı Cevriye (Huriye) felt love and affection for Mestanoğlu Hasan, who resembled her ex-fiancé, and murdered her husband to continue their love affair. The commutation of Cevriye’s death sentence to aggravated life imprisonment was proposed and accepted without any justification or discussion in the parliamentary sitting on December 1, 1926.

met with consequences that can be described as “patriarchal punishment,” rather than “forgiveness.”

In contrast to the cases of mariticide, where the emphasis is placed on intention to marry someone else or on illicit love affairs, the documents about uxoricide placed greater emphasis on the rejection of divorce from the current wife. In more than half of the cases of husbands who murdered their wives and were sentenced to death, the motive was the wife’s desire to live apart or divorce.¹³⁵ For instance, in 1979, a woman married for eighteen years filed for divorce from her husband, took their children, and moved to her brother’s house. During the divorce proceedings, their daughter testified against her father, and the father/perpetrator threatened them, including the explicit statement “I will clean you all up!”¹³⁶ One day after the final hearing, convinced his wife would win the lawsuit, the husband committed a premeditated double murder, believing his wife and brother-in-law were colluding. This capital punishment dossier was discussed and ratified by the legislation in 1982.¹³⁷

The minutes of the Advisory Assembly (*Danışma Meclisi*) and the Justice Commission Report repeatedly highlight that the defendant had a long history of heavy alcohol consumption, which had recently increased. This, combined with his prolonged unemployment, intensified the existing conflict between the husband and wife, leading to frequent arguments. This persistent emphasis implies that the male violence alone was not a satisfactory factor in

135 In the parliamentary agenda, seven of the thirteen death row inmates who murdered their wives did so because their wives wanted to live apart from or divorce them. This figure includes cases known as “sister-wives” or “second-wife” (*kumalık*) cases. In this context, I have deliberately chosen not to include the *kumalık* scenario, – where the wife seeks to end the marriage but the husband refuses the divorce – under the heading of the husband’s “intention to marry” with another person. This is because the primary motivation for murder in such cases is not the husband’s desire to eliminate his first wife who refuses divorce in order to marry again. Rather, his motivation appears to be to take a second wife, despite its lack of legal recognition, by forcing the first wife to remain in the marriage through preventing her from leaving or divorcing.

136 Law no.2764, issued December 28, 1982. The Justice Commission Report (3/14).*Danışma Meclisi Tutanak Dergisi*, C.12, Y.2, B.30, December 15, 1982.

137 The legislative body was composed by the Advisory Assembly (*Danışma Meclisi*) and the MGK in this year.

determining the legitimacy of capital punishment in femicide cases perpetrated by partners, who did not recognize their spouses' desire for divorce. The necessity of this punishment was attributed not only to the perpetrator's violence, but also to his status as "an unemployed heavy drinker" and the fact that his victim had the support of her family in this case. In Turkey, the decision to kill a wife who seeks to leave her husband was not depicted as a consequence of an everyday social phenomenon. Rather, it was framed as an exceptional case involving an individual who did not align with conventional expectations regarding the role of a husband and father. This man was typically portrayed as an alcoholic, unable to provide financially for his family, and even threatening his own children. Through the lens of the death penalty, the threat extends beyond his own family; rather, it encompasses the broader implications for family values, social and gendered norms. This framing reflects broader societal patterns. The primary focus on unemployment, substance abuse, or family dynamics often overshadows the complex social factors behind femicide and suspicious deaths of women, including high rates of intimate partner violence, the systemic failures to protect women or to hold perpetrators accountable.¹³⁸

It can be observed that in all cases where a wife seeking divorce (and, occasionally, other family members) was murdered, the official reports and minutes meticulously and consistently noted that the deceased woman returned to her "father's house (*baba evi*)" or moved to another male relative's home.¹³⁹ When the exceptionality of the perpetrator's character could not be adequately conveyed, this time, the "legitimacy" and "moral rectitude" of the woman's action was emphasized in official documents, based on the approval of her male relatives, especially her father. "If a husband claimed that his wife had not only left him but was also engaged in 'immoral and illegal relations,'

138 We Will Stop Femicides Platform, *2024 Annual Report*, <https://kadincinayetlerinidurduracagiz.net/veriler/3130/we-will-stop-femicides-platform-2024-annual-report>.

139 Decree no. 860, dated April 25, 1935; Decree no. 973, dated February 9, 1937; Decree no. 1037, dated March 11, 1938; Decree no. 1105, dated June 14, 1939; Decree no.1113, dated June 19, 1939; Decree no.1122, dated June 27, 1939; Law no.2764, enacted December 28, 1982.

he could still benefit from unjust provocation mitigation.”¹⁴⁰ Cases fitting this description often did not result in the death penalty. It is notable that there are no documented capital punishment cases where the victim left her husband to be with her lover, nor where the perpetrator killed her husband who was seeking a divorce.

It creates a narrative such as a Victorian version of the famous folktale of *Bluebeard*.¹⁴¹ The case of a husband killing his wife has never been regarded as sufficient to convey a moral message in itself. For it to be worth retelling, or punishing in our case, other elements seem to be needed. The husband must have an *abnormal* beard and be a notorious *monster* who has killed his ex-wives one by one, and the wife must be rescued by her *brothers*. Otherwise, the murder of his other seven wives, who were considered “disobedient” and “transgressors” for entering a room forbidden by their husband, was at some point considered deserved, and eventually led neither to a moral-tale nor to the execution of the perpetrator. The death penalty, as well as death itself, presents highly gendered concerns in Turkey. Numerous death penalty cases involving crimes committed “out of love” were officially documented in the Parliamentary minutes. However, any deviations from the archetypical monogamous, breadwinner, “family father” figure can result in overshadowing the element of love in the legal documents as the primary motive behind

140 1. CD, E. 69-1935, K. 460, T. 10 February 1970, in RKD 11 (1970): 75-77, cited in Koşukoğlu Polatel, “The Transformations of the Regime of Intimate Violence in Turkey,” 291.

141 *Barbe bleue* is a French folk tale. Personally, I think it can be interpreted as a feminist narrative featuring a heroine who embraces “the key of knowledge” and saves herself. However, the most famous version was written differently by Charles Perrault. The summary of this version of the tale is as follows: Because of his unusual beard and rumors surrounding the disappearance of his previous wives, a wealthy man called Bluebeard struggles to find a new bride. The youngest daughter of a noble lady decides to marry him after he lavishly entertains them. He gives his wife the keys to all the treasures in the castle, telling her not to use the smallest one. Then he goes about his business. After his departure, the wife, driven by curiosity, uses the forbidden key and discovers a gruesome secret. When Bluebeard returns and sees the blood-stained key, he decides to kill his wife. But she convinces him to give her a chance to pray, during which her sister signals their brothers to come to her aid. Her two brothers kill Bluebeard, his widow inheriting his fortune. She ends up marrying again and living happily ever after. Charles Perrault, “Blue Beard,” in *Old French Fairy Tales*, (Boston: Little, Brown, and Company, 1899), 126-37.

the crimes. For instance, when a husband kills his wife after she seeks divorce due to his economic failure, the motivation behind his rejection of divorce was not articulated as his desire to continue the relationship *out of love* for his wife. Or when a perpetrator sought to marry a second-wife (*kuma*), this was never presented as an *intention to marry*.¹⁴² Love itself has been hierarchized as either law-abiding or lawless.

The majority of adultery-related capital cases (with the exception of cases involving abduction and sexual assault) involved married women, and therefore the majority of victims were the husbands of these women. In thirty-five cases where the Parliamentary minutes highlighted the existence of an “illegitimate relationship” and/or “intention to marry,” twenty-two of the victims were husbands of women involved in affairs. In other words, the data indicate that women who murdered their husbands were punished more harshly than men who murdered their wives, which creates an image of gendered punishment. However, this image is not entirely accurate. Perpetrators were not solely women who murdered their husbands; they also included men who had or desired to have an affair with a married woman.¹⁴³ Conversely, there is only one instance of a female perpetrator killing her lover’s wife.¹⁴⁴ Regardless of whether the perpetrator is male or female, “killing the husband” by challenging the matrimony and patriarchy was seen as an unforgivable act.

The stereotypical gendered agency of “love and affection” crimes is not exclusive to heteronormative relationships. In cases of capital crime perpetrated by men who sexually assaulted other men, the perpetrator’s sexual orientation was frequently referenced as homosexual.¹⁴⁵ For example, in 1976, the

142 As in Decree no.973, dated February 9, 1937; Decree no.1122, dated June 27, 1939.

143 In such cases, nine individuals murdered their own husbands, nine murdered the husbands of their romantic partners, and four murdered the husbands of women with whom they were intending to marry or obtain (*elde etmek*).

144 Decree no.1047, dated May 6, 1938.

145 Those who engage in sexual relations with minors, regardless of gender, are defined as pedophiles. Thereby, in instances of rape and sexual assault in which eleven of the sixty victims were underaged boys, the perpetrators were not identified as homosexual in this dissertation. However, despite the legal age of criminal liability being eighteen, the term “minor,” as defined under the heading of “those who rape by force, seduce minors and assault chastity (*cebren irza*

perpetrator met a sixteen-year-old boy, whom he had previously taken to the cinema.¹⁴⁶ After meeting, chatting, and smoking with him, the perpetrator sexually assaulted and killed the boy in a secluded location, then mutilated his body to obscure the evidence of the crime and to disguise the crime as a blood-feud. In a statement released by the Justice Commission, it was revealed that “the police had conducted interrogations with individuals believed to be homosexual in the local area. Eventually, the case was brought to light through the interrogation of ... [perpetrator], a known homosexual figure.”¹⁴⁷ As previously stated, while the death sentence of the perpetrator who forcibly abducted a fifteen-year-old girl was tried to be commuted with an emphasis on the claim that he “loved the victim since forever,” no such effort was made in the parliamentary discussion on the case of a “homosexual” perpetrator who appears to have established a degree of consent with a sixteen-year-old boy, albeit through manipulative means.¹⁴⁸ In contrast, although the perpetrator’s death sentence was initially commuted to aggravated life imprisonment due to good conduct, *Yargıtay* overturned this, citing inconsistency of the implementation of Article 59 with the principles of justice and fairness.¹⁴⁹ Parliament also highlighted “how unforgivable the act was.” When comparing these two cases, it seems that a homosexual rapist was deemed as more wicked than a heterosexual one for capital punishment context. And the perpetrator himself saw being a homosexual murderer as more intolerable than a murderer motivated by blood-feud.

geçen, küçükleri baştan çıkaran ve iffete taarruz edenler)” of the TCK, refers to individuals below the age of fifteen. Therefore, in cases involving victims between the ages of fifteen and eighteen, the emphasis of homosexuality is also taken into account.

146 Law no. 2679, issued June 18, 1982, *Danışma Meclisi Tutanak Dergisi* Y.1, C.6, B. 103, June 9, 1982.

147 The proposal adopted by the Advisory Assembly and the Justice Commission Report of the MGK on Law no.2679, *Milli Güvenlik Konseyi Tutanak Dergisi*, C.7, B.107, June 17, 1982, 53.

148 Decree no. 64, dated August 5, 1961 and Law no. 2679, issued June 18, 1982

149 Article 59 of the TCK dated 1926 (Amended on July 9, 1953 by the Law no. 6123/1): “In addition to the mandatory mitigating circumstances, when the court considers it appropriate to exercise its discretion in favor of the accused, the sentence shall be commuted from a death sentence to aggravated life imprisonment, or from aggravated life imprisonment to thirty years of aggravated imprisonment.”

In conclusion, the very same criminal law mitigated sentences and immunized various violent acts, and it became a potential catalyst for reproduction of such violence. For instance, if a murder was immediately perpetrated against a spouse, a sister, or a descendent, or these relatives' partner (accomplice) who had just committed adultery, the death sentence was reduced to imprisonment of two to five years under Article 462.¹⁵⁰ When law regulates violence against adulterous persons or "illegitimate" children, it defines justifiable and unjustifiable violence.¹⁵¹ It defines "bearable punishments" for some crimes.¹⁵² In essence, by stigmatizing and condemning only violence that falls outside its own definition of "just," the legal system's and, consequently, society's the responsibility and role in generating, disregarding or, in the best scenario, inability to prevent intimate violence was solely attributed to the perpetrator or the victim defined as monsters. Capital punishment highlighted the fragile territories of social norms and those who transgress them, rather than the very nature of social norms themselves.

No correlation was made between the obstacles preventing women from divorcing within the existing patriarchal framework and the statistic that 45% of all female death-row inmates were convicted for mariticide. Nor was it emphasized that disregarding women's consent and agency can lead men to kill those women's husbands, fathers, or other male relatives to remove obstacles

150 Article 462 of the TCK, dated 1926. This article was amended by Law no.3038, enacted June 11, 1936; Law no.3531, enacted June 29, 1938; Law no.6123, enacted July 9, 1953; and Law no. 4928, enacted July 15, 2003. First, only crimes against female descendants were included, but this provision was later removed. In 1953, "illicit sexual intercourse" was added as a mitigating circumstance alongside adultery. The sentence did not exceed eight years at first, although it was gradually increased over time.

151 In this context, Shai J. Lavi's use of the notions of "just" and "unjust" is both relevant and appropriate. "My use of the attributes 'just' and 'justifiable' should be understood primarily in phenomenological rather than moralistic terms. Just force stands for the idea of completion – the power or at least the desire to bring the use of force to an end.... Conversely, injustice stands for the notion of incompleteness, of opening up the future for new possibilities of force, as in the work of revenge and brute violence." quoted from Shai J. Lavi, "Imagining the Death Penalty in Israel Punishment, Violence, Vengeance, and Revenge," in *The Cultural Lives of Capital Punishment: Comparative Perspectives*, ed. Austin Sarat and Christian Boulanger (Stanford, CA: Stanford University Press, 2005), 221.

152 Koğacıoğlu, "The Tradition Effect," 123.

“to get” women. Approximately 38% of capital crimes resulting from rape and sexual assault involved children. Yet, it was not proposed that the child murder resulting from rape can be averted by not legitimizing underage marriages or by questioning why there are no recorded cases of capital punishment for minor victims who die as a result of marital rape within such unions. It was not adequately addressed that the potential influence of the mitigation for crimes against female sex-workers on the behavior of perpetrators who forced two seven-year-old boys into sexual intercourse for money and then murdered them.¹⁵³ It was not questioned whether this relationship, which was established in exchange for money, did not provide any mitigation because the victim was a child or because both the victim and the perpetrator were male. The emotions of love, lust, hatred, or shame as manifest in capital crimes were reduced to merely individualistic experiences, and “abnormal” emotions were condemned. Capital violence was perceived as the product of individual monsters. However, although there are few phenomena that sound more individual than the emotions such as love, affection, or sexual tension, they are not immune to the social context. Therefore, they operate as a veil, obscuring the underlying social construct.

§ 3.3 Summary

In the context of Turkey, capital punishment cannot be translated directly and merely into the criminal justice system. It operates in tandem with various aspects of the wider social fabric. It shapes certain personas while both reproducing and challenging some social norms. By focusing on deviation, it distracts us from socio-political, socio-economic, cultural, and legal context in which capital crimes and punishment itself arise. Ultimately, it shifts the blame onto others and punishes them by death, presenting itself as the fairest dispenser of justice. One illustrative example of the distraction is the discourse surrounding the possible definitions of a “monster” deserving death, as discussed in this chapter. It is a distraction because the discussion on how social norms influence individuals’ engagement with criminal behaviors was

153 Decree no. 115, dated December 26, 1939; Decree no. 1220, dated April 11, 1941.

impeded by reframing the debates solely on the criminal, legal, and moral ground. By concentrating on individual cases rather than the social context, capital punishment draws attention to those who transgress the boundaries of *our, normal*, law-abiding society. The sense of being normal needs a referent, an *abnormal*. The spotlight on those deemed to be deviant effectively eclipses the role and responsibility of the *normal* society and legal system in enabling or preventing crime.

Capital punishment is performed not only through criminalization, punishment, and execution of social actors, but also through legitimization, empathy, and forgiveness. Therefore, there is not a definition of self-evident normal in the context of the death penalty. Rather the definition of normal varies case-by-case, depending on the particular anomaly that it seeks to illustrate. The resonant terms in the parliamentary minutes, documents, and criminal laws referring to capital punishment are not concrete discriminative categories that one of them permanently dictates its own truth to the others. They are fluid. For instance, as will be recalled, the portrayal of a mother who kills her newborn may vary considerably. She was depicted as either a pure evil or a miserable woman. However, her act was rarely connected to various socio-cultural oppressions, such as the condemnation of extramarital sexual intercourse, the glorification of family values, or the threat of honor killings. Capital punishment exhibits a dualistic tendency, simultaneously challenging or legitimizing the prevailing social norms. To some extent, it resists the codification of various social norms in certain cases, such as *kumalık* and blood-feuds. Conversely, it may also be part of a narrative that aligns with the patriarchal family archetypes, as evidenced by cases of abduction or matricide/patricide. Moreover, the death penalty delineates the normal acts expected of law-abiding citizens. As we can clearly see in a capital case of espionage in 1955, those who deviated from the law were not even tolerated to be called as “persons” in parliamentary speeches, and were instead corrected/labelled as “traitors.”¹⁵⁴

154 Nusret Kirişcioğlu (Zonguldak) “My dear friends, this person is in a patisserie... “He is not a person” *voices*), we can call him a traitor if you want. This criminal.” *TBMM Zabıt Ceridesi*, D.10, C.6, İ.1, İn.60, April 6, 1955, 224.

With reference to Sara Ahmed's *Cultural Politics of Emotions*, the death penalty can reveal “how emotions become attributes of collectives, which get constructed as ‘being’ through ‘feeling.’”¹⁵⁵ Through the glance of parliamentary narrative, a number of emotions have been constantly reframed, including remorse, shame, honor, vengeance, love, passion, jealousy and more. These emotions were assigned to individuals, resulting in the label of “others” as monsters, greedy, insane, perverted, traitors or disobedient. Death penalty was fueled by “the emotional underbelly of punishment ... filled with nasty sentiments,” such as fear, blood-lust, or vengeance, as Mona Lynch put it.¹⁵⁶ In each case, the attention was drawn to the exceptional nature of the crime and to the actors as representing the “others” within wider society, “society’s catch-all enemies,” without acknowledging the context that renders this crime possible.¹⁵⁷ Thereby, the underlying truth that there is one and only social context that shapes both *normal* people and criminals remains obscured. To conclude this chapter, here are the final words of a man from the gallows in another country and century:

They are going to kill me. I was mostly innocent when they put me in prison for the first time.... Crime and vice have constantly been in front of my eyes. I am the work of the same people who condemn me.¹⁵⁸

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- 155 Sara Ahmed, *The Cultural Politics of Emotion* (Edinburgh: Edinburgh University Press, 2004), 2.
- 156 Mona Lynch, “The Disposal of Inmate #85271: Notes on a Routine Execution,” *Studies in Law, Politics, and Society* 20 (2000): 26, ISBN: 0-7623-0653-X.
- 157 Judith Randle, “The Cultural Lives of Capital Punishment in the United States,” in *The Cultural Lives of Capital Punishment: Comparative Perspectives*, ed. Austin Sarat and Christian Boulanger (Stanford, CA: Stanford University Press, 2005), 95.
- 158 Mexican journalist Ignacio Cumplido wrote in 1841 about the dreadful conditions of the criminal justice system (especially prisons) and the lack of rehabilitation efforts. He remembered the dying words of one young man who may have been innocent, when he was incarcerated with infamous prisoners who committed more grave crimes. Those are this young man’s last words before his execution. Creighton Chandler, “Panel Two: The Mexican Constitution, the Death Penalty and Human Rights,” Conference Memoria, *The Death Penalty and Mexico-U.S. Relations Historical Continuities, Present Dilemmas*, The University of Texas at Austin, April 14, 2004, 22. <http://lanic.utexas.edu/project/etext/llilas/cpa/mexcenter/DeathPen.pdf>

Veiled Voices: Parliamentary Silence, Procedural Tensions, and the Politics of Waiting in Capital Punishment

My silences had not protected me. Your silences will not protect you.

– Audre Lorde, *Sister Outsider: Essays and Speeches* (1984), 41.

The death penalty diverts attention away from socio-cultural context and root causes of crime. It creates “sub-humans,” whereby the individual convicted of capital crime is subjected to a dehumanizing stereotype.¹ Furthermore, the normative framing of criminality highlights the most wicked members of society, portraying them either as monstrous perpetrators or blame-worthy victims. A focus on individual cases and the normative definition of actors overshadows the underlying factors and other responsible actors contributing to criminal behavior. Nevertheless, the re-creation of identities was

1 I borrowed the term “sub-human” from Virgil K. Y. Ho’s insightful study on the cultural context of the death penalty in China. Virgil K. Y. Ho, “What Is Wrong with Capital Punishment?: Official and Unofficial Attitudes Toward Capital Punishment in Modern and Contemporary China,” in *The Cultural Lives of Capital Punishment: Comparative Perspectives (The Cultural Lives of Law)* eds. Austin Sarat and Christian Boulanger (Stanford, California: Stanford University Press, 2005), 278.

not the only way of distraction in the case of Turkey. It also shifts attention away from those responsible for operating capital punishment. As Michel Foucault noted in 1975:

It is ugly to be punishable, but there is no glory in punishing. Hence ...[t]hose who carry out the penalty tend to become an autonomous sector; justice is relieved of responsibility for it by a bureaucratic concealment of the penalty itself.²

As he points out, and by the angle of Austin Sarat, the death penalty experience of Turkey distracts us from those who hold the “right over life and death.”³ Capital punishment “irreversibly institutionalizes killing” in societies that otherwise define it as a crime.⁴ “[T]hrough state-sanctioned violence, death is normalized as a reaction against the many and brutal transgressions of the easily identifiable other.”⁵ When legally authorized, state-sanctioned killing – technically murder – ceases to be seen as a violent crime and instead takes the form of punishment. Thus, Turkey’s legislative and judicial systems obscure the actors involved in legally authorized murder, who would otherwise face criminal liability. This chapter will focus on the positions of the punisher that are not so much addressed.

In the study of the history of the post-Soviet punitive system and the distinction between capital punishment and other forms of state-killing, Botagöz Kassymbekova proposed the following:

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- 2 Michel Foucault, *Discipline and Punish: The Birth of The Prison*, trans. Alan Sheridan (London: Penguin Books, 1991), 10.
 - 3 Michel Foucault, *The History of Sexuality, Volume I: An Introduction* (New York: Pantheon Books, 1978), 136.
 - 4 Ève Morisi, “Introduction: Capital Literature,” in *Death Sentences: Literature and State Killing*, ed. Birte Christ and Ève Morisi, *NED-New edition*, vol. 49, Modern Humanities Research Association, 2019, 2.
 - 5 Martin Barker, “Violence Redux,” in *New Hollywood Violence*, ed. Steven Jay Schneider (Manchester: Manchester University Press, 2004), 57–79 cited in Louise Tyler, “Crime and Punishment / Self versus Other: The Cultural Life of Capital Punishment in European and American Film,” in *The Cultural Lives of Capital Punishment*, eds. Austin Sarat and Christian Boulanger (Stanford: Stanford University Press, 2005), 130.

In many nondemocratic states,... who controlled the legal norms was clarified, but punishment was mystified. That is what makes the discussion about the culture of capital punishment in post-Soviet states difficult. Thus, in the Soviet past control belonged solely to the Communist Party, but the punishment delivered by that Party very often was not clear.

If democratic states implement punishment through legal structures, the control of this process is not clear, it is implied. In Western states there is great discussion about who controls the society. Is it people, governments, the elite, capitalism, history, laws, and/or cultures that control societies? There is no clear answer of who or what controls the state, the society, and the laws by which society is supposed to be governed.... Thus, where laws are being clarified as a means of control, control is somehow mystified.⁶

It is not my intention to present the capital punishment experience of Turkey as a model of democratic Western states; indeed, I do not assert the existence of a concrete entity that can be defined as a “democratic Western world.” However, the case of Turkey perfectly exemplifies the phenomenon of the mystification of those who/that control over legal and punitive norms, as well as the clarity of law and punishment. As Kassymbekova, I am similarly uninterested in the question of who or what exerts control, recognizing it as a constellation of powers, rather than a single omnipotent, omniscient, and omnipresent entity. Instead, my interest lies in understanding how this control has been constituted and, by doing so, in demystifying the roles of the responsible parties in the parliamentary era of Turkey’s capital punishment system. The right over death is not an explicitly declared “right,” and I believe it is crucial to clarify where control over this right lies. First, it is unsurprising that responsibility for a violent act legally defined as “punishment” but in practice amounting to “murder” is often rendered invisible. They attempted to distinguish between

6 Botagoz Kassymbekova, “Capital Punishment in Kyrgyzstan, Between the Past, “Other” State Killings and Social Demands,” in *The Cultural Lives of Capital Punishment: Comparative Perspectives*, ed. Austin Sarat and Christian Boulanger (Stanford, CA: Stanford University Press, 2015), 181–82.

an act of law and an act of killing. Second, defining the responsible parts is essential for effectively addressing the problem surrounding this punishment. When the actors who should bear responsibility for the existence of capital punishment remain unidentified, it becomes easier to overlook their role in sustaining the broader system that produces such capital crimes. In an environment where everyone shifts blame onto others as executioners, or behaves as if no one is responsible at all – treating the system as an autonomous machine – it becomes unclear who to hold accountable for addressing the deficiencies within the existing structure. By hiding accountability, those in political power concealed their role in legitimizing executions, as a form of killing, and avoided confronting why crimes regarded as “capital” emerged in the first place.

Even if parliamentarians just present themselves as a collective “social conscience” or genuinely believe they are, they remain guided by their individual consciences; in other words, the Parliament cannot be separated from the individuals who compose it. In this context, silence was one of the major factors obscuring the identity of those bearing responsibility for the state-sanctioned killing. In the case of Turkey, this silence took two salient forms. First, the system has deliberately camouflaged the manner of how it works. It created its own loop. The legislation, which enacts the capital punishment laws and holds the final authority over the execution of death sentences, has sought to remain unseen regarding its own authority and responsibility to determine (or blur) any border between act of killing and act of law. This has been achieved by invoking the concept of judicial independence, portraying itself as a mere bureaucratic approval mechanism, maintaining silence throughout the process, and silencing any debate on the appropriate role of Parliament. It should be noted that silence was a tool not just for concealing executions but also masking non-executions arising from the ambivalence of power’s position. Silence obscured not only how the system works, but also how it does not. This brings us to the second aspect. In instances where the courts have imposed death sentences, yet the Parliament has not held discussions pertaining to the cases, the death-row inmates remain incarcerated without any indication of whether

they will ultimately be executed or pardoned.⁷ Moreover, these quiet years were not a straightforward transitional phase with a discernible tendency towards abolitionism. It was more like a limbo. Some silent periods ended with amnesty laws, while others were followed by retentionist policies.⁸ In other words, just as the responsibility for executing death sentences was not upheld, the onus of maintaining or abolishing capital crimes within the penal code was similarly not taken.

Briefly, the issue is not merely about executing the death sentence itself, but rather about maintaining it in the law and avoiding debate surrounding it. Silencing any debate by creating a loop or a limbo, both have been used to hide who controls the death penalty, and neither succeeds in doing so flawlessly for anyone who looks a little closer. The following sections aim to demystify this picture by referencing the parliamentary narrative that exceptionally emerges amid the general silence characterizing the process, as Benjaminian “memory as it flashes up at a moment of danger.”⁹ Firstly, with regard to the image that the system works in a looping manner, I will examine the instances in which the silence was broken and the appropriate function, duty, and right of Parliament were discussed. Furthermore, I will show how this moment of rupture, which speaks volumes, was once again silenced. Secondly, in addressing the question of non-execution and delay in execution, an attempt will be made to represent the unlawful twin of state-sanctioned killing as a state-sanctioned waiting.

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- 7 I used the term of “death-row” in a way that differed from its American connotation. In the United States, “death-row” refers to “the area of a prison where those who have been sentenced to death are confined” after clemency procedure and before the issuance of death-warrant which is “a paper, typ-i-cal-ly signed by the gov-er-nor or a judge, set-ting a date of exe-cu-tion.” In Turkey, however, I use the term to refer to the waiting period of prisoners before clemency proceedings. That is to say, in the US, it is waiting for execution, while in Turkey it is waiting for execution or the possibility of clemency. Death Penalty Information Center, “About The Death Penalty: Stages in a Capital Case,” <https://deathpenaltyinfo.org/resources/high-school/about-the-death-penalty/stages-in-a-capital-case>.
- 8 For a detailed examination of the silent periods, refer to Chapter 2, footnote 31.
- 9 Walter Benjamin, “Theses on the Philosophy of History,” in *Illuminations: Essays and Reflections*, trans. Harry Zohn, (New York: Schocken, 1999), 255.

§ 4.1 Capital Punishment as an *Ouroboros*

Death is often regarded as a taboo subject in many societies.¹⁰ Yet, the charm of the rhetoric of death lies as much in its absence as in its presence. Silence can provide a veil for the violence inherent in state-sanctioned death, which is cloaked in the guise of justice. David T. Johnson asserted that the Japanese approach to capital crimes' convicts involved a culture of silence and secrecy regarding proceedings, confinement, and execution.¹¹ And he stated that "[s]ince there is no government power greater than the power of life and death, the silence that shrouds capital punishment speaks volumes about the quality of Japan's polity."¹² In Turkey, secrecy was not a characteristic of the judicial process, nor was it an aspect of the execution of sentences. Rather, it was inherent to the legislative and executive processes. From 1926 to 1984, approximately 80.6% of total death-row cases were finalized without being said a word about them by the Parliament.¹³ When the system operated in silence creating an impersonal environment that could distance individuals from the decision-making process – as would be expected of an ordinary bureaucratic action in accordance with Weberian sense – it became a banal and

10 For instance, the entire processes of capital jurisprudence and the executions of sentences are concealed from the public eye in Japan. Similarly, in the People's Republic of China, conversation about death is considered culturally taboo.

Further insight into the secrecy surrounding the death penalty in East and South-East Asia: David T. Johnson, *The Culture of Capital Punishment in Japan*, Palgrave Advances in Criminology and Criminal Justice in Asia, (Palgrave Pivot, 2019); Petra Schmidt, *Capital Punishment in Japan* (Leiden: Brill, 2002); Ho, "What Is Wrong with Capital Punishment?"; Joachim Herrmann, "The Death Penalty in Japan: An 'Absurd' Punishment" *Brooklyn Law Review* 67, no.2 (Spring, 2002): 827–54, <https://brooklynworks.brooklaw.edu/blr/vol67/iss3/4>.

11 Johnson, *The Culture of Capital Punishment in Japan*.

12 David T. Johnson, "The Death Penalty in Japan: Secrecy, Silence, and Salience," in *The Cultural Lives of Capital Punishment: Comparative Perspectives*, ed. Austin Sarat and Christian Boulanger (Stanford, CA: Stanford University Press, 2015), 265.

13 See Chapter 1, footnote 62, and Chapter 2, footnote 60 for detailed data of the death penalty cases reviewed before the Parliament.

anonymous part of daily life.¹⁴ The link between the act of law and killing became blurred. And, this kind of silence also speaks volumes.

To gain a better understanding of the role of Parliament in the context of the death penalty, it is necessary to examine the constitutional framework and the distribution of powers among the legislative, judicial and executive bodies. In Turkey, the legislative authority is exclusively vested in the Parliament. This body is responsible for the preparation, discussion, and enactment of laws. Once a law is enacted, the judiciary is authorized to interpret and apply it in particular legal cases. In accordance with the constitutional principle of separation of powers, neither the executive nor the legislative branches have the authority to commute, alter, delay, or reverse the execution of sentences handed down by the judiciary.¹⁵ Typically, once a competent court formally pronounces a judgment of conviction, the sentence is immediately executed by the relevant authorities. However, capital punishment was an exception to this rule. The execution of the death sentence could only be carried out after a parliamentary decision. This process differs from the constitutionally recognized powers of the legislature and, to a limited extent, the head of state to declare general amnesty and pardon.¹⁶ Amnesty may be granted *during* or

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- 14 Weber describes the impersonal atmosphere of bureaucratic control. He stated that “[t]he dominance of a spirit of formalistic impersonality, ‘*Sine ira et studio*,’ without hatred or passion, and hence without affection or enthusiasm. The dominant norms are concepts of straightforward duty without regard to personal considerations. Everyone is subject to formal equality of treatment; that is, everyone in the same empirical situation. This is the spirit in which the ideal official conducts his office.” Max Weber, *The Theory of Social and Economic Organization*, trans. A. M. Henderson and Talcott Parsons, ed. Talcott Parsons (Glenco, Illinois: The Free Press, 1947), 340.
- 15 Article of 54/2 the Constitution of 1924: “Neither the legislative nor executive power may modify, alter, delay execution of decisions of the courts;” Article 132 of the Constitution of 1961: “Legislative, executive organs, and the administration ... shall in no manner whatsoever alter court ruling or delay their execution;” Article 138 of the Constitution of 1982: “Legislative and executive organs and the administration shall comply with court decisions; these organs and the administration shall neither alter them in any respect, nor delay their execution.”
- 16 Article 26 of the Constitution of 1924, Article 64 of the Constitution of 1961, and Article 87 of the Constitution of 1982 explicitly authorize the TBMM to declare general and special amnesties as part of its duties and powers.

after the execution of a sentence. It does not alter the judgment itself but modifies its effects. The inclusion of amnesty on the agenda rests solely on the unilateral will of these institutions. Consequently, there is no intermediary step between the final verdict and its execution – no other body has the right or authority to approve, reject, or postpone the execution of a finalized court judgment. However, unlike other sentences, the death penalty required explicit legislative approval *before* execution could proceed. Some legal scholars argue that implementing a waiting period before carrying out a death sentence is reasonable, given that it is impossible to pardon individuals after killing them.¹⁷ However, while other acts of pardon are discretionary, Parliament was obligated to review execution files in terms of both pardon and execution for death sentences. While for all other punishments, the sentence is executed if Parliament does not express the will to pardon, for death sentences this is not sufficient; they must be approved separately and specifically. The Parliament stood between the court's judgement and its execution.

Article 42 of the Constitution of 1924, Article 97 of the Constitution of 1961, and Article 104 of the Constitution of 1982 explicitly grant the President the power to commute or remit the sentences imposed on certain individuals due to chronic illness, disability, or old age.

- 17 According to some lawyers, the law governing the execution of the death penalty and the parliamentary power of pardon create “an unnecessary dichotomy.” They argue that the death penalty should not be treated differently from other sentences: once a sentence is finalized, it must be executed. However, if the death penalty were executed immediately upon finalization, the organs authorized by the Constitution to grant amnesty would lose their power to intervene. For this reason, the Constitution grants Parliament the authority to make a special decision on executions, thereby enabling it to exercise the power of amnesty effectively. In other words, Parliament functions not as an approval body but just as an amnesty mechanism. Although technically correct, I do not fully agree with this view because if the parliamentary right to decide on executions were merely a reflection of an effort to grant amnesty specific to the death penalty, it could be expected to be realized within a reasonable period. Otherwise, execution law would be enacted. In other words, while pardon is a voluntary decision, it is obligatory for Parliament to discuss execution files in terms of both pardon and execution. For all other punishments, execution proceeds if Parliament does not express the will to pardon; for death sentences, however, the approval is mandatory before execution.

For publications supporting the claim of “unnecessary dichotomy:” Tahsin Adam, “Af Salahiyeti,” *Adliye Ceridesi* (Ankara: 1941): 856-57; Çetin Özek, “Umumi Af,” *İstanbul Üniversitesi Hukuk Fakültesi Mecmuası* 24, no. 1-4 (İstanbul: 1959): 139; Selahattin Keyman, *Türk Hukukunda Af (Genel Af-Özel Af)* (Ankara: Ankara Üniversitesi Yayınları, 1965), 95.

In many countries, the right and duty to make the final decision to carry out executions of capital punishment is vested in “the head of state.”¹⁸ Turkey, however, differed from its peers by vesting this final decision-making power in its Parliament rather than by the head of state or executive bodies.¹⁹ Furthermore, neither in theory nor practice was the Parliament regarded as a mere bureaucratic entity, bound by obligation to accept and ratify the death sentences imposed by the judicial organs. Therefore, capital punishment was not necessarily followed by execution in every case. Even after a conviction by a court of law was upheld on appeal, there was still the possibility of commutation or pardon of punishment by the Parliament. In Turkey, the power of final decision regarding the execution of a death-row prisoner rested with the legislature. The legislative body has been constitutionally vested with this authority since the first Constitution of the Republic of Turkey (1924) until the abolition of the death penalty (2004).²⁰ Furthermore, the exercise of this power by the legislature was not limited to civilian regimes. Despite the dissolution of Parliament under military regimes in 1960 and 1980, the power of decision remained in the hands of those fulfilling legislative duties.²¹ In

18 Amnesty International, *Death Sentences and Executions 2020*, (online report, April 2021).

19 For examples from other countries, see footnote 42 in Chapter 2.

20 Article 26 of the Constitution of 1924: “The Grand National Assembly itself ... decrees partial or general amnesty; mitigates sentences and grants pardons;... executes definitive sentences of capital punishment handed down by the courts.” Article 64 of Constitution of 1961: “The Grand National Assembly is empowered ... to pass resolutions in regard to proclaiming pardons and amnesties, and to the carrying out of definitive death sentences passed by courts.” Article of 87 of the Constitution of 1982: “The functions and powers of the TBMM comprise ... deciding on the proclamation of amnesty and pardons excluding those who have been convicted for activities set out in Article 14 of the Constitution; confirming death sentences passed by the courts.”

Law no.5170, issued on May 7, 2004 abolished the capital punishment for all crimes.

21 From the coup d'état on May 27, 1960 to January 5, 1961, the MBK had the legislative power with no exceptions for the decision for execution of capital punishment verdict. During the Constituent Assembly period (January 6 to October 25, 1961), the MBK continued to monopolize decisions to carry out executions. Following the September 12, 1980 coup d'état until October 23, 1981, the authority for executing death penalties, along with all other legislative and executive powers, belonged to the MGK. From October 23, 1981, until the end of the de

summary, throughout all three constitutional periods in Turkey, the legislative actors were empowered to decide whether to commute, mitigate, pardon, or entirely abolish the death penalty, embedding Parliament deeply in the execution of death sentences.

I argue that this parliamentary system has camouflaged the manner in which it operates. It created its own loop by the silence. The structure enabling this loop is, in essence, as follows: Ultimate authority regarding the execution of the death sentence resides within Parliament. Once a court convicts a defendant to death, this dossier of capital punishment is submitted to Parliament for their consideration. Although Parliament has the authority to refrain from ordering execution, the legislative body usually ratifies the court's verdict to impose the death penalty without debate, justifying their silent approval as an expression of respect for judicial independence. Furthermore, in the event of any debate, the voices of those participating were systematically and forcefully silenced. In doing so, it delegates the authority and responsibility of implementing the sentence (more accurately defined as killing someone) to the judicial branch. However, the judicial authority is responsible for enforcing the law defining capital crimes, which was initially enacted by the very same Parliament. Thereby, the responsibility for taking a life is transferred back to the Parliament. The ultimate decision-making responsibility is attributed to the courts by the Parliament and to the Parliament by the courts. In this way, *Ouroboros* of the death penalty operated in Turkey, devouring its own tail.²²

In this context, the judicial independence and the parliamentary requirement for the execution of death sentences have coexisted in a strange way. It establishes a non-agency in the existence and maintenance of capital punishment. It was observed that a practice of general silence pervaded the decision-making process regarding the execution of each individual on death-row. However, there was more than a single decision-making process that is tacit,

facto regime on December 6, 1983, decision-making authority was exercised jointly by the Advisory Assembly and the MGK, but hierarchically in favor of the latter. For detailed legal provisions concerning these changes, refer to footnote 48 in Chapter 2.

22 *Ouroboros* is a mythological symbol that represents the self-recreation, circular nature of existence, and its eternal loop. The symbol is depicted as a serpent or dragon forming a circle by devouring its own tail.

repetitive, and ignoring political and legal dilemmas. There were also exceptional and significant discussions surrounding the ambiguous position and jurisdiction of the Parliament in cases pertaining to capital punishment. Although such a discussion may arise on rare occasions, should it occur, it could provide valuable insights – not only regarding the content of the discussion, but also with regard to the efforts to silence it. It seems reasonable to assume that this loop is not the source of the problem, but rather a symptom of it. The following sections will firstly outline the moments in which this silent loop was broken, and then subsequently analyze how it was recreated.

4.1.1 *Breaking the Loop: Is Legislation a Gavel or a Gallows?*

Throughout all legislative terms, it was consistently acknowledged that Parliament holds a constitutional obligation to make a distinct decision regarding the execution of death sentences. A clear and consistent theme throughout the three Constitutions of Turkey (namely 1924, 1961, and 1982) was that the TBMM is empowered to pass resolutions regarding the implementation of death sentences handed down by courts.²³ However, the question of how this decision should be made remains unresolved. In other words, will the Parliament serve as “an automatic approval mechanism,” in emphasizing the independence of the judiciary? Will it merely check the death penalty dossier for material errors and verify them? Even the meaning of “to decide the death sentence” was unclear for them. As one deputy remarked:

Parliament ... is obliged to *decide* on the execution. In our view, Parliament is only a ratifying body in this matter. If the Constitution had not wanted Parliament to exercise its authority as a ratifying body, it would have made a clearer provision as ... “The legislative organs shall have the power to decide *whether or not* the death sentence shall be carried out.” (emphasis added)²⁴

23 For Constitutional Provisions, see footnote 20.

24 Sadık Artukmaç (Yozgat), *Cumhuriyet Senatosu Tutanak Dergisi*, D.1, C.19, T.3, B.48, March 11, 1964, 225.

Or, on the contrary, does legislation have its own agency? As challenged at a parliamentary sitting in 1943: “[If we say that] ‘no conviction of the court is reversible, whatever they decide, even if it is an execution, we come here and say let them die.’ So are we some kind of hangman?”²⁵ Far from being a mere rubber stamp, should Parliament be empowered to critique the evidence and testimony already examined and evaluated by the courts? In other words, can it function as a *de facto* court in its own right? As voiced by a member of Parliament in 1956, does the Parliament that investigates the content of capital cases turn into a court above appeal?²⁶

Notwithstanding their deficiencies (including a lack of reference to the social context as presented in the preceding chapter, a lack of abolitionist tendencies, and so forth), the parliamentarians who act as “*de facto* judges” in examining cases with their actors, evidences, motivations, and judicial procedures appear, at least in practice, to have the potential to offer a visibility to this loop. The role of the Parliament in this cycle has been actively challenged by them. Although this may not be their intention, the actions of these individuals, even though they were a small group, assist us in identifying the mechanisms sustaining state-sanctioned killing. They were not necessarily opposed to the death penalty, but they demonstrated a reluctance to assume the passive roles ascribed to them by their peers. They refused to be regarded as “merely an executioner,” “automatic machine,” “hangman,” or “straw man.”²⁷ One of their primary arguments was that the authority of Parliament must extend beyond its current role as a quasi-bureaucratic approval mechanism:

Friends, it is not a child’s play for the National Assembly to simply raise our hands and immediately approve a paper passed by the Justice Commission. Those who think that an organization as powerful as the

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- 25 Dr. S.A.Dilemre (Rize), discussions on Decree no. 1337 dated May 17, 1943, *TBMM Zabıt Ceridesi*, D. 7, C. 2, İçtima F, May 17, 1943, 100.
- 26 Turan Güneş (Kocaeli), discussions on Decree no. 2032 dated December 18, 1956, *TBMM Zabıt Ceridesi*, D.10, C.15, İ.3, İn.15, December 12, 1956, 116.
- 27 Respectively: Refik İnce (Manisa), *TBMM Zabıt Ceridesi*, D.6, C.20, İ.1, İn.73, September 15, 1941; Dr. S.A.Dilemre (Rize) *ibid.*; Mustafa Kemal Biberoğlu (Çorum) *TBMM Tutanak Dergisi*, D.10, C.6, İ.1, İn.59, April 4, 1955; Necati Erdem (Muğla), *TBMM Tutanak Dergisi*, D.8, C.6, T.1, B.70, June 9, 1947.

Assembly of the Republic of Turkey is only capable of accepting or rejecting whatever paper is presented to it, as if it were a machine, are, first and foremost, those whose minds have been corrupted.²⁸

The refusal to act as a mere yes-or-no mechanism, as stated above by a deputy, has in some cases resulted in Parliament taking on the appearance of a Supreme Court with binding authority over all other judicial institutions. The practice of functioning as a *de facto* court appears to erode the authority of the judiciary. This appearance is the Achilles' heel of those who opposed Parliament's non-competent role. It is therefore necessary to clarify the rationale behind my use of the term *de facto* court, and to acknowledge its inherent weakness.

To the extent that it can be considered an established view in legal doctrine, legal scholars widely agree that the TBMM, when exercising its constitutional decision-making power over death sentences, should not perform judicial functions, as judicial authority belongs exclusively to the courts.²⁹ Nevertheless, in practice, Parliament has repeatedly reviewed and made legal assessments of death penalty cases during nearly every legislative term, despite the absence of concrete rules regulating this role. Regardless of how legal scholars interpreted this issue, Parliament has continued to develop its own interpretations and exercise its authority in ways that sometimes blur the line between legislative and judicial powers. For example, despite lacking judicial powers to collect evidence or hear testimony, Parliament has drawn inferences as if it had such powers for a limited period. In one instance, it was argued that, in the absence of a jury system in Turkey, capital cases are referred to Parliament, and thus it is inappropriate to confirm a conviction on the basis of mere formality.³⁰ Some legislators have acted as a jury, a prosecution, or defense team. For instance, one of the deputies asserted that the evidence was insufficient in a case and explicitly stated that he could “not be convinced in

28 Refik İnce (Manisa), *ibid.*, 159.

29 For the detailed discussion of some leading legal scholars and their studies arguing the Parliament's power to decide on the execution of death sentences does not amount to exercising judicial authority, see: Chapter 2, footnote 55.

30 Feridun Fikri Düşünsel (Bingöl), *TBMM Zabıt Ceridesi*, C.6, D.20, İ.1, İn. 78, September 15, 1941, 145.

good conscience that the perpetrator was the actual perpetrator.”³¹ This discourse was not an isolated incident; years later, another deputy claimed during a separate case, “In my external investigations, I discovered that the perpetrator of this murder was Sırrı, not Hüseyin.... We will unjustly execute this man, because [he] is not the perpetrator of this crime.”³² In this scenario, the allegations extend beyond the innocence of the accused to encompass the guilt of another. Moreover, these allegations were based on personal beliefs and *investigations* – if such a thing can even rightly be called an investigation – conducted by the deputies themselves, rather than from legal organs. In another case, it was argued that confession obtained through torture and therefore the death penalty should be commuted.³³ According to due process principles, an involuntary confession extracted by coercion cannot be used as evidence against a defendant in a court of law, regardless of its truthfulness. It was therefore argued that the court’s decision was corrupt from the very beginning, despite even an appeal having been filed.

It would be erroneous to claim that the appearance of a *de facto* court arises only from legal arguments raised by certain parliamentarians – such as insufficiency of evidence, involuntary confession, or lack of premeditation. There were also purely emotional arguments. For example, we can observe a deputy expressing his position by saying, “[t]his is a strange turn of events, a superstition that has led me to this rostrum.... I was interested in this man by chance.”³⁴ Furthermore, the image of individual parliamentarians acting as jurors, lawyers, judges, or prosecutors sometimes expands into the entire Parliament taking on a court-like character. To illustrate, during a parliamentary sitting debating whether a defendant’s death sentence was unlawful because he should have been sentenced under a different article of the TCK, the discussion even focused on the details of the murder weapon:

Deputy: One question, is the mallet made of iron or wood?

Spokesperson of the Justice Commission: It is made of wood.

31 *Ibid.*, 142.

32 İbrahim Arvas (Van), *TBMM Zabıt Ceridesi*, C.7, D.11, İ.1, İn. 78, June 30, 1944, 147-8.

33 Hasan Ferid Peker (Kayseri), *TBMM Zabıt Ceridesi*, C.5, D.4, İ.F, İn.34, June 5, 1935.

34 Aziz Uras (Mardin), *TBMM Zabıt Ceridesi*, C.11, D.6, İ.2, İn.21, January 7, 1959, 364.

Deputy: What is its weight, in kilograms or grams?

Spokesperson: The weight is not recorded, there is no weight. But it is twenty-one centimeters long.

Deputy: What type of wood is it made from? Boxwood (*şimşir*) or another kind?

Spokesperson: There is no description.

Deputy: Did the court investigate whether he killed him by a single blow?³⁵

This scene clearly bears resemblance to a judicial evaluation of evidence. This courtroom-like image was not an unintended consequence. Those engaged in this discourse were as aware of it as those who opposed it. To illustrate, a deputy, who believed that the crime in question was not premeditated murder, asked his colleagues for evidence of the perpetrator's intent to justify the death sentence.³⁶ This request was met with the response that such inquiries exceeded Parliament's role and "this is not a courtroom."³⁷ Rather than denying encroaching upon the court's jurisdictions, the deputy actively embraced this accusation, stating:

I want to ask my friends, who accept this death sentence, to come and explain the intention of [perpetrator] when he killed the corporal and to show the evidence that this intention exists.... Honorable friends, some say this is not a court ... but ... would it not be contrary to the principles of law to carry out this death sentence [without such proof]?... They say it is at the court's discretion. That is true. [But] what happens if the court does not do it?³⁸

It is somewhat perplexing to expect members of Parliament to provide legal evidence in a parliamentary sitting. Consequently, those who challenge prevailing parliamentary practices were frequently accused of undermining

35 Namely, Kemal Özçoban (Afyon Karahisar) and Kâmil Coşkunoglu (On behalf of the Justice Commission, Manisa.), *TBMM Tutanak Dergisi*, C.8, D.5, T.1, B.58, May 9, 1947, 154.

36 Sırrı Atalay (Kars), *TBMM Zabıt Ceridesi*, D. 10, C.18, İ.3, İn.50, March 25, 1957, 15-19.

37 Sebati Ataman (Zonguldak), *ibid.*, 19.

38 Sırrı Atalay (Kars), *ibid.*, 18-9.

judicial independence and “slandering the courts.”³⁹ The parliamentary speaker often ended such debates with remarks like, “[w]e are discussing the *report* of the Justice Commission. You are not allowed to discuss the *judgement* of the Court of Appeal.” (emphasis added)⁴⁰ This response seems equally perplexing, whether or not the initial accusation was justified. Because the report under discussion merely summarizes the appeal judgment, which has already decided the death sentence, along with the Commission’s decision and some technical details. Thus the Speaker’s intervention appears aimed not at fostering legitimate debate but at shutting it down definitively. In other words, the intention is to maintain the Parliament in a state of uninterrupted, silent, and circular operation, which obscures the agency of the actors. It is to continue to mystify the control over legal and punitive norms. They depict the execution of the death penalty as no different from carrying out any other punishment – essentially framing it as just a judicial responsibility. This portrayal allows them to distance themselves from the moral weight of taking a human life, creating the impression that they were not directly responsible for the act of killing. In the rare instances when this obscuration was challenged, one method of restoring order appears to encourage silence.

The following citation stands out as the only speech in all parliamentary debates that most clearly reveals the *Ouroboros*-like features inherent to capital punishment in Turkey. It explicitly acknowledges that, whether or not legislators view themselves as truly representing society’s conscience, their individual consciences are inevitably involved. It is also, arguably, the speech that was most vehemently silenced because of this:

What happens when these [capital punishment files] come to the Assembly, *efendim*? Why do they come, what is the meaning? Why do they go to the trouble of typing them up? [Prime Ministry’s] report is read, then it goes to the Justice Commission, their report comes, as our friend says, why, what will happen? I swear I don’t understand. (*Voices*: “for approval”)... Since it is coming here for approval,... it means a thorough examination and forming a positive or negative opinion.... Just

39 Sebati Ataman (Zonguldak), *ibid.*, 19.

40 Ağâh Erozan (Substitute Speaker of Parliament, Bursa), *ibid.*

as the court does not belong to the judge, the file does not belong to them either.... The judges give their decision and wash their hands. It then goes to the upper committee [i.e. *Yargıtay*], which also pronounces their judgement and washes their hands. Now, the execution of the death sentence is up to us. It is not up to the appeal committee.⁴¹

4.1.2 (Re)Creating the Loop: Silence During the Process

4.1.2.1 Respect for Law, Trust the Process

The aforementioned debates challenging the impotent and autonomous image of the Parliament's role in determining the execution of death sentences, only emerged on exceptional occasions. And when it did emerge, it was effectively silenced. It seems that Parliament strives to remain anchored in the law it trusts, through the process it flows. The most significant counter-argument against Parliament's court-like appearance was that the power of the legislation to determine the execution of death sentences is not a judicial power; it is a sovereign power.⁴² In the context of eighteenth century Western European monarchies, Foucault posited that,

The sovereign was present at the execution not only as the power exacting the vengeance of the law, but as the power that could suspend both law and vengeance. He alone must remain master, he alone could wash away the offences committed on his person; although it is true that he delegated to the courts the task of exercising his power to

41 Feridun Fikri (Bingöl), *TBMM Zabıt Ceridesi*, D. 6, C.20, İ.1, İn.78, September 15, 1941, 148. The fact that this quotation is dated 1941 should not be misleading, as it reflects a pattern from the one-party regime or it historically disappeared. Similar explanations have been encountered even forty years later. For instance, this quote is from 1980: "A member entitled to vote in the Commission should not be able to say: 'Let me vote for the execution, and if it is to be stopped, let it be stopped in the wings of the Parliament.... Similarly, a judge cannot say: 'Yargıtay ruled for execution, I vote for execution, trusting in the correctness of their judgement, if there is a mistake, let the judges suffer the sin.'" The dissenting opinion of Serdar Kurtoglu, Member of the Justice Commission of the Advisory Assembly (3/4), *Danışma Meclisi Tutanak Dergisi*, C.4, Y.1, B.62, March 3, 1982.

42 Yusuf Ziya Öztürk (Eskişehir), *TBMM Zabıt Ceridesi*, D. 5, C.4, İ.F, İn.34, June 5, 1935, 60.

dispense justice, he had not transferred it; he retained it in its entirety and he could suspend the sentence or increase it at will.⁴³

Foucauldian reference to “sovereign power” is derived from the personal gaze of the monarch. Yet, in a parliamentary regime that enshrines separation of powers, a reference to the ultimate sovereign power of the legislative branch is puzzling. Because the dispensation of justice is an inherent power of the judiciary, it is not a matter for parliamentary discretion. It is neither delegated nor transferred to another branch. Therefore, Parliament should not have been able to suspend the sentence. Still, some legislatures focus on a distinction between judicial and sovereign powers. What is surprising here is not only that the death penalty requires an approval beyond the judiciary – something expected given the idea that “death-is-different.” Thus, in parliamentary democracies, it is also unsurprising that this approval comes from the legislature, the center of sovereign power, which claims its authority directly from the society. What is surprising, however, is that Parliament, instead of actively exercising this power, seems to prefer remaining passive and silent, functioning as a mere formality.

The argument distinguishing judicial power from sovereign power was made that the matter to be considered in Parliament is not to alter the conviction made by a judge (which is a matter of judicial power), but rather to determine whether the sentence should be carried out (which is a matter of sovereign power). In other words, in their sense of the distinction between judicial and sovereign powers, while Parliament has the power to prevent the execution of a death-row prisoner, it does not have the authority to alter the fact that this person was sentenced to death. What has changed is not the conviction, but the sentence as punishment. They assert that their actions do not constitute grounds for the infringement of the court’s jurisdiction. So the sentence to death is not their responsibility, legislative power “keeps its distance from the act, tending to always entrust it to others, under the seal of secrecy.”⁴⁴ This creates a loop for unaccountable decision-making, where Parliament controls life and death.

43 Foucault, *Discipline and Punish*, 53.

44 *Ibid.* 9-10.

One of the indications of an absence of judicial authority is the inability to evaluate (and re-evaluate) evidence. In the Parliament,

the issue at hand is not one of criticizing and re-evaluating the evidence relied upon by judges and determining whether capital punishment is necessary or not.... In other words, it is just a safeguard against any miscarriage of justice that could lead to execution [of a person.]⁴⁵

It thus appears that the Parliament confined itself to revisiting the only material/procedural matters, rather than evidence and factual issues.⁴⁶ Capital cases reach Parliament only after all administrative and judicial remedies had been exhausted and the judgement concerning the defendant's appeal had been finalized.⁴⁷ Re-examining this final judgment would, it was argued, insult the integrity of the entire judicial system. In this way, Parliament would be a formidable presence over the courts, "like a Hyle," "like the sword of Damocles," hanging over them.⁴⁸ In this context, it is deemed inappropriate for Parliament "to act as a third court above *Yargıtay*."⁴⁹

45 Yusuf Ziya Öztürk (Eskişehir), *TBMM Zabıt Ceridesi*, D. 5, C.4, İ.F, İn.34, June 5, 1935, 60.

46 *TBMM Zabıt Ceridesi*, D. 5, C.2, İ.F, İn.17, April 20, 1935.

47 Only one legal exception allows the withdrawal of a case file from Parliament: the retrial of the case. A concluded trial can be reopened for exceptional reasons, such as judicial misconduct or the discovery of new material evidence. Because it is an extraordinary remedy, there is no statute of limitations. In other words, a death penalty case can be withdrawn and retried even while it is under debate in Parliament.

48 Sırrı Atalay (Kars), *Cumhuriyet Senatosu Tutanak Dergisi*, D.1, C.14, T.2, B.123, October 24, 1963, 433.

For a broader discussion: *TBMM Zabıt Ceridesi*, D. 10, C.17, İ.3, İn.39, November 15, 1957; *TBMM Zabıt Ceridesi*, D. 10, C.18, İ.3, İn.50, March 25, 1957.

49 Turan Güneş (Kocaeli), *TBMM Zabıt Ceridesi*, D. 10, C.15, İ.3, İn.15, December 12, 1956, 116.

The reference to the "third court" is neither a typographical error nor a direct mention to *Yargıtay* itself, which today is understood as the third-instance court, C.Ca. Before 2016, *Yargıtay* functioned as the second-instance court overseeing first-instance decisions. However, with the establishment of the Regional Courts of Justice (Courts of Appeal/ *İstinaf Mahkemeleri*) on July 20, 2016, a three-tier judicial system was introduced in Turkey. Until then, *Yargıtay* was the sole higher court reviewing decisions from local courts. Consequently, this deputy argued that Parliament, in practice, acts as a de facto third-instance court above even *Yargıtay* in 1950s' two-tier system.

Advocates of silence argue that Parliament lacks the judicial authority to examine the evidence, and that such an examination is also unnecessary.⁵⁰ According to this interpretation and the legal doctrine of the period, Parliament's authority to decide on this matter was considered "absolute;" it exercised its sovereign power without any conditions or restrictions.⁵¹ Therefore, regardless of the decision's direction, there was no obligation to provide justification. Put another way, there was no need to examine evidence for Parliament because it was not legally required to give reasons for its decisions, and this power was unrestricted.⁵² The choice between execution and un-execution can be made in complete silence. Moreover, some deputies asserted that this is not a matter of necessity. They argued that they already had no right to provide a "reasoned judgement" since they must respect the judiciary's independence. As an example, in 1947, a deputy requested commutation on the grounds that there was no evidence indicating the murderer acted with monstrous feelings warranting capital punishment. This resolution initially stated, "I request that the death sentence of this offender be commuted for the reasons I have said."⁵³

50 *TBMM Zabıt Ceridesi*, D. 6, C.24, İ.8, İn.35, March 16, 1942; *TBMM Tutanak Dergisi*, D. 8, C.5, T.1, B. 58, May 9, 1947; *TBMM Zabıt Ceridesi*, D. 10, C.18, İ.3, İn.50, March 25, 1957.

51 Minister of Justice Ali Rıza Türel (Kütahya), *TBMM Zabıt Ceridesi*, D.7, C.2, İ.F, İn.24, May 17, 1943.

For some key legal works addressing the legal doctrine on whether the TBMM should provide reasons for its decisions, see: Adam, "Af Salahiyeti," 856-57; Mehmet Semih Gemalmaz, *Türkiye'de Ölüm Cezası (1920-2000): Zihniyet, İnfazlar, Mevzuat, Yargı ve Siyaset I*, (İstanbul: Beta Yayınları, 2001), 618; Turhan Feyzioğlu, "Meclisin İdam Hükümlerini İnfaz ve Hususi Af Salâhiyetleri Hakkında," *Ankara Üniversitesi Siyasal Bilgiler Fakültesi Dergisi* 2, no. 3 (February 1947): 423; Sami Selçuk, "Anayasada Ölüm Cezası," *Yargıtay Dergisi* 4, no. 4 (October 1978); Behçet Tahsin Kamay, "Ölüm Cezası ve Muhtelif Memleketlerde İnfaz Şekilleri," *Adalet Dergisi* 42, no. 3 (March 1951): 336-38; Bülent Nuri Esen, *Anayasa Hukuku VIII* (Ankara: Alâeddin Kırıl Matbaası, 1945), 168.

52 For some deputies and debates that emphasized Parliament's unrestricted authority to decide: Faik Ahmet Barutçu (Trabzon), *TBMM Zabıt Ceridesi*, D.6, C.20, İ.1, İn.73, September 15, 1941; Süreyya Örgüevren (Bitlis), *TBMM Zabıt Ceridesi*, D. 6, C.24, İ.8, İn.35, March 16, 1942; Ali Rıza Türel (Minister of Justice-Kütahya), *TBMM Zabıt Ceridesi*, D.7, C.2, İ.F, İn.24, May 17, 1943; Necmeddin Sahir Silan (Tunceli), *TBMM Tutanak Dergisi*, D.8, C.6, İ.1, B. 70, June 9, 1947.

53 Sahir Kurtoglu (Kırşehir), *TBMM Zabıt Ceridesi*, D. 8, C.5, T.1, B.58, May 9, 1947, 161.

Those who objected to the wording of the resolution argued that presenting a commutation request “for such-and-such reasons” – as a reasoned judgment – was unacceptable in Parliament.⁵⁴ Therefore, the phrase “for the reasons I have stated” was removed before the proposal was put to a vote.

Indeed, any reference to reasoned judgement, not only in the speeches of deputies, but also in the Justice Commission Reports was met with opposition. The Commission’s Reporter made the following statement: “Friends, the Commission is not vested with the ultimate authority to decide on this matter. Since the Supreme Assembly (*Yüce Meclis*) will make the final decision, we are obliged to present the evidence in its entirety.”⁵⁵ This “court-like” tone of the Commission also sparked debate. For instance, some claimed that Parliament has barred itself from taking this action by the Constitution, and consequently, it would be tantamount to a direct challenge to its own restraint.⁵⁶ It was further argued that if death sentences imposed by courts on discretionary grounds were always reviewed by Parliament, judicial decisions might be reduced to “mere formalities.”⁵⁷ It is not within the powers of legislation to determine the merits of the courts’ judgement. However, when the cycle is reversed, that is, when a decision was made without prior parliamentary debate or justification, this time, the concern that Parliament would become “a mere formality” was never raised. Moreover, although some prominent legal scholars of the time explicitly argued that Parliament’s approval of the death sentence was “merely an unnecessary formality,” Parliament as a whole made no effort to challenge this view.⁵⁸

As the following three passages illustrate, it was also argued that the Parliament was unable to evaluate the evidence – not only due to its lack of authority but also because of its unfavorable ambience:

Right now, the situation is like this: It is [as if] the lawyers for both sides are there.... One side says that this murderer should be hanged

54 İsmet Eker (Çorum), *ibid.*, 161.

55 Mustafa Kemal Biberoğlu (On behalf of the Justice Commission, Çorum), *TBMM Zabıt Ceridesi*, D. 10, C.15, İ.3, İn.15, December 12, 1956.

56 Süreyya Örgüven (Bitlis), *TBMM Zabıt Ceridesi*, D. 6, C.24, İ.8, İn.35, March 16, 1942, 22-3.

57 Fahri Karakaya (Elazığ), *TBMM Tutanak Dergisi*, D.8, C.5, T.1, B.58, May 9, 1947, 156.

58 Adam, “Af Salahiyeti,” 857-58.

and the other side says that he should not be hanged. Now we pardon the murderer. That is fine. Tomorrow, let's call in the victim's lawyer and let them defend the heir's rights. Is this a court?⁵⁹

Fatma, Ayşe, Memet come to the court, and their testimonies are recorded on paper. But a court also has an atmosphere. It has an air. This air cannot be captured on paper.⁶⁰

This is not because we are less wise than appeal, but because we do not have the necessary means. Because we cannot contact the person involved.⁶¹

As previously mentioned, the final step before placing the execution file on the parliamentary agenda was the Justice Commission, whose role was to provide an advisory opinion regarding the execution. Those who challenged the Justice Commission Report were accused of attempting to subvert not only the judicial independence but also the parliamentary procedures. Importantly, this accusation was not necessarily directed at individuals seeking to grant clemency. The target could be anyone questioning the recommendations of the Justice Commission, whether that recommendation is execution or commutation. The preceding examples may give the impression that there was a general opposition to advocates of commutation. However, there was no discernible tendency towards either retentionist or abolitionist approaches in the efforts to silence. For instance, in 1933, when the Commission's proposal to commute a death sentence was met with opposition, any discourse in favor of execution was also effectively silenced.⁶² There are examples of Justice Commission Reports being approved without undergoing debate in Parliament, regardless of whether they uphold the appeal decision or recommend commutation of the sentence.⁶³ Furthermore, there were attempts to silence voices, whether they advocate execution or clemency. Briefly, it was not about

59 Mazhar Müfid Kansu (Çoruh), *TBMM Zabıt Ceridesi*, D.6, C.20, İ.1, İn.73, September 15, 1941, 164.

60 Dr. Saim Ali Dilemre (Rize), *ibid.*

61 Şinasi Devrin (Reporter of Justice Commission, Zonguldak), *ibid.*, 150.

62 Decree no. 755, dated May 9, 1933.

63 To illustrate, Parliament passed Decree no. 622, dated March 23, 1931, which commuted the death sentence to fifteen years' aggravated imprisonment without any debate.

carrying out the death sentence, but about avoiding debate surrounding it. To prevent debate, for instance, it was argued that the opinion of the Commission's reporter formed after reading hundreds of pages of court records, carried more weight than a deputy's opinion based solely on reading this report.⁶⁴ Nevertheless, such discussions were not frequently encountered. Because, after all, the parliamentary commissions were not separate entities but extensions of Parliament itself. Therefore, in such instances, the parliamentarians could not delegate responsibility to actors external to themselves, such as the courts.

Deputy A: Do you have no confidence in the paper coming from the Commission?

Deputy B: We may have great confidence in the members of the Justice Commission. But the Commission can also make mistakes. Many times, we have rejected the reports of the Commission. If we listen to everything the Commission says, as it does not make mistakes, there would be no need for this Parliament.

A: It has also been subject to the appeal.

B: If every judgment affirmed by the appeal courts had to be implemented [without question], there would be no need for this Parliament.⁶⁵

This dialogue from 1933 is one of the first examples to be followed by many others, over the years. The supposed impasse in the judicial-legislative cycle is, in fact, a fallacious misrepresentation of the situation, a straw man fallacy; rather than an actual deadlock. It is a valid assertion that the legislative operation as a *de facto* court poses a threat to the independence of the judiciary. However, capital punishment is not solely the judiciary's responsibility. Not only does Parliament have the ultimate authority to execute a criminal sentenced to death by a court of law, but it is also the body that has the inherent power and right to either abolish or maintain capital punishment laws which are applied by courts. They were not the powerless hangmen who execute

64 Refik İnce (Manisa), *TBMM Zabıt Ceridesi*, D.6, C.20, İ.1, İn.73, September 15, 1941, 159.

65 Namely, Kâzım Paşa (Diyarbakir) and Celâl Nuri Bey (Tekirdağ), respectively. *TBMM Zabıt Ceridesi*, D.4, C.19, İ. 3, İn. 10, December 7, 1933, 30.

those condemned by the courts, nor the merciful angels who pardon them. They themselves create the legal basis for the death sentence. So, the head and tail of *Ouroboros* meet within Parliament itself.

This is where the rhetoric of “respect for the law” becomes manifest. For instance, in 1937, Parliament rejected a request to reduce the death sentence of a prisoner due to his lack of prior convictions.⁶⁶ This rejection was based on the grounds that the existing legislation did not recognize such mitigating circumstances. Granting commutation on such grounds was presented as “disrespect for the law.” The response of the Minister of Justice was as follows: “Day by day, we are working to gradually abolish the death penalty from our social life. However, as long as the current legislation remains in force, it is not possible to make any attempts or judgements to the contrary.”⁶⁷ According to the parliamentary discourse, all deputies must respect and follow the prevailing legal system, no matter what their personal stance on the issue of the death penalty. In certain instances, capital punishment could be regarded as a common enemy, but respect for the rule of law was framed as a fundamental precondition for the legitimacy of any political regime. This seems to be an echo of Herzfeld’s observation on bureaucrats:

Officials hasten to assure the public ... that “the system” forces them to do things that good people would rather avoid – disingenuous but extremely common ways of reifying and demonizing the unseen sources of authority as a common enemy.⁶⁸

However, parliamentarians are not bureaucrats, and the unseen sources of authority are not truly unseen. It should not be overlooked that both this deputy recommending the mitigation and the Minister arguing for the obedience to law were members of Parliament when the penal code under discussion had been drafted nine years earlier. Moreover, in the aftermath of debate, neither has this deputy proposed any law introducing the new mitigating factors, nor

66 Emin Sazak (Eskişehir), Decree no.1018, dated November 11, 1937, *TBMM Zabıt Ceridesi*, D.5, C.20, İ. 3, İn.4, November 10, 1937, 49.

67 Şükrü Saraçoğlu (The Minister of Justice, İzmir), *ibid.*,

68 Michael Herzfeld, *The Social Production of Indifference: Exploring the Symbolic Root of Western Bureaucracy* (Chicago: University of Chicago Press, 1992), 71.

has the Ministry taken any concrete steps towards the abolition as they promised.

The aforementioned scene is not confined to a single event. Those seeking clemency were often accused of violating the laws they themselves enacted.⁶⁹ The following example is a frequently cited argument that is employed to refute those who advocate for lenient sentences in individual cases:

When pardoning a person, the family of the murdered man, his neighborhood and the whole country must be considered. Only twenty to thirty people are executed each year. If you think this number is too high, you can remove the death penalty from the law.⁷⁰

Nonetheless, for many years, there have been no proposals to amend or abrogate the criminal code or the constitutional laws. When such amendments were eventually proposed, they were left unaddressed for a significant period. However, rather than claiming that those seeking to abolish the death penalty were systematically silenced by the prevailing majority, it would be more accurate to observe that there existed a pervasive indifference towards the issue. For instance, in 1972, certain deputies noted that they had proposed the abolition of the death penalty two years earlier, but the proposal had never been placed on the agenda since.⁷¹ During this two-year period, numerous death penalty cases, including several well-known political cases, were submitted to Parliament and subsequently approved. It is notable that even those who proposed the bill remained silent for two years until a critical case came before them. Rarely was the possibility of legislative change raised – and when it was, it was quickly dismissed.

69 Vefa Tanır (On behalf of the Parliamentary Group of Milli Güven Partisi, Konya), *Millet Meclisi Tutanak Dergisi*, D.3, C. 24, T. 3, B. 77, April 24, 1972, 209-10.

70 Muhittin Baha Pars (Bursa), *TBMM Zabıt Ceridesi*, D.6, C.20, İ. 1, İn.78, September 15, 1941, 156.

71 Bülent Ecevit (Zonguldak) and Celal Kargılı (İçel), *TBMM Tutanak Dergisi*, D.3, C.23, T. 1, B.58, March 10, 1972.

4.1.2.2 Respect for Parliamentary Procedure

Silencing tactics encompass not only diverse interpretations of the legal framework, but also manifest in technical patterns. There was pressure from the parliamentary procedure (*meclis içtüzüğü*) for the debate to be completed quickly or avoided altogether. Silent seems more safe for them. One way to maintain the parliamentary process in a deeply taciturn way was to give as little information as possible in the capital punishment dossier that was submitted to the agenda. For instance, detailed descriptions of the crime and the legal articles justifying the death sentence in each case only began appearing in reports of the Justice Commission in the 1940s.⁷² And even then, in the majority of cases, the information in question was usually no more than a few paragraphs. A copy of this Justice Commission Report on death penalty files was distributed to the legislators for examination prior to the parliamentary sitting in which it will be discussed. However, it was not until 1980 that each report/case was individually explained by the Commission in parliamentary sitting. Before 1980, it was also possible that the distributed report would be read aloud, summarized, or explained in Parliament. Nevertheless, the decision about reading the dossier was made by a vote and it was generally decided against reading it. There are some deputies who were reluctant not only to read the dossier aloud but also to read it by themselves. When a deputy took the floor on a case, he openly admitted that he had “unfortunately” not read the report and therefore was not in a position to speak either in favor or against it.⁷³ While one deputy did not hesitate to say that he had not even read the preamble (*esbab-ı mucibe*) of the case, in order to express his impartiality, nearly forty years later another emphasized that he regularly acts this way with the following words: “I was particularly careful not to find out who these people were. I do not know who they are,... and I was also careful not to know what they were doing.”⁷⁴

72 For the starting date of more detailed documents, see Chapter 3, footnote 103.

73 Yavuz Abadan (Eskişehir), *TBMM Zabıt Ceridesi*, D.7, C.9, İ.1, İn.49, April 26, 1944, 257.

74 Respectively, Mithat Aydın (Aydın), *TBMM Tutanak Dergisi*, D.8, C.12, T.2, B.74, June 21, 1948, 297; Enver Özcan (Tokat), *TBMM Tutanak Dergisi*, D.17, C.7, Y2, B.7, October 3, 1984, 167.

These texts that were distributed and, perhaps, read did not exceed half a page in length. This scarcity of information is not a consequence of the limitations of the available archive today, but rather is a result of the content of the procedure itself. This assertion is further evidenced by rare – and quickly silenced – complaints from legislators at the time:

They should use enough words to convince us. Otherwise, writing just four words will not serve this purpose.⁷⁵

Are we slaughtering chickens? This will end a man's life. Why is not the Commission informing us of the evidence?⁷⁶

The secrecy embedded in the parliamentary procedure extended beyond the content of the textual substance. Furthermore, any potential for verbal debate within the parliamentary sittings was met with attempts at muting such discussions. Most significant symbols of the effort to silence were the proposal for a sufficiency of debate (*kifayet-i müzakere / yeterlilik önergesi*) and an emergency debate (*ivedilikle görüşme önergesi*). Under the parliamentary by-law in effect from 1927 to 1973, a legislative proposal could be debated without any time limits, but a vote on the sufficiency of debate could also be called once two deputies had spoken in favor of the proposal, two in opposition, and two on.⁷⁷ Consequently, the debate could be constrained to a maximum of six

75 Celal Nuri Bey (Tekirdağ), *TBMM Zabıt Ceridesi*, D.4, C.19, İ. 3, İn. 10, December 7, 1933, 30.

76 This citation is a critique paraphrased by Kemal Biberoğlu, representing the Justice Commission, to the Commission at some point prior to 1956. Therefore, the author of the quote is unknown. *TBMM Zabıt Ceridesi*, D.10, C.15, İ.3, İn.15, December 12, 1956, 116.

77 Article 103 of the by-law of the TBMM, dated May 2, 1927; Article 56 of the By-law of the Senate of the Republic, dated December 27, 1963: "At the beginning of the debate, the Speaker shall give the floor to those who want to express their views on the law as a whole. A vote on the sufficiency of the debate shall not be taken until at least two Members have spoken in favor of the resolution, two in opposition, and two on." Article 104 of By-law of the TBMM and Article 56 of By-law of the Senate: "If there are those who want to speak against the sufficiency of the debate, only one of them shall be allowed to do so.... A show of hands voting will then be taken."

The by-laws of 1927 underwent a process of modernization in language (*türkçeleştirme*) in 1945, yet the substance of these rules remained unaltered (Decree no.4, dated April 11, 1945). Subsequently, in 1973, a new set of parliamentary procedures came into force, notably reversing the approach to the issue of sufficiency of debate (Decree no. 584, dated March 3, 1973).

speakers, if the parliamentarians were to demonstrate a willingness to do so. And they did just that.

It is important to remember that the proposal to end a debate is exclusively applicable to proposals for law (draft bills or legislative proposals), and the 1961 Constitution introduced parliamentary ratification of capital punishment as *laws* (rather than decrees).⁷⁸ This means that only after this change could the debate on the death penalty cases, just like any other debate on legislative proposals, be subject to a proposal on the sufficiency of a debate. However, this change does not necessarily imply an intentional strategy to impede the debates that emerged prior to 1961. After all, such an atmosphere of discussion was also not very common. Before 1961, for nine out of ten death-row convicts

78 Prior to the 1961 Constitution, it was unclear whether the decision to carry out an execution would take the form of a law or a decree. Nonetheless, it was asserted that Parliament possessed not only the power of law-making, but also decision-making in some matters (such as deciding to declare war), and that this was the customary procedure in the matter of execution. For further parliamentary discussion: *TBMM Tutanak Dergisi*, D.3, C.1, İ.S.1, İn.9, 21 November, 1927.

The 1961 Constitution did not explicitly regulate this issue, but the justification for Article 62 stated that “other powers mentioned in the article are typically exercised by the legislature through enacting laws.... In this respect, for example, the execution of death sentences, carried out under the old constitutional regime by parliamentary decree, has become a matter of law under the new regime.” Draft Constitution of the Republic of Turkey and the Constitutional Commission Report (5/7), dated March 9, 1961, *Temsilciler Meclisi Tutanak Dergisi*, B.34, March, 30 1961.

Although in practice the parliamentary decision regarding executions was prepared in the form of a law, no other legal document explicitly required it to be enacted as such until the 1973 parliamentary by-law. Article 90 of the 1973 “By-law of the National Assembly” explicitly stated that the Assembly would “draft a law approving or rejecting the execution of the death sentence,” thereby formalizing the legislative procedure for capital punishment decisions.

Specifically, the first “law” of execution was promulgated on October 27, 1962. However, since the first session of the first elected Parliament following the constitutional amendment was held on October 25, 1961, the year 1961 is taken as a starting point.

Finally, it should be noted that although the decision was made in the form of a law, it was not clear whether it was classified as a bill (*kanun tasarısı*) or a legislative proposal (*kanun teklifi*). Both the Justice Commission and the Constitution and Justice Commission of the Senate of the Republic have shown no uniform practice regarding whether draft laws are referred to as legislative proposals or bills.

whose files were submitted to the parliamentary agenda, no one said a word.⁷⁹ In the remaining one-tenth, the number of speakers was limited to a single person who typically raised a technical or procedural question in the majority of cases. Parliamentary proceedings had not previously been characterized by an escalating, impassioned, heated debate. However, it would be more accurate to say that as soon as Parliament gained the right to halt any debate through a sufficiency proposal, it added it to its repertoire of silencing. Parliament has exercised this power from 1961, when the death sentence began to be ratified as a form of law, until 1973, when the by-law was amended. In these twelve years, only nine debates could have constituted grounds for a proposal for a sufficiency, that is to say, when the number of speakers exceeds six. In seven out of those nine parliamentary sittings, a proposal to conclude the debate was put forward and accepted each time.

In 1973, the parliamentary procedures were revised, with debate rules being changed, and the issue of a sufficiency of debate being addressed in a reverse manner. So that the limited duration of the debate became a norm, not an exception. Once a certain number of speakers had shared their views, the Speaker would automatically close the debate unless there was no proposal to continue the debate.⁸⁰ In short, the proposal for the sufficiency of the debate was replaced by insufficiency of it. While there may not have been more silence than before, secrecy during parliamentary sitting has become more

79 Following the enactment of the 1926 TCK and prior to the first parliamentary elections after the 1962 Constitution, a total of 582 death-row convictions files were placed on the agenda in all parliamentary sessions. However, only fifty-nine of these individuals were discussed. (This figure excludes those cases included in the agenda under the Amnesty Law.) The majority of these few discussions focus on non-personal technical matters, such as rules of procedure, legal basis rather than substantive debate on the cases themselves.

80 Article 73 of Decree no. 584 (*Millet Meclisi İktüzüğü*), dated March 3, 1973, enacted April 13, 1973: "Unless the by-laws specified otherwise, each political party group shall have the right to speak once on behalf of their group, and two individual members shall have the right to speak once on their own behalf. After the delivery of these speeches, if there is no resolution to continue the debate, the Speaker shall declare the discussion closed. In the event of a proposal to continue the debate being submitted and accepted by a show of hands vote of the Assembly, the political party groups and deputies shall be entitled to speak for a second time in accordance with [speaking rights on] paragraph 1."

automatic, indifference has been more quietly concealed, and those who promote silence have become more difficult to identify.

It is evident that such reactions to protracted discussions were not a phenomenon that first emerged in 1961, nor did it disappear after 1973. They were manifested not only in the form of written proposals but also verbally over the years. Interventions directed towards speakers on the rostrum, such as “enough is enough” and “we have been sufficiently enlightened, *efendim*” were often heard from the benches of the Parliament.⁸¹ When one deputy attempted to read a large number of sample reports aloud, another member could not hide his frustration and shouted, “Then we are finished! (*yandık öyleyse!*)” and the speech was interrupted by an objection that according to the by-law, it is not correct to read for more than a quarter of an hour.⁸² It is also noteworthy that some verbal interventions were not recorded in the minutes, but can be traced in the speeches of certain deputies. The following passage, for instance, was declared in 1947:

Friends, you are shouting “enough, enough,” there is a citizen dying, there is a citizen waiting to die, there are their children, their mothers, their fathers. What would you think if you were to put yourself in the place of one of them, or in the place of the murderer?⁸³

Once the capital punishment dossier was submitted to its agenda, Parliament targeted any actions that could prolong the parliamentary process, not just the debate. In order to comprehend how the process was targeted, it can be ideal to examine the period between 1961 and 1973 – the longest journey of a dossier through Parliament. As previously stated, in tandem with the new constitutional area, the ratification of capital punishment files was enacted through law rather than decree.⁸⁴ The prevailing by-laws required proposals for law (draft bills or legislative proposals) to be submitted in at least two

81 *TBMM Zabıt Ceridesi*, D. 10, C.18, İ.3, İn.50, March 25, 1957, 15; Muzaffer Ender, *Danışma Meclisi Tutanak Dergisi*, C.4, Y.1, B.63, March 4, 1982, 272.

82 Respectively the responses of Rasih Kaplan (Antalya) and Ziya Gevher Etili (Çanakkale) to Feridun Fikrî (Bingöl), *TBMM Tutanak Dergisi*, D.6, İ.3, C.24, İn.35, March 16, 1942, 9, 10.

83 Cemil Saîd Barlas (Gaziantep), *TBMM Tutanak Dergisi*, D.8, C.6, T.1, B.70, June 9, 1947, 160.

84 Specifically, the first “law” regarding execution was promulgated on October 27, 1962.

different parliamentary sittings.⁸⁵ This double-sitting rule remained in force until the adoption of the new by-law in 1973.⁸⁶ It is also noteworthy that this period coincided with the bicameral period. After the 1960 coup d'état, the new Constitution established a bicameral parliamentary system which functioned until it was suspended by the 1980 coup d'état.⁸⁷

This shift in Turkey's political landscape had a significant impact on the parliamentary process regarding the death penalty. Each dossier of capital punishment was now discussed on two occasions: one in the National Assembly (*Millet Meclisi*), another in the Senate of the Republic (*Cumhuriyet Senatosu*). For the first time in Turkey's parliamentary history, the dossiers related to capital punishment began to be examined by two separate chambers of representatives. And more importantly, the double-sitting rule was also implemented in the Senate of the Republic.⁸⁸ Therefore, in a bicameral system, each dossier of capital punishment should be reviewed twice by each assembly. It means that one dossier should be reviewed a total of four times before becoming law, which is a significant change from the previous period when one discussion had been sufficient. Moreover, since capital punishment decisions were now enacted as laws rather than decrees, they became subject to additional checks, including the Presidential veto and the review by the Constitutional Court, as every law since 1962 has been.⁸⁹ This means that a law on the execution of the death penalty could be returned to Parliament for

85 Article 99 of the By-law of the TBMM, dated May 2, 1927.

86 Decree no. 584, dated March 3, 1973, enacted April 13, 1973.

87 Article 63 of the Constitution of 1961: "The TBMM is composed of the National Assembly and the Senate of the Republic. The two bodies meet in a joint session in such instances in the Constitution."

88 By-law of the Senate of the Republic, dated December 27, 1963, enacted January 18, 1964.

89 Constitutional provisions on the Presidential veto: Article 35 of the Constitution 1924; Article 93 of the Constitution 1961, and Article 89 of the Constitution 1982.

The Constitutional Court was established on April 25, 1962 in accordance with the legal framework established subsequent to the 1961 Constitution. According to Article 146 of the 1961 Constitution, it "shall review the constitutionality of laws and the By-laws of the TBMM." Article 148 of the Constitution of 1982 (as amended on September 12, 2010 and on April 16, 2017), stated: "The Constitutional Court shall examine the constitutionality, in respect of both form and substance, of laws, presidential decrees and the Rules of Procedure of the TBMM, and decide on individual applications."

reconsideration by a veto of the President of the Republic before being promulgated, or by review of the Constitutional Court even after its promulgation. Since every law is subject to constitutional review, albeit limited to formal aspects, an annulment action may be filed within a ninety-day period after promulgation.⁹⁰ Because it was uncertain whether political parties would initiate such a lawsuit, it would be reasonable to refrain from carrying out executions during this three-month interval. However, in practice, most executions were carried out immediately after the law came into force.⁹¹ Notably, there was only one example of a return by the Constitutional Court and no cases of Presidential veto.⁹² More strikingly, even the four-debate rule remained on paper, with few exceptions.

The “emergency debate” may be regarded as a method of reducing the time taken to process of dossiers in Parliament. It was an element of a period during which it was the rule for Parliament to debate laws in two separate sittings. The Government, the proposer, or the relevant commission could request a resolution of emergency either at the time of submission of their bill/legislative proposal to the agenda, or before its first discussion in Parliament.⁹³ The bill or proposal which was accepted for emergency debate by Parliament shall be discussed only once.⁹⁴ Briefly, the emergency debate was an exception to the double-sitting rule.⁹⁵ During the twelve-year period in which both the double-sitting rule and the bicameral system were in force, the decision for

90 Article 151 of the Constitution of 1961: “The right to introduce an annulment action directly to the Constitutional Court is consummated after ninety days beginning with the promulgation of the contested law or By-laws in the RG.”

91 For instance, Law no.3049 was promulgated on October 19, 1984, and executed on October 25, 1984.

92 The only Constitutional Court’s decision of April 6, 1972 was published in the RG on April 1972, 7 (numbered 1452, Repeated) File no: 1972/13, Decree no: 1972/18.

93 Article 70 of the By-law of the TBMM, dated May 2, 1927; Article 46 of the By-law of the Senate of the Republic, dated December 27, 1963.

94 Article 72 of the By-law of the TBMM, Article 48 of the By-law of the Senate of the Republic.

95 Article 100 of the By-law of 1927 outlined exceptions to the double-sitting rule: Bills or legislative proposals decided to be emergency debate (*ivedilikle görüşme*); bills related to the revenue and expenditure budgets, the Final Accounts Law, and requests for transfers or extraordinary appropriations in budget sections; as well as laws returned by the President of the Republic.

emergency debate was frequently used in death penalty cases.⁹⁶ During this period, a total of 112 files concerning sixty-five individuals were placed on the agenda in both chambers.⁹⁷ Of those sixty-five persons, thirty-one were reviewed under emergency procedures in at least one of the two chambers.⁹⁸ Notably, almost half of the execution laws in the Senate of the Republic and approximately 30% in the National Assembly were passed through emergency debate.⁹⁹ It is important to note that following the military memorandum of 1971, this became a norm, and all dossiers received after this date were discussed only once in both parliaments with the decision of emergency.¹⁰⁰ Sometimes even the emergency debate was not considered “urgent” enough by the deputies, and the following voices could be heard in the Senate of the Republic: “Now our slightest objection will go to [National] Assembly. So much

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- 96 The period under discussion commenced on October 25, 1961, when the first Parliament of the new constitutional period convened for the first time, and concluded on April 13, 1973, when the new parliamentary by-law was introduced, limiting laws to be discussed only once.
- 97 A total of 112 case files, fifty-six in each chamber, were reviewed for sixty-five individuals. Because one file was revised and prepared twice in the Senate, the number of deliberations for that file was counted as three instead of two. (Law no. 352, issued November 2, 1963). One case (Law no. 480, issued June 26, 1964) was counted as six dossiers instead of four because it was reported both to the Justice Commissions of the two Parliaments and the Joint Commission (*Karma Komisyon*). Another case (Law no. 1576, issued March 25, 1972; Law no. 1586, issued May 5, 1972) concerning the execution of a death sentence was counted four times instead of two, as it was annulled by the Constitutional Court on formal grounds and subsequently reconsidered by Parliament.
- 98 Case files for nineteen individuals were reviewed in emergency in both chambers, whereas those for twelve individuals were reviewed under emergency solely in the Senate.
- 99 Out of a total of fifty-six case files concerning sixty-five individuals in the Senate, twenty-six files related to thirty-one individuals were reviewed through emergency debate. In the National Assembly, sixteen files concerning nineteen individuals were similarly examined under emergency debate.
- 100 From the inauguration of the two parliaments in 1961 until the military memorandum on March 12, 1971, ten files in the Senate of the Republic and one file in the National Assembly were urgently debated. However, in the period following 1971 and preceding the single-sitting rule for laws in 1973, all case files in both parliaments – fifteen in the National Assembly and sixteen in the Senate of the Republic – concerning eighteen individuals were discussed through emergency debate.

ceremony. I think it is unnecessary.”¹⁰¹ In addition, this “objection” was raised not for the content of the discussion, but rather for the correction of a material error, such as the identity information of the perpetrator. In 1973, the parliamentary procedure was amended so that bills and legislative proposals were started to be discussed on a single-sitting as a rule. In other words, the emergency debate was turned into the norm, so it was removed from the parliamentary procedure. Moreover, there was no significant change for the laws pertaining to capital punishment. These cases had already not been debated twice in the previous two years.

The closer the Parliament’s self-referential image of its role in determining the execution of death sentences became exposed, the more fiercely it was protected. The case of three prominent political figures in Turkey’s death penalty history (Deniz Gezmiş, Yusuf Arslan, and Hüyesin İnönü) is exemplary cases of those most widely discussed and most vehemently silenced. The following dialogue serve to illustrate the scene in the Senate of the Republic in March 1972:

Senator A: When the discussion of the whole legislative proposal was about to start,... the dissenting opinions were not read out. The Supreme General Assembly ... made such a decision. The debate ... was then concluded with the adoption of the resolution of sufficiency. Then a resolution of [emergency debate] was proposed, which was voted on and accepted, although the principle is that bills and legislative proposals are discussed twice. Now a resolution was made to limit the discussions on the articles to ten minutes.

Senator B: Are we judges, *efendim*? We are discussing a decision that has already been made, whether it should be implemented or not.¹⁰²

The law authorizing the execution of these three people was passed by Parliament.¹⁰³ However, the Constitutional Court ruled that the relevant law was

101 Hidayet Aydıner (Member elected by the President of the Republic), *Cumhuriyet Senatosu Tutanak Dergisi*, D.1, C.19, T.3, B.60, April 9, 1964, 743.

102 Namely, Zihni Betil (Tokat) and Orhan Kor (İzmir), respectively. *Cumhuriyet Senatosu Tutanak Dergisi*, C.4, T.11, B.42, March 16, 1972, 105

103 Law no. 1576, issued March 25, 1972.

unconstitutional. The Court found that the submission of both emergency and priority resolutions without accompanying justification (*gerekle*) constituted a violation of established procedure.¹⁰⁴ The Constitutional Court commented that “deciding for emergency after the first debate has begun ... suddenly closes the way for the second debate and confronts some members of parliament with a *fait accompli*.”¹⁰⁵ So the dossiers were returned to the Parliament for reconsideration. In response, it appears that the parliamentary majority chose to consider merely the technical procedural aspects of the Constitutional Court's critique, seemingly disregarding the Court's concern about “*fait accompli*.” Notably, both parliaments once again voted in favor of an emergency debate. Furthermore, in this second round, the duration of speeches on the articles of the law was regulated, even further shortening it in comparison to the previous one. The time allowed for party groups was limited to ten minutes and to five minutes for individuals.¹⁰⁶ Criticisms such as “we can only read the headlines in five minutes, we cannot talk then” were not met with much support.¹⁰⁷ And, yes, the length of the speech was also limited by the 1973 by-law.¹⁰⁸

Following the new parliamentary procedure of 1973, the scope of debates was restricted to a single-sitting, the number of speakers and the length of speeches were limited, and after 1980 the bicameral system was abolished. In light of these three limitations on the scope and length of any debate, it was sort of a return to the pre-1960 path for capital punishment cases. It was a

104 The Constitutional Court's decision of April 6, 1972 was published in the RG on April 1972, 7 (numbered 1452, Repeated) File no: 1972/13, Decree no: 1972/18.

The term “priority of debate” refers to the placement of a draft bill or legislative proposal on the agenda of the General Assembly of Parliament. If a bill or proposal has already been placed on the agenda, granting it “priority” means changing the order of the agenda so that it will be discussed before other subjects placed on the agenda and scheduled earlier.

105 *Ibid.*

106 *Millet Meclisi Tutanak Dergisi*, D.3, C.24, T.3, B. 77, April 24, 1972,

107 Reşit Ülker (İstanbul), *ibid.*, 217.

108 Article 81 of the By-law of the TBMM, dated 1973: “Unless otherwise decided by the General Assembly on a proposal from the Advisory Assembly, speeches on behalf of political groups, commissions and the Government on the whole of bills and legislative proposals shall be limited to twenty minutes each. Speeches by individual members shall be limited to ten minutes. Speeches delivered on its specific articles are limited to half of this duration.”

return to self-proclaimed silence, after twelve-years in which the voices had been actively silenced. This procedural reticence created a self-sustaining cycle of silence, akin to the *Ouroboros*; thereby concealing the identities of the individuals responsible for state-killing. By obscuring accountability, state actors masked their role in legitimizing executions, legitimizing killing in the overwhelming majority of cases. Who controlled the law? Who defined crime? And who was killed in the name of an ambiguous state, and by whom (as will be discussed in more detail in the next chapter)? These questions vanished into a maze of bureaucratic abstraction, distancing the system from the human causes and consequences of the death penalty. This was reinforced by delegating the responsibility to the judiciary or through procedural obfuscation. Voices that challenge the role of being “mere hangman” in capital punishment flash briefly but are swiftly extinguished. The attempt to silence these voices, whether they have a retentionist or abolitionist tone, gives the impression that the main purpose was to avoid creating any grounds for a meaningful debate. Decision-making power was portrayed almost like a routine bureaucratic step rather than a true decision. By limiting discussion technically, legally, and individually, the legislative power avoided confronting why crimes deemed “capital” emerged in the first place. Through silence – whether actively silencing voices or institutionalizing silence – and by obscuring how the system operates, they enshrined a culture of indifference, allowing the machinery of state-killing to operate unchallenged. However, this does not mean that their endeavor always succeeds or that the system works flawlessly. In particular, as we will see in the next chapter, the responsible actors in some infamous cases were glaringly obvious to “both the judges of the past and the historians of the present, two professions that carry the burden of reconstructing and analyzing past ‘realities.’”¹⁰⁹

109 Avi Rubin, “Introduction: ‘(Not) Letting History Judge,” in *Ottoman Rule of Law and the Modern Political Trial: The Yildiz Case* (Syracuse, NY: Syracuse University Press, 2018), 4.

§ 4.2 Capital Punishment as an Unhinged Waiting Room

You made a very disastrous statement that governments cannot survive if they kill people. I beg you, friends, the government has not brought before you a law to kill a man.... [T]he government has only referred the court judgement to the Assembly as a referral body and presented it for your approval.¹¹⁰

As shown by the discourse in the previous examples, the responsibility for deciding to kill was one which can be delegated to the judicial system. Indeed, it appears to be almost a non-decision, almost a mere cog in a technical bureaucratic wheel. However, granting pardon requires a clear exercise of choice. Any clemency of a death sentence can be regarded as the performance of a discernible agency, as active consent. Therefore, by remaining in the sheltered space provided by silence, it becomes apparent that the antithesis of deciding on execution is not pardoning or commuting sentences, but rather to refrain from discussing the capital punishment dossier in the Parliament altogether. The system that is devouring its own tail is not sole reflection of capital punishment which operates in secrecy. The distracter aspect of capital punishment is also determined by another form of silence: non-execution or delay in execution. As will be explained in this section, between 1964 – when the first semi-moratorium began – and the abolition of the death penalty in 2004, Turkey's history was shaped by the fact that no death penalty file was brought to the parliamentary agenda for thirty-five of those forty years.¹¹¹ During this time, Parliament has neither executed death-row inmates nor commuted their sentences. In other words, nearly half of the entire capital punishment experience of Turkey under the 1926 TCK, was marked by such a silent attitude. This silence mainly serves to obscure the power's hesitation to either carry out or commute death sentences. The ambivalence of power's position is evidenced by a lack of clear alignment with either the retentionist or abolitionist perspectives. But I argue that this ambivalence itself is an illusion.

110 Mehmet Göker (Chairman of Justice Commission, Kayseri), *Millet Meclisi Tutanak Dergisi*, D.1, C.26, T.3, B.42, January 28, 1964, 20.

111 For details on the moratorium periodization, see Chapter 2, footnote 31.

As mentioned in the Introduction, adopting an abolitionist or retentionist stance involves many data-driven and morally-oriented theories. From the “brutalization effect” to the “deterrence effect,” and from the risk of executing innocent people to the risk of “playing God,” numerous arguments shape the pro-con debate. These points usually fuel active discussions. Yet, in Turkey’s parliamentary arena, meaningful debate has been consciously avoided for years. Therefore, I turn to two well-established moral arguments that quietly and sometimes unconsciously persist in parliamentary discourse, even in the absence of open debate. To summarize from this theoretical standpoint; regarding the retentionist aspect, the perpetrator should be sentenced to death, because they have free-will to choose and understand the difference between right and wrong in the Hegelian and Kantian sense of punishment.¹¹² The Hegelian approach assumes that the victim’s equality with the offender gives the victim a right to punish the offenders by doing what they did, by mirroring their actions – even if that means murder. The Kantian approach assumes that the rationality of the offender causes the acceptance and authorization of the punishment, which is carried out in the same way as the offender has done.¹¹³ As argued by Jeffrey H. Reiman, “[t]he ‘Hegelian’ and ‘Kantian’ approaches arrive at the same destination from opposite sides.”¹¹⁴ There is an assumption of free will, rationality, equality; and the perpetrators should take responsibility for their action.

On the other hand, the abolitionist aspect generally relies on the unjust social circumstances and the economic, political, and social factors behind the

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- 112 Some examples for the free-will, and Kantian and Hegelian approaches about the punishment: Agnes Heller, “On Retributive Justice,” *Dialectical Anthropology* 12, no. 2 (1987): 205-15, <http://www.jstor.org/stable/29790232>; Matthew H. Kramer, *A Philosophical Investigation of Evil and Its Consequences* (New York: Oxford University Press, 2011); Herbert Morri, “Persons and Punishment,” *The Monist* 52, no. 4 (Oct. 1968): 475-501, DOI:[10.1111/1468-2230.12580](https://doi.org/10.1111/1468-2230.12580); Immanuel Kant, *The Metaphysical Elements of Justice, Part I of The Metaphysics of Morals*, trans. John Ladd (Indianapolis: Hackett Publishing 1999); Ernest Van den Haag and John P. Conrad, *The Death Penalty: A Debate* (New Jersey: Plenum Publishing Corporation, 1986).
- 113 Van den Haag and Conrad, *The Death Penalty*, 40-49; Jeffrey H. Reiman, “Justice, Civilization, and the Death Penalty: Answering van den Haag,” *Philosophy and Public Affairs* 14, no. 2 (Spring, 1985): 122-130.
- 114 Reiman, “Justice, Civilization, and the Death Penalty,” 125.

crime.¹¹⁵ If there is such a social atmosphere, in which we are involved, we cannot place all the responsibility for a harmful action solely on the perpetrator. For instance, “if a slave kills an innocent person while making his escape, at least part of the blame for the killing must fall on those who have enslaved him.”¹¹⁶ Society is blamed for marginalizing and getting rid of troubled people, rather than trying to solve these problems. Accepting these unjust social conditions means perpetrators should not face the death penalty; instead, restorative measures should be pursued.

Broadly speaking, this debate revolves around whether accepting partial social responsibility for crimes should lead to the abolition of capital punishment, or whether the free-will and rationality of all individuals should be taken into account, resulting in the retention. For decades, Turkey’s parliament has neither executed death-row inmates nor commuted their sentences. The sentence imposed by the judiciary was submitted to the Parliament but remained undiscussed for years here. In Turkey, theoretically speaking, neither social responsibility nor free-will has been the basis of the death penalty system for decades. Or it can be reformulated as both the sharing responsibility and free-will have mutually operated. But this is not an in-betweenness. It is a deliberate act. Capital punishment has not been sitting on the fence for many years; the fence itself was a third, separate policy. I argue that the capital punishment system in Turkey operates as *tertium quid* through the waiting for execution. And this is also another form of its distractive structure. *Tertium quid* refers to a third unclassified thing or factor that shares similarities with two different categories but is distinct from both.¹¹⁷ In the context of the death penalty in Turkey, the two categories are the retentionist and abolitionist positions, while the third is the non-execution.

One might assume that refraining from executions at least spares individuals from death while avoiding public criticism. However, as we will explore later, the possibility – and in some cases the reality – of returning to execution tells a quite different story. Rather than protecting individuals, Parliament appears to be protecting itself from the responsibility of deciding whether to

115 Some examples for social responsibility argument: Chapter 1, footnote 16.

116 Reiman, “Justice, Civilization, and the Death Penalty,” 131.

117 “Tertium Quid,” U.S. Legal Dictionary, <https://definitions.uslegal.com/t/tertium-quid/>.

execute or grant amnesty. The act of neither approving nor rejecting the execution, it actually means that dozens of condemned prisoners waited every morning for years, fearing to be executed or hoping to be pardoned. In the period before the semi-moratorium years, the time between the final court judgement and the final parliamentary decision (i.e. the publication of the parliamentary decree/law on execution in the RG) did not exceed one to one and a half years on average (although it gradually increased over time).¹¹⁸ However, during the semi-moratorium years, some death-row inmates waited as long as seven years after their final court judgment for execution.¹¹⁹ Furthermore, if we extend beyond the limits of the available data, this period could be much longer than the concrete dates suggest. For instance, during the last moratorium-like period, it is estimated that there were individuals who waited around fifteen years for a decision before being granted amnesty.¹²⁰ This in-

118 The average time from the final court judgement (*Yargıtay* judgement) to the ratification of the execution decree/law (the announcement in the RG) has been calculated separately according to the legislative periods and the type of jurisdiction (i.e. Distinguishing between civil or military courts).

The term “the period before the semi-moratorium years” refers to the average time calculated from March 1, 1926, up to the first term of the National Assembly and the Senate of Republic (October 25, 1961 – October 10, 1965; this term is also included).

119 When considering only accurate and accessible data, two files stand out for having the longest waiting periods. They are about three individuals – one of whom was executed while the others were granted amnesty. Although the exact date of the court judgment is unknown, the file was submitted to the Justice Commission on November 7, 1967, and was withdrawn with the Presidential Decree (3/293) dated November 19, 1974, with the individuals receiving amnesty. The death sentence in the other case, dated January 1, 1975, was confirmed by Law no. 2776 issued January 12, 1983 and subsequently executed.

120 The earliest file I could find that was not included in the parliamentary agenda after the last execution (1984) was submitted to the Parliament in February 1976. The perpetrator was convicted under Article 450/4,5 of the TCK. Therefore, it can be expected that this individual benefited from the 1991 Amnesty Law (Provisional Article 1 (a) of Law no.3713, issued April 12, 1991), unless his sentence was altered by a retrial prior to 1991. This is equivalent to a fifteen-year waiting period. A secondary scenario pertains to those who would have been sentenced to death prior to the last execution (1984) and who would have been unable to benefit from the amnesty laws during the waiting period, because of disciplinary sanction in prison. It is possible that they were only granted amnesty in 2000 (Law no.4616, issued December 21, 2000) and that they too had been waiting for a period of sixteen years.

betweenness is neither a story of a mutual inability to defeat between abolitionists and retentionists, nor does it represent a state of impartiality. Rather, I argue that these non-execution/waiting years do not constitute a better alternative to execution, nor do they represent a transitional step toward abolition, nor are they a lesser evil. Conversely, it is just another form of the state-violence.

In Turkey, not only execution but also waiting was a part of the capital punishment repertoire. This liminality serves to direct our attention towards the positive aspect of the absence of execution, thus further obscuring the political decision-makers' reluctance to take the initiative, both in relation to the grounds that gave rise to the capital crimes and the very existence and legitimacy of the death penalty. It is just another distraction that serves to remain the control over the law shrouded in mystery. It should be noted that the politics of waiting after the 1990s in Turkey differ significantly from the experience of waiting on death-row. For example, it contrasts with the regime's policies of waiting under curfew in militarized Kurdish border towns; or today's waiting in "uncertainty through legal interventions."¹²¹ While waiting in those contexts can be seen as a technology of power, a pattern – through which the state asserts sovereignty "by constricting space, forcing a different rhythm onto the practices of everyday life and instilling ordinary existence with a sense of uncertainty" – this characterization does not fully capture the nature of waiting on death-row.¹²² The politics of waiting on death-row was less organized, more subtle, sometimes apathetic, and largely silent – but was also deeply cynical. This phenomenon of waiting without execution manifested itself in two distinct forms: Undiscussed death sentences and unexecuted death sentences. First, this section will address the undiscussed sentences, the period of literal silent waiting that is referred to as semi-moratorium – a period characterized by parliamentary abstention from discussing or ratifying death penalty cases, by not including any of them on the parliamentary agenda.

121 Zerrin Özlem Biner and Özge Biner, "Introduction: On the Politics of Waiting," *Social Anthropology* 29, no. 3 (2021): 787–99, <https://doi.org/10.1111/1469-8676.13100>.

122 Ömer Özcan, "Curfew 'Until Further Notice': Waiting and Spatialisation of Sovereignty in a Kurdish Bordertown in Turkey," *Social Anthropology* 29, no. 3 (2021): 816–30, <https://doi.org/10.1111/1469-8676.13082>.

Second, it will discuss hypothetical situations and a case study in which legislators decided neither to execute nor to commute a death sentence, but to opt for a nebulous “un-execution” instead of waiting.

4.2.1 *Waiting to Die: The Silent Politics of Undiscussed Death Sentences*

In the case of Turkey, there have been periods of literal silence: Semi-moratoriums. The term “moratorium” in capital punishment terminology refers to a temporary suspension of executions. It describes the occasion that a state delays or suspends further executions of people on death-row, even while the death penalty remains in the criminal law and the judicial organs continue to sentence to death. The teleological civilizing project anticipates that moratorium would be followed by de facto abolition and eventually resulting in the complete removal of capital punishment from the legal system of the country.¹²³ In Turkey, moratorium-like periods occurred during which executions have ceased, but the Criminal Code still provided for capital punishment. However, those periods of Turkey were suspended by an active retentionist policy. Under new regimes, executions of those sentenced by the courts during the moratorium were resumed.¹²⁴ Hence, rather than a real moratorium, there was a delay for the implementation of the death sentence.

The temporal delay in the execution caused by withholding the draft decree/law from the parliamentary agenda cannot be interpreted as a step towards abolition. This was not a linear phenomenon. It was not a phase of gradual disappearance of the death penalty leading to a more “humanitarian” society. Moreover, capital punishment did not unintentionally survive in the legal system despite non-execution. It has survived because “it is consubstantial with the existence of power.”¹²⁵ There were constant returns to decisions for execution in different socio-political periods. Especially military authorities and their civilian successors attempted to reinstate executions previously

123 It should be recalled that there is a significant difference between the abolition and the de facto abolition of capital punishment. See: Chapter 2, footnote 30.

124 For details on the moratorium periodization, see Chapter 2, footnote 31.

125 Emmanuel Taïeb, *Hiding the Guillotine: Public Executions in France, 1870-1939*, trans. Sarah-Louise Raillard (Ithaca and London: Cornell University Press, 2020), 8.

suspended. These returns were not rupture points or exceptions to the rule of non-execution; rather, they constituted this *tertium quid*, as the waiting for execution. The aim of this study is not to offer an alternative historical definition of the teleological concept of moratorium. Instead, it seeks to define the moratorium-like process of Turkey as having its own purpose, rather than simply being a suspension of execution. It is just another way of obscuration of state-violence and accountability.

I suggest that what is being created is not just a path toward abolitionism, but rather a liminal space with its own agenda. The key pattern supporting this hypothesis is that the non-execution periods were halted twice by executions. Despite this obvious threat of a return to execution, the death penalty has never been removed from the law. More precisely, three periods of de facto moratorium can be distinguished in Turkey: 1964-1971, 1972-1980, and 1984-2004.¹²⁶ During the first period, Parliament previously approved the final death sentence in 1964, and then commuted numerous death-row inmates' sentences by enacting an amnesty law in 1966.¹²⁷ Subsequently, for the following five years, no execution file was discussed in Parliament. In the aftermath of the 1971 military intervention, it was decided to execute fifteen individuals whose dossiers had already been submitted to the relevant ministries within a span of one to five years prior.¹²⁸ These executions were authorized within a single day. After a year of executions, in the aftermath of the 1972 landmark case, a second moratorium-like period ensued, persisting until 1980.¹²⁹ Following the 1980 military coup, history appeared to repeat itself. The files of numerous individuals whose files had arrived at Parliament since the 1974 Amnesty Law were consequently placed on the parliamentary agenda.¹³⁰ This indicates that death sentences have been issued against individuals who had

126 For details on the moratorium periodization, refer to Chapter 2, footnote 31.

127 Law no.480, issued June 23, 1964; Amnesty Law no. 780 issued August 09, 1966.

128 The first parliamentary debate on capital punishment after a seven-year silence occurred on June 3, 1971, in the National Assembly and on July 8, 1971, in the Senate of the Republic. During this period, there were no cases with recent court decision dates; the most recent court verdict considered was dated June 1970 for that one-month timeframe.

129 Law no.1586 issued May 02, 1972 (Law on the Execution of the Death Sentences of Deniz Gezmiş, Yusuf Arslan and Hüseyin İnan)

130 From Amnesty Law no.1803, issued May 15, 1974 to Law No.2308, issued October 06, 1980.

remained in a limbo for seven years. The final non-execution period, which commenced in 1984, concluded with total abolition of the death penalty after twenty years of non-execution.¹³¹ According to this picture, if the objective had been a gradual abolition, one would have expected a step beyond just waiting in the face of the threat of retention, which arose not once but twice. The abrogation of numerous capital crimes types from the criminal code in 1990 constituted a milestone.¹³² Whilst the legal definition of abolition was distorted within Turkey's context, the year 1990 can be regarded as the first convincing step towards abolition. However, as will be discussed in the final chapter, like the capital punishment itself, its abolition also serves various purposes which are unrelated to ending executions. And until then, parliamentary assemblies under any regime appear to have avoided taking responsibility for a wait which ends in death while hoping for forgiveness.

It is crucial to stress that a shift in policy from non-execution to execution does not in itself undermine the intentions of those who refuse to carry out executions. After all, it would be a fallacious interpretation to claim that different regimes share the same agenda simply because their divergent behaviors ultimately lead to the same outcome. One might posit that civilian regimes pursued abolition, while military regimes hindered this process. This distinction can also apply to two civilian regimes with differing views. For instance, a *de facto* interim suspension of execution has also been observed in Japan. "Because executions require the signature of the Minister of Justice, the abstention from signing by anti-death penalty Ministers of Justice in office ... resulted in a *de facto* moratorium. There was also an active abolitionist campaign."¹³³ This refusal of ministry was an active political action in the Japanese context. For example, one of those ministers was "a Buddhist priest who said executions violated his belief in the sanctity of life."¹³⁴ This period ended with

131 Law no.3052, issued October 04, 1984; Law no. 5218, issued July 14, 2004.

132 Law no. 3679, issued November 21, 1990. Articles such as capital crimes against the State and capital murder were retained, while the death penalty was abolished for fifteen other types of crimes.

133 International Federation for Human Rights, "The Death Penalty in Japan: A Practice Unworthy of a Democracy," International Mission of Investigation Report no. 359/2 (May 2003), 6.

134 Johnson, "The Death Penalty in Japan," 268.

a new Minister of Justice from a different political party, who resumed authorizing executions without any hesitation. In such cases, even if the law remains unrepealed and executions are restored, the interim suspension is a clear declaration of intent to abolish.

When evaluated from this perspective, it can be argued that the presence of military regimes in Turkey has acted as a deterrent to the rise of abolitionism among civilian ones. For example, the military regime of 1982 (Milli Güvenlik Konseyi, MGK, or National Security Council) blamed the previous civilian regimes for the capital punishment files being kept pending in parliamentary committees from 1975 until that day due to “just political concerns.”¹³⁵ The Advisory Assembly later described this delay as “the most prominent example of the complete irresponsibility of past Assemblies.”¹³⁶ This “mistake” of the previous civilian parliaments was compensated not by amnesty, but by execution. As a result, any effort to suspend the death penalty, including non-execution, has faced criticism. Under such pressure, elected parliamentarians may be perceived as a relatively powerless group. The silence during the multi-party periods in Turkey, after any military tutelage, may create the impression of the civilian regime’s Brechtian resistance manifested in a personal, secretive, and subtle manner.¹³⁷ It could be argued that a civilian regime reached the limits of their agency and did its best by keeping quiet. However, this conclusion is, to use a mild expression, one-dimensional and incomplete with regard to Turkey. This was more than a battleground between regimes. There was no inherent consensus on abolitionism, even among civilian regimes. It was not a passive and haltered trajectory toward abolition, but a deliberate act to create a liminality. And the three patterns can be used to support my argument.

135 Senior Colonel Judge Fahrettin Aksay (Chairman of Justice Commission), *Milli Güvenlik Konseyi Tutanak Dergisi*, C.6, B. 102, April 22, 1982, 567.

136 Fikri Devrimsel, *Danışma Meclisi Tutanak Dergisi*, C.5, B.81, O.1, April 15, 1982, 42.

137 “These Brechtian – or Schweikian – forms of class struggle have certain features in common. They require little or no coordination or planning; they make use of implicit understandings and informal networks; they often represent a form of individual self-help; they typically avoid any direct, symbolic confrontation with authority.” James C. Scott, *Weapons of the Weak: Everyday Forms of Peasant Resistance* (New Haven: Yale University Press, 1985), xvi–xvii.

The first pattern relates to pro-death penalty statements following military interventions. If a semi-moratorium were truly to be regarded as a road to abolition, the reinstatement of death sentences would have been widely contested on the grounds that it is a “remnant of barbarous times,” as seen in some American cases.¹³⁸ However, in Turkey, the retentionist voices predominantly came from members of the same political cadres who had been directly involved – either as legislators or government officials – in keeping cases undiscussed during the years of silence. For instance, members of the Demirel governments, which were in power for almost the entire period of the first semi-moratorium, advocated for execution in the notorious case of Gezmiş, Arslan, and İnan in 1972.¹³⁹ The actors responsible for both non-execution and execution appear to be largely the same. As will be demonstrated in the section on political crimes, anti-capital punishment rhetoric represents more than a mere humanitarian cleavage.

Furthermore, even if there was a critique, it was not directed towards the return to execution per se, but rather its timing. For example, the new civilian government formed after the 1971 Memorandum interpreted the reintroduction of these laws – already on the parliamentary agenda for five to six years – as a political challenge against itself.¹⁴⁰ The counter-argument posited that this delay was not attributable to political considerations but rather to “the slow pace of justice.”¹⁴¹ Indeed, there are some cases which demonstrate the judicial process was very slow. One example is that of a case dated 1942, wherein it is stated that the proceedings lasted twelve years and it was referred to *Yargıtay* seven times.¹⁴² However, whatever the length of the proceedings, once a case

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- 138 Judith Radle, “The Cultural Lives of Capital Punishment in the United States,” in *The Cultural Lives of Capital Punishment*, ed. Austin Sarat and Christian Boulanger, (Stanford: Stanford University Press, 2005), 104.
- 139 From October 1965 to March 1971, three different governments were formed under the presidency of Süleyman Demirel, and from June 1964 to June 1971, no death penalty cases were discussed in Parliament.
- 140 Mehmet Aytuğ (Elâzığ), *Millet Meclisi Tutanak Dergisi*, D.8, T.2, Cilt.14, B.107, June 03, 1971, 18.
- 141 Mustafa Karaman (Gümüşhane), *ibid.*, 19.
- 142 The speech of Salâh Yargı (Kocaeli) on Decree no. 1294, dated June 8, 1942. *TBMM Zabıt Ceridesi* D.6, C.26, İ.3, İn.68, June 3, 1942, 34.

reaches Parliament – unless a retrial is ordered – it is Parliament’s responsibility. Therefore, whether or not the inertia of the judiciary is a problem, it is not a legitimate basis for inertia in Parliament. Once again, as in the case of executions, responsibility for non-execution was also delegated to the justice system; rather than recognized as a deliberate act of moratorium or as inherent to the very existence of the death penalty itself.

Another reason why the periods of silence cannot be viewed as an unsuccessful attempt at abolitionism is their repetitive nature. Turkey experienced three semi-moratorium periods, and two of which ended with the serial executions. If the silent years were merely a reflection of the anti-death penalty, especially after the first retentionist turn in the 1970s, one might have expected direct judicial attempts toward abolition instead of a second and third “administrative abolitions.”¹⁴³ Some legislators genuinely framed the years of silence as a step towards abolition, accentuating the phenomenon of social responsibility. For example, a deputy expressed their concerns before the vote on a specific death penalty dossier. This dossier was the first case to be discussed in the Parliament after seven-year gap, and marked the end of Turkey’s first semi-moratorium period:

This will be the first time that such a bill has been discussed since the opening of this session of the National Assembly.... Dear friends, neither you nor I personally know Kâmil Akman [the person named in this dossier who has been on death-row for four years]. We are speaking here about Kâmil Akmans[, many individuals like him]. Once this bill is approved by the Supreme Assembly, there is no need to discuss the other cases. Because whatever the vote will be for Kâmil Akman, it will be the same for the others. The execution of a person who has committed a crime [burglary], a murder, for the underlying social and economic reasons will come and go with your votes, without delving into the depths. However, you should know that Kâmil Akmans will come again.... If society bears a small fault, if society has neglected and rejected this individual, if this person has committed murder by

143 I borrowed the term “administrative abolition” from David T. Johnson. Johnson, “The Death Penalty in Japan,” 267.

surrendering to fate, it is not enough to blame only this person. It is important for society to examine its own mistakes as well. The reasons behind his execution must be sought at the grassroots level.¹⁴⁴

No one spoke after this speech, and silence ensued. On the very day, the execution of fifteen individuals on death row, including Kâmil Akman, was authorized.¹⁴⁵ Following this very first experience, it became apparent that there was a genuine risk that these documents could be brought back onto the parliamentary agenda whenever power changed hands, whether through elections or a coup d'état. Nevertheless, despite this recurring risk, no conclusive steps have been taken towards abolishing the death penalty.

What I argue is not that there were no sincere abolitionist legislators or that no abolition proposals were ever made. Given that Parliament was not a monolithic entity operating outside of time and space, it is unsurprising that there were deputies who opposed the death penalty. However, the steps taken have been, to put it mildly, minimal. One reason for this is temporality, the other is the relative lack of monitoring. The spectre of retentionists became a visible threat in times marked by the interruption of the de facto moratorium, and one of the most concrete steps towards abolition was taken with the introduction of legislative proposals at the beginning of the second de facto moratorium period. The proposals, which were submitted in May 1974 as two distinct documents bearing the signatures of nearly twelve deputies and support of one parliamentary group, also covered clues that identified the problem on the ground:¹⁴⁶

The perpetrators of crimes punishable by the death penalty have always been victims of this corrupt and unjust system. The factors that push them to commit crimes, which cost their lives, are their poverty, ignorance, the belief that real justice cannot be achieved, the inability

144 Turhan Özgüner (İçel), *Millet Meclisi Tutanak Dergisi*, D.8, T.2, Cilt.14, B.107, June 03, 1971, 10.

145 *Ibid.*

146 The legislative proposals on the abolition of the death penalty submitted by Tekirdağ Deputy Yılmaz Alpaslan, Istanbul Deputy Hasan Basri Akkırar, and 10 colleagues, and the Justice Committee Report (2/202, 2/195), dated January 29, 1974 and May 6, 1974.

This legislative proposal was also supported by the Parliamentary Group of the CHP.

to solve the problem of women in this age, and the failure to prevent the outdated practice of blood-feud by providing educational opportunities.¹⁴⁷

In 1975, this legislative proposal of abolition was deliberated and subsequently rejected by both chambers of Parliament.¹⁴⁸ However, following the commencement of the period of suspension of execution, silence became the prevailing norm again. It could be said that in the heat of the moment, extraordinary steps were taken but immediately extinguished. No further legislative proposals on abolition appeared on the parliamentary agenda until the mid-1980s. On the other hand, even if they were not on the parliamentary agenda, we know that some have been submitted to the Committee, but they are extremely rare.¹⁴⁹ It is only when an execution file was brought before them, at

147 The legislative proposals on the abolition of the death penalty submitted by Tekirdağ Deputy Yılmaz Alpaslan, Istanbul Deputy Hasan Basri Akkiray, and ten colleagues (2/202 – 2/195), dated January 29, 1974.

148 *Millet Meclisi Tutanak Dergisi*, D.4, C.11, T.2, B.70, April 29, 1975.
This legislative proposal can be traced in the “Incoming Papers” column of the minutes of the Senate of the Republic dated May 13, 1975. However, no further discussion or submission related to this proposal has been found. According to Article 92 of the Constitution of 1962, “the Senate of the Republic shall take a decision on a text submitted to it within a period not exceeding the length of discussion in the Committees and in the plenary-session of the National Assembly Texts not adopted within these time limits shall be deemed to have been approved by the Senate of the Republic in the form in which they were received from the National Assembly.” As no discussion of this Commission Report could be found, it is reasonable to assume that it was accepted without alteration. In other words, the proposal for abolition was automatically rejected in the Senate of the Republic due to the lack of discussion and subsequent action.

149 For instance, Turhan Özgüner (İçel) said that “Numerous groups, including several acquaintances from our own, have submitted legislative proposals to the Grand Assembly advocating for the abolition of capital punishment.” *Millet Meclisi Tutanak Dergisi*, D.8, T.2, Cilt.14, B.107, June 03, 1971, 10.

It is recorded in the “Incoming Papers” column of the parliamentary minutes that two legislative proposals for the abolition of the death penalty were sent to the Justice Commission on January 5, 1978. (The legislative proposals on the abolition of the death penalty submitted by Tekirdağ Deputy Yılmaz Alpaslan and eighty colleagues (2/345) and the legislative proposal by Ragıp Üner, a member of the Senate from Nevşehir, concerning the amendment of

the very last moment, these proposals seem to be followed up. As a case in point, a proposal referred to the Justice Commission in March 1970 did not subsequently appear on the agenda for a further twenty-four months.¹⁵⁰ Indeed, it appears that the issue was not questioned until the notorious case of 1972 came before the Commission.¹⁵¹ Briefly, despite the occurrence of certain abolitionist actions, what is essential is inactivity.

The final, and perhaps most brutal, pattern for self-evident silent years is that the death penalty dossiers were not forgotten, but remembered and yet kept waiting. The members of parliament seemed fully aware that these death sentences had not been discussed. This is exemplified by the following sarcastic dialogue from 1979, which took place during a case brought before parliamentary agenda four years after the date of the court verdict:

Speaker of Parliament: The Prime Ministry's resolution on the execution of the death sentence of Ahmet Mehmet Ulugbay (Ulubay) and the Justice Commission Report. *Sayın* Commission?

Chairman of the Justice Commission: I am here, but where did that come from, Mr. Speaker? (*Laughing*)

paragraph 2 of Article 450 of the TCK no. 765 (2/312). The latter also appeared in the "to the Agenda" section of the minutes dated February 28, 1978. However, I cannot trace any further steps in any of the documents. It appears that both proposals remained undiscussed and unaddressed.

- 150 The legislative proposals on the abolition of the death penalty submitted by Nevşehir Deputy Salâhattin Hakkı Esatoğlu and eight colleagues (2/286).

This legislative proposal under scrutiny can be traced back to the "Outgoing Papers to Justice Commission" column of the parliamentary minutes. *Millet Meclisi Tutanak Dergisi*, D.3, C.3, T.1, B.50, March 2, 1970.

- 151 Law no.1586 dated May 02, 1972 (The Execution Law of Deniz Gezmiş, Yusuf Arslan and Hüseyin İnan).

Bülent Ecevit (Zonguldak) expressed that when there are legislative proposals aimed at abolishing the death penalty, it is fundamentally inappropriate to debate a resolution to carry out executions of these three people before those abolition bills have been addressed, regardless of whether one supports or opposes them. *Millet Meclisi Tutanak Dergisi*, D.3, C.23, T.3, B.58, March 10, 1972, 106-7.

Speaker: From the agenda, *efendim*.¹⁵²

At first glance, it may be thought that it was the interruption of seven years of silence that surprised the Chairman of the Justice Commission. Nevertheless, the Chairman himself had signed the Justice Commission Report over a year and a half earlier. Even in the most optimistic scenario, he had been aware of this case for at least a year and a half. However, what perplexed him was this report's inclusion on the parliamentary agenda, rather than its omission for four years. This gave rise to the impression that the wait was a conscious, or at the very least, reckless maneuver. Another example can be observed in the 1989 attempt by the Council of Ministers to remove the parliamentary approval for the death penalty and instead link it to an automatic execution process.¹⁵³ Under this proposal, the power of Parliament to commute death sentences would be retained only if the prisoner submitted an application. If Parliament had not considered the clemency request within two years, the execution would proceed automatically. Unofficially, according to the Minister of Justice, files of 244 death-row inmates were pending before Parliament at that time.¹⁵⁴ Even if the proposed constitutional amendment was ultimately rejected, this initiative indicates that the authorities were keenly aware of the prolonged state of waiting that had characterized previous years. Moreover, it suggests an attempt to institutionalize this waiting period by effectively removing parliamentary responsibility, thereby normalizing a state of suspended justice. In other words, the act of waiting itself can be perceived as a part of capital punishment in Turkey. In a situation where life has not ended by law, it is "hold-on."¹⁵⁵

152 Namely, Cahit Karakaş (Speaker of Parliament, Zonguldak) and Ismail Hakki Köylüoğlu (Chairman of the Commission of Justice, Ankara). *Millet Meclisi Tutanak Dergisi*, D.5, C.12, T.2, B.101, June 7, 1979, 616.

153 Turhan Yılmaz, "İdam Cezalarında Formül Arayışı" *Cumhuriyet* 23352, (August 28, 1989): 7, cited by Gemalmaz, *Türkiye'de Ölüm Cezası I*, 659-60.

154 "İdamın İki Yüzü," *Cumhuriyet* 23370, (September 15, 1989): 1-9 cited by *ibid*.

155 Bendixsen and Eriksen employed the term "hold-on" to denote the legally uncertain status of Palestinian irregular migrants in Norway. Synnøve Bendixsen and Thomas Hylland Eriksen, "Time and the Other: Waiting and Hope among Irregular Migrants" in *Ethnographies of*

In the de facto moratorium years, the position of death-row inmates is profoundly characterized by their state of waiting. It is crucial to emphasize that waiting on death-row transcends a Godot-like “simply wait.”¹⁵⁶ It is neither a meaningless and existential form of waiting in everyday life, nor a Schweizerian “waiting without value.”¹⁵⁷ Instead, it seems a gore version of Bourdieusian approach, “where waiting is analyzed predominantly as a technology of governance: power is effectuated through its exercise over other people’s time.”¹⁵⁸ The European Court of Human Rights (ECtHR) “found that death-row phenomenon contributes to the long-term psychological decline of a person’s health; harsh death-row living conditions contribute to physical deterioration; mental anguish of anticipating execution.”¹⁵⁹ The period of the delay in execution has been symbolized by this cruel waiting. Although the right to kill is institutionalized by various legal means, no legal basis exists for delaying any execution. Once a court decision becomes legally binding, the

Waiting: Doubt, Hope and Uncertainty, ed. Manpreet K. Janeja, Andreas Bandak (London: Bloomsbury Publishing, 2018): 89.

- 156 Samuel Beckett, *Waiting for Godot* (London: Faber and Faber, 2006), 31.
 “In Beckett’s play, it is waiting that shows existential reality; not waiting for this or that, but waiting; not Time as a form of cognitive thought, but the wait as lived, out of time; not hope or desire or fear, but undifferentiated waiting.... Thus, there can be neither optimism nor pessimism, since life must be lived, and that is all.” quoted in Robert Champigny, “Waiting for Godot: Myth, Words, Wait,” in *Casebook*, ed. Cohn, 143, cited in Harold Schweizer, *On Waiting*, (New York: Routledge, 2008), 10.
- 157 David Bissell, “The Poetics of Waiting Without Value: Harold Schweizer, On Waiting,” *Time and Society* 18 no. 2/3 (2009): 410–13, <https://doi.org/10.1177/0961463X09337853>.
- 158 Andreas Bandak and Manpreet K. Janeja, “Introduction: Worth the Wait,” in *Ethnographies of Waiting: Doubt, Hope and Uncertainty*, ed. Manpreet K. Janeja and Andreas Bandak (London: Bloomsbury Publishing, 2018), 4, citing Pierre Bourdieu, *Pascalian Meditations* (London: Polity Press, 2000).
- 159 CoE, “Abolition of Death Penalty,” (October 2022). <https://www.coe.int/en/web/abolition-death-penalty>.

As explained in footnote 7, the connotation of the death-row phenomenon differs between the United States and Turkey. In America, death-row inmates are those awaiting a decision on execution date after clemency proceedings have been completed. But in Turkey, death-row inmates were waiting for either the ratification of their execution or commutation at the same time. However, despite these differences, the observation of the CoE regarding the death penalty remains appropriate to the situation.

sentence should be implemented promptly. From the legal perspective, a punishment which is not carried out is no punishment at all. Yet, in the case of capital crimes, suspending the execution of a death sentence can be considered a form of torture. Consequently, waiting is neither a punishment regulated by the law, nor an impunity. It is more a reflection of power, a “strategy of state control” which attempted to be obscured.¹⁶⁰

When I argue that this was a strategy of power rather than a moratorium in the strict legal sense, I do not imply that the actors consciously intended to create a new form of violence. It is unlikely that waiting – now seen as part of the repertoire of state-violence – was a deliberate act of torture or a meticulously organized method of control given the conditions of the time. Rather, it is more accurate to understand it as a reflex enabled by power, as a field of action. They do it, because they can, even in matters of grave social and legal consequence. However, this does not imply that the non-execution was entirely unconscious or accidental. Not deciding whether to execute or pardon is itself a decision. Within this field of action, opting for non-execution was also a deliberate choice. The act of withholding executions, while not necessarily planned as a form of punishment, was nonetheless an intentional exercise of power that inflicted harm in a different way. The act of waiting can be interpreted as a power strategy employed by those who advocate for retaining of the death penalty within the judicial system, yet seek to avoid direct involvement in its implementation. Alternatively, it may be seen as a tactic employed by those who are opposed to the death penalty, but who are reluctant to assume responsibility for its abolition. But in any case, it is clear that this is a move shared by all the agents of state-killing.

It is like a “bystander apathy.” The research of social psychologists John M. Darley and Bibb Latané demonstrated that individuals are less likely to help a victim when other bystanders are present, due to diffusion of responsibility.¹⁶¹ The case that inspired this research was the 1964 murder of Kitty Genovese in

160 Javier Auyero, *Patients of the State: The Politics of Waiting in Argentina* (Durham, NC: Duke University Press, 2012).

161 John M. Darley and Bibb Latané, “Bystander Intervention in Emergencies: Diffusion of Responsibility,” *Journal of Personality and Social Psychology* 8, no. 4 (1968): 377–83, <https://doi.org/10.1037/h0025589>.

New York City. According to police reports, although the attack had lasted more than half an hour, “not one of the thirty-eight people who watched from the safety of their own apartments came out to assist her. Not one even lifted the telephone to call the police.”¹⁶² Diffusion of responsibility occurs when individuals feel less personal obligation to intervene because they assume others will act. Social influence leads people to look to others for cues on how to behave, and collective inaction arises when individuals mistakenly believe that others do not perceive the situation as an emergency.¹⁶³ In the context of Turkey’s non-execution years, a similar dynamic may have been at play. Legislators could have felt less personal responsibility to act when others were around, feared public judgement, or underestimated the situation because no one else was taking initiative. But in any case, it is an act of those who refuse to acknowledge their share of social responsibility, regarding both capital crimes and capital punishment. Those who hesitate to utilize their power to abolish the death penalty, but do not want to have blood on their hands, condemn people to a state of limbo that is no more humane than execution. To paraphrase the noteworthy words of an exceptional voice in the Parliament, “it is not the right of the state to make a convict live death every day for years, even if they deserved it, by not fulfilling their [Parliament’s] duty.”¹⁶⁴

Notably, in instances where the waiting period did not result in clemency, the loop was immediately restored. The only difference was that the responsibility has been transferred to the previous regime, rather than the jurisdiction. For instance, in one case, *Yargıtay* had finalized the sentence in December

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- 162 A. M. Rosenthal, *Thirty-Eight Witnesses* (New York: McGraw-Hill, 1964), quoted in *ibid.*, 377. It should be remembered that recent findings revealed there might be far fewer witnesses than originally reported, and some did try to help Genovese. However, this does not diminish the significance or validity of the “bystander apathy” theory in psychological studies. See: Sam Roberts, “Sophia Farrar Dies at 92; Belied Indifference to Kitty Genovese Attack,” *The New York Times*, September 2, 2020. <https://www.nytimes.com/2020/09/02/nyregion/sophia-farrar-dead.html>
- 163 Ruud Hortensius and Beatrice de Gelder, “From Empathy to Apathy: The Bystander Effect Revisited,” *Current Directions in Psychological Science* 27, no. 6 (2018): 249-56, <https://doi.org/10.1177/0963721417749653>
- 164 The reasoned decision for abstention of Bekir Sami Deçe in the Justice Commission Report (3/8). *Danışma Meclisi Tutanak Dergisi*, C.5, Y.?, B.101, June 3, 1982.

1975, but the case was only added to the parliamentary agenda in April 1982.¹⁶⁵ A member of Advisory Assembly stated:

My friends, the door of the cell where the convict awaits the death is not gently knocked on, nor is he asked to come in. This process is familiar to some of our friends who have been present in the execution. The door is opened in the early hours of the morning while the convict is asleep, and he is caught before he has a chance to move. It is difficult to hold and restrain him. This person has been kept waiting for months with these feelings. We will hang him immediately, but what should we say to those who kept him in this situation for years?¹⁶⁶

This speech appears to come from someone who has effectively grasped the anthropological concept of “temporal multiplicity.” By “scrutinizing the politics of storytelling during different temporalities” or focusing on “the multifaceted relationship between waiting and hoping during different temporalities,” it captures how the sense of time experienced by the legislators and that of those condemned to death by them are positioned differently.¹⁶⁷ In this context, time itself becomes an instrument of violence.¹⁶⁸ However, there is a significant divide between the arguments of this speech and those of this dissertation. The target of criticism here is the inertia of past assemblies, not regarding the abolition of the death penalty, but its execution. Throughout the 1980s, numerous forms of state-killing were performed by military and civilian regimes, including capital punishment. However, waiting for death was portrayed as more inhumane than the execution itself. Paradoxically, the new retentionist regime came to the fore as a life-saver, while the old regimes were assigned responsibility for both the cruel waiting and the execution they

165 Law no.2660, issued April 22, 1982.

166 Fikri Devrimsel, *Danışma Meclisi Tutanak Dergisi*, C.5, B.81, O.1, April 15, 1982, 43.

167 Flaherty 2011: 131–51; Jackson 2002: 107–27; Bendixsen and Ericson 2018: 95, cited by Özgür Sevgi Göral, “Waiting for the Disappeared: Waiting as a Form of Resilience and the Limits of Legal Space in Turkey,” *Social Anthropology* 29, no. 3 (2021): 800–15, <https://doi.org/10.1111/1469-8676.13096>.

168 Göral uses the term “time as an instrument of violence” to describe how the colonial aspects of the existing politico-legal regime employ time in the context of relatives of enforced disappearances. *Ibid.*

wished to avoid through delay. It would seem that a way was found to blur who was involved in controlling the legal and penal system, even if the execution of death sentences was openly carried out. The years of silent waiting do not signify an ambivalence between retentionists and abolitionists; rather, they reveal a different manifestation of power in disguise.

4.2.2 *Waiting in Limbo: Unexecuted Death Sentences*

In his book *The Sense of an Ending*, Frank Kermode asks the reader to consider the ticking of a clock. Each tick is identical. But the mind's ear imposes an order on the sounds. We imagine the ticks as two distinct types: "tick" and then "tock." As Kermode puts it in his brilliant prose: "*Tick* is a humble genesis; *tock* the feeble apocalypse."¹⁶⁹

The semi-moratorium years and the delay in execution appear to align with a fictional time gap in Kermode's work, characterized by the one between "*tick* is our word for a physical beginning" and "*tock* our word for an end."¹⁷⁰ In Turkey's history, those who spent many years on death-row experienced these intervals, which ultimately concluded either with two waves of return to execution in 1971 and 1980 or with three amnesties in 1966, 1974, and 2000, and with an ultimate abrogation of capital punishment laws in 2004.¹⁷¹ Moreover, in non-execution cases, where there was neither an execution nor a pardon, there were two sides of the same coin: the absence of a decision to execute (undiscussed cases as explained above) and the presence of a decision "not to execute." It is legally and technically possible for the Parliament to discuss a capital punishment case and reach a decision "not to execute" while simultaneously abstaining from delineating an alternative penalty to be imposed in

169 Craig Jeffrey, "Foreword," in *Ethnographies of Waiting: Doubt, Hope and Uncertainty*, ed. Manpreet K. Janeja and Andreas Bandak (London: Bloomsbury Publishing, 2018), xv.

170 Frank Kermode, *The Sense of an Ending: Studies In The Theory of Fiction* (New York: Oxford University Press: 2000): 44-45.

171 Amnesty Law no. 780, enacted August 9, 1966 (*Bazı Suç ve Cezaların Affı Hakkındaki Kanun*); Amnesty Law no. 1803, enacted May 15, 1974 (*Cumhuriyetin 50. Yılı Nedeniyle Bazı Suç ve Cezaların Affı Hakkında Kanun*); Amnesty Law no.4616, enacted December 21, 2000 (*23 Nisan 1999 Tarihine Kadar İşlenen Suçlardan Dolayı Şartla Salıverilmeye, Dava ve Cezaların Ertelenmesine Dair Kanun*).

lieu of a death sentence (such as life imprisonment). In the decision “not to execute,” the condemned prisoners resulted in a state of waiting, which differed from that experienced by “absence of a decision” prisoners. Following the decree or law of un-execution and also non-commutation, perpetrators appear to hear *tock*, as a “feeble apocalypse.” When we listen to “rhythmic structures such as *tick-tock*, repeated identically, ‘can reproduce the intervals within the structure accurately, but [we] cannot grasp spontaneously the interval between ... *tock* and *tick*, even when this remains constant.”¹⁷² In unexecuted death sentences, unlike undiscussed cases, the prisoners on death-row found themselves in a state of waiting during an “interval between [not *tick* and *tock*, but] *tock* and *tick* corresponds to ‘*chronos*’ in Greek terms. It is simply dead time, empty successiveness.”¹⁷³ These prisoners cannot be executed because Parliament has not formally approved their death sentences. Moreover, since their sentences have not been commuted to any alternative punishment, they are not subject to any other penalty. They wait without even knowing their legal status, without knowing what they are waiting for.

Evidently, there is a significant degree of ambiguity in jurisprudence. As previously discussed in the context of the loop that fosters silence in capital punishment, a persistent question of authority has existed from the outset between the judiciary, and the legislative and executive powers. Furthermore, both the by-laws and criminal law have left unanswered the critical question of what happens if Parliament decides not to carry out an execution without specifying an alternative sentence to replace the death penalty resulting from a criminal conviction. In other words, what happens if the Parliament passes a decree/law rejecting the execution of a death sentence instead of commuting it? The issue was not just a matter of criminal law; it entered the realm of Constitutional law. During the period in which the death penalty was in force in Turkey, three different Constitutions governed the country. The two new Constitutions of the period both retained the death penalty, but simultaneously rendered the authority of Parliament more obscure than clear.

172 Kermode, *The Sense of an Ending*, 45.

173 Jeffrey, “Foreword,” xv.

In accordance with Article 26 of the 1924 Constitution and subsequent articles thereof, the Parliament was entitled to mitigate court judgements or other sentences.¹⁷⁴ However, this was in contradistinction to another constitutional provision that upheld the separation of powers, which stipulated that “neither the legislative nor executive power may modify, alter, [or] delay execution of decisions of the courts.”¹⁷⁵ The 1961 Constitution is notable for removing the power to “commute” or “mitigate” sentences from the parliamentary authority, whilst preserving the articles of separation of powers.¹⁷⁶ This change aimed to eliminate confusion between these two articles. Yet, the elimination of this contradiction gave rise to a new one. Because the Parliament retained the authority to decide on the execution of finalized death sentences imposed by the courts and to grant amnesty.¹⁷⁷ Thus, theoretically, the Parliament was not entitled to commute any court judgements; but at the same time, it was obliged to decide whether or not to execute death sentences, which were themselves court judgements. One of the earliest parliamentary comments on this issue asserted that any act of mercy regarding a death sentence could only be exercised by introducing a law for pardon or general amnesty; otherwise, Parliament could not simply authorize commuting the sentence to life imprisonment.¹⁷⁸ Consequently, it became even more ambiguous what would happen if Parliament refused both to execute capital punishment and to enact an amnesty law. Furthermore, the subsequent Constitution did not resolve this ambiguity; indeed, it rendered it more open to interpretation. The 1982 Constitution introduced a linguistic change, replacing the verb “decide to execute”

174 Article 26 of the Constitution of 1924: “The Grand National Assembly itself ... decrees partial or general amnesty; mitigates sentences and grants pardons;... executes definitive sentences of capital punishment handed down by the courts.”

175 Article 54/2 of the Constitution of 1924.

176 Article 132 of the Constitution of 1961: “Legislative, executive organs, and the administration ... shall in no manner whatsoever alter court ruling or delay their execution.”

177 Article 64 of Constitution of 1961: “The Grand National Assembly is empowered ... to pass resolutions in regard to proclaiming pardons and amnesties, and to the carrying out of definitive death sentences passed by courts.”

178 Osman Saim Sarıgöllü (Aydın), *Cumhuriyet Senatosu Tutanak Dergisi*, D.1, C. 15, T.2, B.123, October 24, 1963, 431.

with “confirm,” thereby giving an air of bureaucratic neutrality to Parliament’s role in executions.¹⁷⁹

Perhaps the most vicious illustration of the legislative decision-makers’ reluctance to choose either execution or pardon is the sole case where it legally exploited the aforementioned legal gap, namely, when it made a “not-executing” decision while refraining from imposing an alternative penalty or pardon.¹⁸⁰ This case was debated in the context of the civilian assemblies (the National Assembly and the Senate of the Republic) established in the aftermath of the 1960 coup d’état. It pertains to a military wing that has expressed discontent with the civilian regime that succeeded the military regime. The actors were condemned on the grounds of their roles in an unsuccessful coup against the civilian government in May 1963. Following the sentencing of four retired soldiers to capital punishment, various political actors within the legislature voiced demands for clemency, and two separate proposals for pardon laws were submitted to Parliament.¹⁸¹ However, both legislative bodies rejected these proposals.¹⁸² Consequently, Parliament ratified the execution of the sentence for two of the convicts, while issuing a decision of “not to execute” for

179 Article 87 of the Constitution of 1982: “The functions and powers of the TBMM comprise ... deciding on the proclamation of amnesty and pardons excluding those who have been convicted for activities set out in Article 14 of the Constitution; confirming death sentences passed by the courts.”

180 The only law on “not-executing” was the Law no. 480, enacted June 23, 1964 (Law on the Execution of the Death Sentence for Talât Aydemir and Fethi Gürcan, and on the Non-Execution of the Death Sentence for Osman Deniz and Erol Dinçer).

181 As will be explained in detail in Chapter 5, one of the legislative proposals under consideration entails the commutation of the prisoners’ sentence to twenty-four years of aggravated imprisonment, while the other entails aggravated life imprisonment.

The Legislative Proposal and Justice Commission Report on the Amendment and Reduction of Sentences for Certain Offenders, submitted by Enis Kansu, Member of the Senate of the Republic for İzmir, (2/607) dated November 11, 1963 and the Legislative Proposal and Justice Commission Report Concerning the Commutation of Death Sentences to Aggravated Life Imprisonment for Talât Aydemir, Fethi Gürcan, Osman Deniz, and Erol Dinçer, submitted by Mustafa Kemal Erkovan, Member of Parliament for Ankara, (2/606).

182 *Millet Meclisi Tutanak Dergisi*, D.1, T.3, C.26, B.42, January 28, 1964; *Cumhuriyet Senatosu Tutanak Dergisi*, D.1, C.19, T.3, B.50, March 11, 1964.

the remaining two, thereby legally utilizing the ambiguous space between execution and commutation.¹⁸³

This case exemplifies Parliament's strategic use of legal ambiguity to avoid clear responsibility. It is evident that Parliament could not refrain from discussing the case of these individuals, who had dominated the country's agenda in a highly contentious and disastrous manner. In such a politically sensitive case, any silent act of non-decision was not a viable option. Furthermore, Parliament did not take responsibility for pardoning their sentences. In this instance, the attempt to disguise its agency was operated by the "not to execute" decision, creating an alternative limbo that failed to satisfy either supporters of execution or advocates of commutation. When questioned about the consequences if Parliament also rejected the death sentence after clemency resolutions were rejected, opinions diverged. Some argued that death-row inmates would become life prisoners while others argued that non-ratification of the execution would lead to the prisoner's release.¹⁸⁴ Nevertheless, the third response, which was both prevalent and practically applied, was as follows: If Parliament did not vote in favor of the report approving the execution of death sentences, the prisoners would remain condemned to death, but executions could not be carried out. The defendants therefore remained on death-row, yet their executions were prevented because the legislature never approved them. For this reason, it was argued that if a decision is made in the future, or if amnesties are granted, these prisoners would be treated according to regulations for death-row inmates rather than as life prisoners.¹⁸⁵

Yes, in principle, a decision taken by Parliament not to execute the death sentence does not automatically result in the commutation of that sentence to

183 Law no. 480, issued June 26, 1964.

It was decided to execute the death sentence for Talât Aydemir and Fethi Gürcan, but not to execute the death sentence for Osman Deniz and Erol Dinçer.

184 The argument that the prisoner would regain full liberty is an exception, but it can be found in the parliamentary debates in 1964. For instance, Sadık Artukmaç (Yozgat), *Cumhuriyet Senatosu Tutanak Dergisi*, D.1, C.19, T.3, B.48, March 10, 1964.

185 Mehmet Göker (Chairman of the Justice Commission-Kayseri), *Millet Meclisi Tutanak Dergisi*, D.1, C.26, T.3, B.42, January 28, 1964, 25.

The same interpretation was also stated by the Chairman of the Constitution and Justice Commission, Zihni Betil (Tokat) in the Senate of the Republic on March 10, 1964.

life imprisonment. However, the consequences of “unexecuted sentence” do not align with any other penalties prescribed by the 1926 TCK for crimes and felonies.¹⁸⁶ *Nullum poena sine lege* (no punishment without law) and *nullum crimen sine lege* (no crime without law) are fundamental tenets in the criminal jurisprudence. As has been repeatedly articulated by numerous legislators, in accordance with these maxims, no one can face criminal punishment unless a penalty for this act was defined by law before it was performed.¹⁸⁷ An unexecuted death sentence can only be a state of ambiguity, and can therefore be understood as a legal liminality, rather than a legal punishment. This condition also differs from death-row inmates’ waiting during the de facto moratorium years. Rather than being trapped in a Kafkaesque in-betweenness, the state of waiting created by un-execution is more reminiscent of Dante’s theology of Limbo.¹⁸⁸ It is not a Purgatory (or *A’raf* with Islamic connotations) in which lost souls wait and eventually ascend to Heaven. It is a Dantesque Limbo, as the first circle of Hell inhabited by those who are not persecuted but condemned to eternal damnation. It can also be traced in many parliamentary narrative:

Senator: If the Assembly does not decide on the execution, [it is said that] the condemned person remains on death-row. Since death-row inmates await the execution decision in a single cell – such is the execution system; they are isolated, deprived of newspapers, etc. – will this person who remains on death-row stay that way? Will this be the

186 Article 11 of the TCK dated 1926.

187 For instances, Kemal Sariibrahimoğlu (Adana), *Millet Meclisi Tutanak Dergisi*, D.1, C.26, T.3, B.42, January 28, 1964; Fahir Giritoğlu (Edirne), *Millet Meclisi Tutanak Dergisi*, D.1, C.26, T. 3, B.47, February 4, 1964; Fikret Turhangil (Aydın), *Cumhuriyet Senatosu Tutanak Dergisi*, D.1, C.19, T.3, B.48, March 10, 1964.

188 Merriam-Webster Dictionary defines “Kafkaesque” as characteristic of Franz Kafka’s nightmarish setting in his works, and the word “often applied to bizarre and impersonal administrative situations where the individual feels powerless to understand or control what is happening.” Aqsa Eram and Mohd Raghbil Haque, “Beyond Punishment: Waiting Under the Panoptic Gaze in Aziz’s *The Queue*,” *Nesir* 3, (October 2022): 49, footnote 2, <https://doi.org/10.5281/zenodo.7221200>.

Dante Alighieri, *Inferno*, (trans.) Robert and Jean Hollander (New York: Anchor Books, 2002).

way of execution? Or will it be like [the condition of] life prisoners, is there a difference?

Spokesperson of the Constitution and Justice Commission: Dear friends, my answer is very clear and precise. A prisoner sentenced to death is not a prisoner sentenced to life imprisonment [even] if the Supreme Assembly has decided not to execute the death sentence, and he/she cannot also be considered as a prisoner sentenced to temporary aggravated imprisonment So I think there is no reason to hesitate.

Senator: If so, it is worse than getting executed.¹⁸⁹

This envisaged scenario does not even offer a hope that the waiting period might end with a commutation, as has happened in some cases of the non-decision. This is because it bears a striking resemblance to Limbo, the entrance to Hell depicted in *Inferno*, marked by an ominous sign: “Abandon all hope, you who enter here.”¹⁹⁰

At first glance, it could be inaccurately argued that this specific situation does not constitute a Limbo, but rather a double-edged waiting similar to a de facto moratorium. After all, both execution and un-execution decisions are matters of law, and laws can be repealed at any time. It means that this waiting could also end with the execution. For example, in 1965, during the discussion of the draft law on criminal enforcement, the Justice Commission raised a question of great pertinence that went unanswered: Since the Constitution of 1961, unlike the Constitution of 1924, states that decision to execute a death sentence is a matter of law, and since laws can always be abolished and amended in the parliaments; “can such persons – whom we must ensure have the minimum human right to life – be put to death again or not, by any proposal for amendment or the abolition of the law [concerning un-execution], according to the customs that will change in [future] parliaments?”¹⁹¹

189 Namely, Mehmet Ünalı (Adana) and Zihni Betil (Spokesperson of Constitution and Justice Commission, Tokat), *Cumhuriyet Senatosu Tutanak Dergisi*, D.1, C.19, T.3, B.48, March 10, 1964, 200-1.

190 Alighieri, *Inferno*, Canto II, v. 9.

191 İsmail Hakkı Tekinel (President of the Justice Commission, İstanbul), *Millet Meclisi Tutanak Dergisi*, D.1, C.42, T.4, B. 132, June 22, 1965, 371.

The Commission problematized it, but only *hoped* to fill this legal gap in the future parliaments.¹⁹² This wish has remained unfulfilled for years, as evidenced by the ongoing debate about it in 1972. In this particular instance, the decision “not to execute” was regarded as a form of suspension or delay of execution. This means, in the words of one of the deputies,

a pause of execution pending a second law that will prepare whether or not death sentences should be carried out.... That law can still execute, that law can commute to life imprisonment ..., but what we are doing today is neither a commutation nor a pardon.¹⁹³

It is important to note that this appears to be an exaggerated interpretation. It is unconstitutional for Parliament to “delay” any court judgement as per the separation of powers.¹⁹⁴ Furthermore, it seems unfeasible that a death-row inmate whose sentence has already not been approved by Parliament could be executed under a new law. This may not align with the letter, but rather with the spirit of the law. Nevertheless, whether or not a prisoner retains hope of pardon – with or without the fear of execution – is still a crucial factor. This is why the unexecuted sentences are comparable to Limbo.

This brings us to the concept of the “right to hope” that has emerged in recent years. The “right to hope” refers to the fundamental right of prisoners, especially death-row inmates, to maintain a reasonable expectation of clemency, pardon, or commutation of their sentence.

[E]ven those who commit the most abhorrent and egregious of acts ... nevertheless retain their essential humanity and carry within themselves the capacity to change. Long and deserved though their prison

192 *Ibid.*

193 Ahmet Yıldız (Natural Member), *Cumhuriyet Senatosu Tutanak Dergisi*, C.4, T.11, B.42, March 16, 1972, 89.

194 Article of 54/2 the Constitution of 1924: “Neither the legislative nor executive power may ... *delay* execution of decisions of the courts;” Article 132 of the Constitution of 1961: “Legislative, executive organs, and the administration ... shall in no manner whatsoever alter court ruling or *delay* their execution;” Article 138 of the Constitution of 1982: “legislative and executive organs and the administration shall comply with court decisions; ... neither alter them in any respect, nor *delay* their execution.” (emphasis added)

sentences may be, they retain the right to hope that, someday, they may have atoned for the wrongs which they have committed. They ought not to be deprived entirely of such hope. To deny them the experience of hope would be to deny a fundamental aspect of their humanity and to do that would be degrading.¹⁹⁵

In accordance with the ambivalent display of Turkey's capital punishment practice, it can be posited that the right to hope was also articulated in an amorphous way. For many years, in the absence of legal regulation, the prevailing belief concerning those condemned but not executed was that they could never be pardoned and would inevitably face "a sentence of life in a dungeon."¹⁹⁶ Nevertheless, this understanding lacks a legal foundation, and its total contrary was observed in practice. One year after the parliamentary debate concerning the only pair of prisoners (Deniz and Dinçer), who had been sentenced in this manner throughout history, an amnesty law was passed.¹⁹⁷ By benefiting from the provisions of this amnesty law, their sentences were commuted to aggravated imprisonment. And finally, their sentences expired following the enactment of the 1967 Provisional Article.¹⁹⁸ It could be argued that, despite the absence of a legal right to hope, a hopeful process was experienced by them. It is obvious that these decisions have been made in a discretionary manner, without any clearly defined legal foundation. It was a series of arbitrary acts. In a sense, these people waited without even being aware of if they had the right to hope, they waited without even knowing what they were waiting for.

The following opinion expressed in 1972 starkly exemplifies the legal ambiguity surrounding un-execution decisions and the attempts by parliamentarians to delegate responsibility for capital punishment outcomes:

195 Matisaitis and Others v Lithuania Applications Nos 22662/13 et al., Merits and Just Satisfaction, 23 May 2017, para. 180, cited in Sarah Trotter, "Hope's Relations: A Theory of the 'Right to Hope' in European Human Rights Law," *Human Rights Law Review* 22 (2022): 1–21. 1. <https://doi.org/10.1093/hrlr/ngac007>.

196 Ahmet Yıldız (Natural Member), *Cumhuriyet Senatosu Tutanak Dergisi*, C.4, T.11, B.42, March 16, 1972, 86.

197 Law no.480, issued June 23, 1964; Amnesty Law no. 780, enacted August 9, 1966.

198 Amnesty Law no. 977, enacted December 28, 1967.

[T]hey will remain in prison for the rest of their lives without being pardoned, I do not think you are saying that they should be executed now.... Then what is the point? You say, “One day they will be pardoned.” Friends, if one day the Supreme Assembly of Turkey will come to the point of pardoning them, where do you get the right to make a pledge for the future? Do not interfere with the powers of future Supreme Assemblies. They can keep them [in prison] for life if they want, or they can go to execution if they want. But let them deal with it.¹⁹⁹

Almost all of the claims made in this short speech lack any legal or practical basis. The Parliament was, in fact, prohibited by law from postponing a sentence in such a manner. Furthermore, even the beginning and the end of the speech are incompatible with one another. It is as yet unclear whether the prisoners will remain incarcerated for the rest of their lives or whether they can be granted a pardon at some future point. The only thing that is evident is that, when responsibility cannot be silently delegated to an existing entity due to its heavy presence, the onus is transferred to a future entity by saying, “let them deal with it.” Once again, as in the *Ouroboros*-like image of parliamentary procedures, it is not a question of executing a death sentence, but rather of avoiding any debate about it. It reveals the reluctance of some parliamentarians to assume clear responsibility for the fate of condemned prisoners, perpetuating a legal and moral impasse.

Despite the recurring warnings on the peril engendered by the creation of liminality in Parliament, no concrete measures were implemented to resolve the issue. The riddle – whether the prisoners would be released if the Parliament did not approve their execution, or whether they would be automatically sentenced to life imprisonment, or remain on death-row (what such outcomes would entail) – remained unresolved for years, having emerged in the aftermath of 1961. In 1982, after discussing the case of another prisoner's seven-year wait, a legislative proposal was made to amend the law on execution in order

199 Necdet Uğur (On behalf of the Group of the CHP, İstanbul), *Millet Meclisi Tutanak Dergisi*, D.3, C.23, T.3, B.58, March 10, 1972, 138-9.

to address this three-legged problem.²⁰⁰ However, the proposal was met with the government's objection that they have no problems in practice.²⁰¹ But the "practice" in question, which constitutes a single exceptional case, did not emanate from the legal framework. Instead, it is rooted in a sense of "desperation and necessity," arising from the absence of alternative recourses.²⁰² This Execution Law proposal, which was the subject of the objection, suggested that convicts for whom Parliament decided not to execute the death sentence should instead be sentenced to aggravated imprisonment until death, with the first five years spent in solitary confinement, day and night. This article, which commutes the death sentence imposed by the court to life imprisonment, was criticized for undermining judicial autonomy, with opponents arguing that "it is not pleasant to play with a human life, but it is also not pleasant to play with the autonomy of the judiciary."²⁰³

Following extensive debate, the text was ultimately adopted with the following amendment made by the Justice Commission: Convicts for whom the legislative body decides not to execute the death sentences imposed and finalized by the courts shall remain in closed prisons until the end of their lives. They shall spend the first year of execution in a single cell, day and night.²⁰⁴ It should be noted that the criminal law did not define a type of punishment called "imprisonment until death." Thus, the ambiguity in practice was replaced in theory with this execution law, and the unexecuted death penalty

200 Law Proposal and Justice Commission Report by Advisory Assembly Member Fikri Devrimsel and fifteen Colleagues Regarding the Addition of a Supplementary Article to Law No. 647 on the Execution of Sentences, dated July 13, 1965, (2/51) (no: 233).

For the case of seven-year wait: Law no.2660, issued April 22, 1982.

201 S. Feridun Günay (Kocaeli), *Danışma Meclisi Tutanak Dergisi*, C.13, Y.2, B.32, December 20, 1982, 56.

202 The Justification for the Legislative Proposal Adding an Additional Article to Law on the Execution of Sentences, no. 647, dated July 13, 1965, in *ibid*.

203 Mehmet Velid Köran (Şanlıurfa), *Danışma Meclisi Tutanak Dergisi*, C.13, Y.2, B.32, December 20, 1982, 48.

204 The proposal by Fikri Devrimsel and fifteen of his colleagues, who are members of the Advisory Assembly, is for an additional article to be added to the Law No. 647 of July 13, 1965 on the Execution of Sentences, as amended and adopted by the Justice Commission. *Danışma Meclisi Tutanak Dergisi*, Y.2, C.13, B. 31, December 16, 1982.

became a punishment that has no equivalent in the law. It was not until 1986 that a concrete clause was amended to law: “Those whose death sentences have been ordered not to be carried out by the TBMM shall not benefit from the release on probation of good conduct until they have completed thirty-six years of imprisonment.”²⁰⁵

In any case, the legal gap and limit of authorization did not justify the prolonged waiting in non-execution. If the legislature had opposed carrying out the execution, it would have taken clear action – commuting the death sentence (before 1961), granting a pardon, or abolishing the death penalty altogether; instead of simply waiting and doing nothing. Although a gap has persisted within the legal framework for many years, there was a lack of initiative to transcend this liminality. Silence seems safe. Until the final amendment, death-row inmates were stuck in Limbo, in the first circle of Hell, with no right to hope for forgiveness for the rest of their lives. “The state was patiently waiting for me to die,” an American life-without-parole prisoner said, “since I am not directly sentenced to the death penalty, they must wait for me to die on my own. I’m sitting on a painstakingly slow death-row.”²⁰⁶

To summarize, the silent years of capital punishment in Turkey was not as quiet as it seems. The “sentencing to death without execution” has created a liminal space as a waiting room.²⁰⁷ This is not an everyday form of await. As Gabriel Marcel mentioned in his seminal work *Desire and Hope*,

205 Article 304/3 of the TCK dated 1926 and Article 19/1 of Execution Law (*Cezaların İnfazı Hakkında Kanun*) amended by Law no. 3267, issued March 11, 1986.

Article 19 remained intact until 2004 whereas Article 304 was abolished by Law no. 3506 issued December 7, 1988.

The provision of “those whose death sentences have been ordered not to be carried out by the TBMM” was replaced with “those who were sentenced to aggravated life imprisonment” by the Law no.5218, issued July 14, 2004.

206 Patricia Prewitt, “Slow Death Row,” in *Too Cruel, Not Unusual Enough*, ed. Kenneth E. Hartman, John Purugganan, and Robert C. Chan (Lancaster, CA: The Steering Committee Press, 2013), 31–32, cited in Nolan Bennett, “The State was Patiently Waiting for Me to Die”: Life without the Possibility of Parole as Punishment,” *Political Theory* 49, issue 2 (2021): 165. <https://doi.org/10.1177/0090591720927800>.

207 Hood and Seemungal use this term for the current situation of the Eastern Caribbean and Barbados. See: Roger Hood and Florence Seemungal, “Sentenced to Death Without Execution

in instances of inert or passive waiting, there is a general feature of confidence in the outcome or, at times, perhaps an indifference to it.... However, in the moment this certitude is lost, an “interior debate” arises. Such an internal tension is, according to Marcel, emblematic of active waiting.²⁰⁸

This kind of waiting can be considered as a Bourdieusian reflection of power. A waiting operated by constructing subordination through the agency of unpredictability, arbitrariness, and stuckedness.²⁰⁹

Two aspects of the precarious holding between life and death vividly illustrate the veiling character of capital punishment. First, by avoiding both execution and commuting sentences, those on death-row have been subjected to state-violence lacking any legitimate legal definition. For many years, they have remained trapped in a limbo that practically could have been ended by amnesty or execution. Second, both abolitionist and retentionist positions have been challenged by a tendency as *tertium quid*. In the context of Turkey, this tendency, non-execution of death sentence, is not a daydream of road to abolition; but rather a nightmare of state-sanctioned killing. By operating in the state of limbo, the capital punishment has retained to hide the responsible actors who evade to bear the responsibility of neither imposing nor abolishing this penalty. This ambiguity has concealed the responsibility for both capital punishment and social context that leads to capital crimes during those silent years. The very existence of capital punishment laws has performed to maintain the actors that wield control over the law shrouded in mystery.

– Why capital punishment has not yet been abolished in the Eastern Caribbean and Barbados,” *The Death Penalty Project*, Reports and Studies (April 7, 2020), <https://deathpenaltyproject.org/knowledge/sentenced-to-death-without-execution-why-capital-punishment-has-not-yet-been-abolished-in-the-eastern-caribbean-and-barbados/>.

- 208 Gabriel Marcel, “Desire and Hope,” in *Readings in Existential Phenomenology*, ed. Nathaniel Lawrence and Daniel O’Connor (Englewood Cliffs, NJ: Prentice-Hall Inc., 1967): 280, cited in Andreas Bandak and Manpreet K. Janeja, “Introduction: Worth the Wait,” in *Ethnographies of Waiting: Doubt, Hope and Uncertainty*, ed. Manpreet K. Janeja and Andreas Bandak (London: Bloomsbury Publishing, 2018), 2–3.
- 209 Auyero, *Patients of the State*; Ghassan Hage, “Waiting out the crisis: On Stuckedness and Governmentality,” in *Waiting*, ed. Ghassan Hage (Melbourne: Melbourne University Press, 2009): 97–107.

§ 4.3 Summary

One of the major aspects obscuring the agency of the individuals responsible for the state-sanctioned killing (and also state-sanctioned waiting) is the pervasive silence. Two notorious forms of this silence emerged during executions and non-executions. The system has intentionally camouflaged the manner of how it works and also how it does not work. Therefore, it is not a question of carrying out the death sentence itself, but rather of keeping it in the law while evading any responsibility stemming from capital crimes and punishment. This was achieved by avoiding the debate that surrounds it and deliberately creating legally grey areas. Silencing any debate by creating an image of *Ouroboros* or a literal limbo, both have been used to hide who controls the capital punishment.

However, as previously stated, the legislation's concealment of its responsibility is not solely operated by its silence in every instance. It is perhaps more accurate to state that it *cannot* be operated by its silence. This is particularly pertinent in the cases of politically motivated crimes and criminals, where the Parliament, in itself a political entity, cannot evade its accountability through silence. The system, represented as an autonomous loop, did not always appear to be as autonomous as it was supposed to be. Such cases are rare, but they have a significant place in the history of capital punishment in Turkey. For instance, with reference to the political case of Gezmiş, İnan, and Arslan, the military courts sentenced to death three persons and explicitly delegated responsibility to Parliament:

The statements made by the defendants and their defense attorneys, asserting that the political power and the militants under its command are the real perpetrators of Turkey's current situation and events, and that the actions of those who oppose them are self-defense,... were not considered to be directly legally acceptable, since these statements lacked the legal mitigating factors for unjust provocation. The court refrained from expressing personal opinions on these detailed criticisms and allegations. Instead, it deemed it appropriate to leave it to

the public conscience, history, and the discretion of the TBMM to pass judgement on them.²¹⁰

In conclusion, the court emphasized that while it was legally impossible to mitigate their death sentences on the ground of provocation linked to ideological violence, “public conscience” and “history” retained the authority to do so. Both Parliament’s authority in the legislative process and its role as “representative of the public conscience” has been clearly exposed. Silence could no longer serve as a shield from responsibility. But this raises a question: what happens when the image of the capital punishment system as an autonomous, self-operating entity becomes no longer tenable, and Parliament no longer resembles a silent, quasi-bureaucratic entity?

210 Reasoned Judgement of Military Commission, no. 1971/23, dated November 9, 1971. (*Deniz Gezmiş ve Arkadaşları Hakkında Gerekçeli Hüküm, T.C. Ankara Sıkıyönetim Komutanlığı 1 No.lu Askerî Mahkemesi 1971/23*).

Behind the Victim's Veil: State, Society, and Crimes of Political Nemesis

No, I don't mean love, when I say patriotism. I mean fear. The fear of the other. And its expressions are political, not poetical: hate, rivalry, aggression.

– Ursula K. Le Guin, *The Left Hand of Darkness* (2003), 19.

In instances where Parliament could not remain silent, where the beginning and end of its cyclical functioning became apparent, and where it became clearly visible as the actors responsible for the control of state-killing, it mystified its agency. Three distinct statements from different parliamentarians, made on separate occasions, are as follows:

Individuals have the right to life. I agree. Just as individuals have the right to life, nations do too.¹

1 Vefa Tanır (On behalf of MGP group, Konya), *Millet Meclisi Tutanak Dergisi*, D.3, C.24, T.3, B.77, April 24, 1972, 210.

The issue here is not the execution of three people. This is about the survival of the Turkish State, the Turkish Nation.... Today, our society is in a position of self-defense.²

There, a man killed someone. But he did it because of the violation of a very sacred thing.... He should have been executed, but he acted in anger for the sake of a sacred being. He could not control himself when the Turkish flag was insulted. Then we can say that he should be granted a commutation to life imprisonment.³

So, yes, it is evident that a group of individuals was accountable for the ultimate decision to execute; however, in these exceptional cases, this group was depicted as an entity devoid of its own agency and power, acting merely as an agent of two abstract entities: society and the state. The state and society were portrayed as *victims* of capital crime, framing the death penalty as a form of collective self-defense. Clemency implied forgiveness, and the execution implied retribution, sentiments that only the “victim” (the state and society) was entitled to express and exercise.⁴ Parliament, in turn, acted on behalf of this victim. If the responsible actors could not be obscured by blurring how the death penalty works, they were obscured by camouflaging who or what has the right to kill.

As posited in the preceding chapter, the claim proposed by Botagoz Kassymbekova persists: “Where laws are being clarified as a means of control, control is somehow mystified.”⁵ However, the legal norms clarified in this occasion pertain not only to the law empowering Parliament to decide on the

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- 2 Nahit Altan (Çanakkale), *Cumhuriyet Senatosu Tutanak Dergisi*, C.4, T.11, B.54, May 2, 1972, 388.
 - 3 Mehmet Özgüneş (Natural Member/*Tabii Üye*), *Cumhuriyet Senatosu Tutanak Dergisi*, D.1, C.15, T.2, B.123, October 24, 1963, 431.
 - 4 I use the distinction between the state and society – not because I view them as entirely separate entities, but because the legal and legislative narratives treat them as such. This distinction will be discussed in more detail later.
 - 5 Botagoz Kassymbekova, “Capital Punishment in Kyrgyzstan, Between the Past, “Other” State Killings and Social Demands,” in *The Cultural Lives of Capital Punishment: Comparative Perspectives (The Cultural Lives of Law)* eds. Austin Sarat and Christian Boulanger, (Stanford, California: Stanford University Press, 2005), 181-82.

death penalty but also to the law and legal discourse determining on whose behalf such decisions are made. According to all Constitutions of Turkey, sovereignty belongs to the nation, with the TBMM as its sole lawful representative, exercising its power in the name of the nation as a whole.⁶ Thereby, the decisions for the capital punishment have been made on behalf of the nation through the agency of the Parliament. Despite the constitutional emphasis on the term “nation,” parliamentary narratives more frequently invoke “society” (*cemiyet/toplum*), often interchangeably, to describe the constituency represented by legislation. Members of Parliament have portrayed themselves as legal and only legitimate “reflection of society’s conscience.”⁷ The “non-agency” image of decision-makers in the preceding chapter was thus substituted by a “shadowy agency” under generic headings, encompassing vague and ambiguous abstractions such as “conscience,” “nation,” “society,” and “the state.” This rhetorical strategy overshadows accountability not through secrecy but through ineffability, obscuring who precisely controls the legal norms governing capital punishment. This chapter examines what is obscured by the rhetoric of the state and society, and who has the right of legally-authorized killing, focusing on capital crimes that are politically motivated as well as those with political edges.

The entities called “the state” and “nation,” as other performatively constituted entities, “exist only in certain performances and utterances that have to be permanently cited, repeated ...– to gain stability and acquire the notion of

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- 6 Article 3 and 4 of the Constitution 1924: “Sovereignty belongs without restriction to the nation,” “the TBMM is the sole only lawful representative of the nation, and exercises sovereignty in the name of nation.” Article 4 and 76 of the Constitution 1961: “Sovereignty is vested in the nation without reservation and condition,” “Members of the TBMM represent neither constituencies nor constituents, but the nation as whole.” Article 6 and 80 of the Constitution of 1982 “Sovereignty belongs to the Nation without any restriction or condition,” “Members of the TBMM shall not represent their own constituencies or constituents, but the nation as a whole.”
- 7 See for some self-assertions of deputies as “the reflection of society’s conscience” during the capital punishment discussion in the Parliament: *TBMM Zabıt Ceridesi*, D.7, C.2, İ. 3, May 17, 1934; *TBMM Zabıt Ceridesi*, D.6, C.23, İ.3, February 02, 1942.

self-evidence.”⁸ But the fact that these are cultural and historical configurations does not mean that they are not “real” “in the sense that they have serious effects on the lives of human beings and are pervaded by social and power structures.”⁹ Moreover, in the context of the death penalty, they have literally effects on the *lives*. I reject both the statist approach, which treats the state as a free-standing entity, and the critical approach that neglects the state as merely an abstraction. Instead, I adopt Timothy Mitchell’s “third approach” to grasp how political order appears and operates:

The assumption that the elusiveness of the state-society boundary needs to be taken seriously, not as a problem of conceptual precision but as a clue to the nature of the phenomenon. Rather than searching for a definition that will fix the boundary, we need to examine the detailed political processes through which the uncertain yet powerful distinction between state and society is produced. The distinction must be taken not as the boundary between two discrete entities, but as a line drawn internally within the network of institutional mechanisms through which a social and political order is maintained.¹⁰

It is not the distinction or gap between definitions of the state and society that is an illusion, but the claim that they have a unified and coherent nature. Death penalty cases, particularly those emphasizing the roles of the state and society, provide fertile ground for examining this “detailed political processes through which the uncertain yet powerful distinction between state and society is produced.”¹¹ This perspective also aligns with Michael Herzfeld’s argument on the indifference of national bureaucracy, which can be applied to

8 Jürgen Martschukat, “Nineteenth-Century Executions as Performances of Law, Death, and Civilization” in *The Cultural Lives of Capital Punishment: Comparative Perspectives (The Cultural Lives of Law)*, ed. Austin Sarat and Christian Boulanger, (Stanford, California: Stanford University Press, 2005), 52.

9 *Ibid.*, 51-52.

10 Timothy Mitchell, “The Limits of the State: Beyond Statist Approaches and Their Critics,” *The American Political Science Review* 85, no 1 (March 1991): 77, <https://doi.org/10.2307/1962879>.

11 *Ibid.*

capital punishment cases by framing the lack of responsibility in these cases as a “rejection of common humanity.”¹²

It is the denial of identity, of selfhood. We may thus suspect that its appearance in state structures arises from competing claims over the right to construct the cultural, and social self. Who “makes” the self – the citizen or the state? Can we even speak of “the state,” or is that entity in turn a construct deployed by certain manipulative individuals to legitimize their authority?¹³

Such capital cases are very suitable for examining who constitutes the *self*, whose *conscience* capital punishment actually reflected, who was actually excluded from the *whole society*, how the *state* was actually politics itself, and even in ultimately determining whether the *political crime* was actually a crime. And they reveal how these dynamics were often attempted to be concealed by the agency of “neutral” entities such as the state and society during the operation of capital punishment. In the first section, I will discuss the legal framework and parliamentary debates on certain capital cases that have unintentionally crystallized what the state is. The second section will focus on how this political dimension, once made visible, was subsequently overshadowed.

Firstly, as the concept of the state was abstracted through law and legislative narrative, the executed, executer, and pardoner all were able to justify their actions by claiming they acted for the sake of the state. Following this discourse allows us to demystify the notion of the state. Although the law portrays the state as an unmanned entity belonging to no one, contrary to expectations, the state has been repeatedly self-defined by various actors. In this way, the state of nobody has become everybody’s state. In the first part of this section, the *letter and spirit* of the laws will be examined to ascertain how the concept of the state is shaped as a vague entity, liberated from individuals’ agency, detached from prevailing political regimes or ideologies. Certain “offences against the state” framed political dissent as criminal behavior. I propose that this ambiguous understanding of the state can be overcome by

12 Michael Herzfeld, *The Social Production of Indifference: Exploring the Symbolic Root of Western Bureaucracy* (Chicago: University of Chicago Press, 1992), 1.

13 *Ibid*, 1-2.

categorizing cases exhibiting certain common characteristics as “political crimes,” regardless of their formal classification, and despite the absence of a precise legal definition. Therefore, despite the criminal law indicating otherwise, the violence perpetrated not only against the state apparatus but also violence among individuals, has been regulated with reference to the state and society. The analysis of cases in which both the victim and perpetrator, and both punisher and punished one (the legislators and death-row inmate in this instance) claim to act on behalf of the state can give us clues about what the concept of the state covers, whom it includes or excludes, in what scope, and for how long.

The cases examined earlier in this dissertation have predominantly unfolded within the silence depicted in preceding chapters. Nevertheless, a few capital cases of political crimes have occupied the parliamentary agenda for days and nights, far longer than any other type of capital crime. Even today, these cases are often the first to be mentioned in discussions about the death penalty. For the demystification of the omnipotent state, these cases are particularly suitable, and the second part of this section will focus on them. The illusion that the responsible actors for the death penalty are not individuals but rather an abstract, ambiguous “state” operating independently of political dynamics, regime changes, and contextual shifts was profoundly contested in parliamentary debates over executions involving the same state’s former executive cadres (former President Celâl Bayar, former Prime Minister Adnan Menderes, former Minister of Foreign Affairs Fatin Rüştü Zorlu, and former Minister of Finance Hasan Polatkan, along with eleven other members of the former ruling party after 1960 coup d’état), its own retired military officers (Retired Staff Colonel Talât Aydemir, Retired Cavalry Major Fethi Gürcan, Retired Staff Lieutenant Colonel Osman Deniz, and Retired Cavalry First Lieutenant Erol Dinçer, following after their unsuccessful military interventions), or civilians convicted of “crimes against the state,” such as Deniz Gezmiş, Yusuf Arslan, and Hüseyin İnan, during the multi-party era. These debates revealed multiple, often mutually exclusive definitions of the state, by leaning on its legal ambiguity. Legislators with differing political tendencies, by defining themselves as the true representatives of the state and excluding opposing groups within the same Parliament from this definition – labeling them not as

victims but as instigator/responsible for such political offenses – unintentionally reveal both the ambiguity surrounding the concept of the state and the Parliament's own involvement in these cases. Hence, the intense, exceptional, and unconventional debates surrounding these cases provides greater details and clarity to the argument presented.

Following this legal and parliamentary discourse on state, the second section centers on cases in which the concepts of the state and nation/society have once more *silently* and implicitly intertwined with capital punishment. This section shifts focus from those who self-identify as representatives of the state or nation to those excluded from these definitions. The first part of this section focuses particularly on capital crimes arising from politically motivated interpersonal violence, a phenomenon that became especially pronounced in Turkey during the late 1970s. While the state has often been defined as an almost impersonal structure, separate from both individual citizens and society as a whole, capital murder arising from political animosity have generally not been considered as “offences against the state” in the legal framework. Instead, such acts have been legally classified as capital murder, which is officially designated as “offences against the person,” as exemplified by the case of Erdal Eren, a well-known political figure in Turkey's history of capital punishment. This distinction reflects the tendency to depoliticize interpersonal violence by framing it as a personal rather than a political conflict. In practice, the violence perpetrated by the two rival groups – each claiming to defend the state – was reduced to mere interpersonal animosity. Neither group was recognized by the politically dominant actors as part of the so-called state, allowing the prevailing political regime to construct a discourse that distanced itself, as a state, from this intense political violence, enabling it to operate once again in a quasi-silent manner. The parliamentary discourse categorized perpetrators as either “enemy of the state” or “enemy of the enemies of the state,” creating a lesser-of-two-evils. Notably, the socio-political context fueling this cycle of violence has not been mentioned. These cases were portrayed as personal animosities and the state was victimized; but it is evident that political references have been omitted in order to transfer responsibility to “others.”

In the second part of this section, the term “political crime” is not employed; rather, the focus is on those whom the leading political ideology

regards with hostility. In this section, references to “society” (*cemiyet*) as a victim are more prominent in the parliamentary minutes. This term was used variably – sometimes synonymously with “the state,” and at other times carrying a distinct meaning altogether. As a critical response to neo-Weberian studies that emphasize the state primarily in terms of its institutions and exercise of power, Philipp Lottholz and Nicolas Lemay-Hébert re-read Weber to highlight that “the state is a phenomenon constituted by the relations among human beings, first and foremost.”¹⁴ Fundamentally, the Weberian state is defined as “a human community that (successfully) claims the monopoly of the legitimate use of physical force within a given territory.”¹⁵ Within this framework, the Parliament of Turkey, as a human community itself, was presented as the sole legitimate representative of the broader community – whether conceived as the nation or society.

In the parliamentary minutes, the “interest of the society” (*cemiyetin menfaati*), “national consciousness” (*milli şuur*) and “public/national conscience” (*umumi/milli vicdan*) were emphasized as the key factors shaping decisions on whether to carry out a sentence or grant a pardon.¹⁶ However,

14 Philipp Lottholz and Nicolas Lemay-Hébert, “Re-reading Weber, Re-conceptualizing State-Building: From Neo-Weberian to Post-Weberian Approaches to State, Legitimacy and State-Building,” *Cambridge Review of International Affairs* 29, no. 4 (2016): 1474, <https://doi.org/10.1080/09557571.2016.1230588>.

15 Max Weber, “Politics as a Vocation,” in *From Max Weber: Essays in Sociology*, ed. and trans. Hans H. Gerth and Charles W. Mills (New York: Oxford University Press, 1948), 78.

16 For some examples where the “interest of society” is mentioned: Minister of Justice, Hasan Menemencioglu (Mardin), *TBMM Zabıt Ceridesi*, D.6, C.20, İ.1, İn. 78, September 15, 1941; Dr. Saim Ali Dilemre (Rize), *TBMM Zabıt Ceridesi*, D.7, C.2, İ.F, İn. 24, May 17, 1943; Servet Sezgin (Çanakkale) and Sırrı atalay (Kars) *TBMM Zabıt Ceridesi*, D.10, İ.3, C. 18, İn. 50, March 25, 1957.

For some examples where the “national consciousness” is mentioned: Feridun Fikri Düşünsel (Bingöl), *TBMM Zabıt Ceridesi*, D.7, C.2, İ. F, İn.24, May 17, 1943.

For some examples where the “public” and “national conscience” is mentioned: Muhittin Baha Pars (Bursa), *TBMM Zabıt Ceridesi*, D.6, C.20, İ.1, İn. 78, September 15, 1941; Yusuf Demirdağ (Trabzon), *Cumhuriyet Senatosu Tutanak Dergisi*, D.1, C.19, T.3, B.49, March 10, 1964; Nuri Erdoğan (On behalf of the DP parliamentary group, İstanbul) and Muammer Ertem (Manisa), *Millet Meclisi Tutanak Dergisi*, D.3, C.23, T.3, B.58, March 10 1972; Muzaffer Yurdakuler (On

within the context of Turkey, it would be a fallacy to assert that the society claimed to be represented genuinely includes all citizens of the country. Coherent with the “cultural artefact” term of David Garland, the capital punishment incorporates certain characteristics of the images of Turkish society.¹⁷ These images embody and are embodied by mentalities and sensibilities of all actors, who are legislators or ordinary citizens. In this way, the death penalty has both defined and been defined by a Turkish society that is not static, but rather historically and culturally constructed. It is evident that capital punishment is once again redefining normality and being defined by it. However, the promotion of the regime’s own ideology as a norm, which defines and punishes “criminals,” differs slightly from the understanding of normality in the third chapter. This time the abnormal ones have been defined as “self-evident others,” whose monstrosities do not even require a spotlight due to their “non-Turkish” identity. In this way, it becomes clear that the death penalty does not function to “protect the social interest,” but rather serves to define a particular kind of society.

The axis of conflict within Parliament, which was prominent in the first section focusing on the multiple definitions of the state, is less evident in the cases discussed here. The prevailing theme is once again a form of silence. One possible explanation is that when the offense legally shifted from “crimes against the state” to “crimes against persons,” politico-legal actors were less likely to perceive themselves as targets and therefore less inclined to adopt a definitive stance. Secondly, in cases where the crime was not inherently ideological but was ideologically framed by legislators through references to the “Turkish nation,” it is likely that “marginal” identities existing outside the regime-defined boundaries were already excluded from parliamentary representation. Finally, and most importantly, given that these cases involve direct physical violence – namely, one or multiple murders – it is understandable

behalf of MBG, Natural member), *Cumhuriyet Senatosu Tutanak Dergisi*, C.4, T.11, B.42, March 16, 1972.

17 “Punishment, then, can be viewed as a complex cultural artefact, encoding the signs and symbols of the wider culture in its own practices.” cited from David Garland, *Punishment and Modern Society: A Study In Social Theory* (Chicago: The University of Chicago Press, 1990), 226.

that defending any perpetrator is morally untenable, even though politically it remains possible to take a side.

The ability to have an internal distinction appear as though it were the external boundary between separate objects is the distinctive technique of the modern political order.... In particular, one can trace it to methods of organization, arrangement, and representation that operate within the social practices they govern, yet create the effect of an enduring structure apparently external to those practices.¹⁸

This chapter examines this “effect of enduring structure” as a veil that obscures the motives and socio-political context behind some specific capital crimes that bear a political dimension. The focus will be on parliamentary power (or statist capital) to project an image of unity despite internal divisions and marginalization of certain social groups, while embodying a supra-human entity despite being composed of individual actors. I will argue that the blame for such political crimes was often attributed to a monstrous “other” – whether as perpetrator or instigator, inside or outside the Parliament – who wants to wreck this “enduring structure.” This scapegoating serves to obscure the negligence or involvement of various political actors in the societal violence. First, I argue that capital punishment has served as a smokescreen, deflecting scrutiny from these actors’ own roles in fueling political polarization and perpetuating a relentless cycle of violence, while simultaneously masking the state-violence. Second, responsibility for sanctioning or pardoning these so-called “criminals” was projected onto an imaginary victim embodying the structure itself – whether framed as the state or society. Reinforcing the division between society and the state by portraying Parliament as the state itself obscures the reality that those sentenced to death, as well as the legislators themselves, were all part of the same society. Members of Parliament have exercised their power to define what the state and society is, sometimes even at the expense of contradicting one another. Throughout this chapter, I will examine how parliamentarians and the governing elites have employed this bifurcation in

18 Timothy Mitchell, “Society, Economy, and the State Effect,” in *State/Culture State-Formation after the Cultural Turn*, ed. George Steinmetz (New York: Cornell University Press, 1999), 77-78.

relation to both crimes against the state and crimes against persons with an ideological dimension.

Briefly, I will first examine how the ambiguous notion of the state is constructed through legislation and employed within parliamentary narratives. Next, I will explore how the mutually exclusive sheltering of opposing actors behind these transcendental definitions can, paradoxically, reveal the actual responsible parties. I will then turn to cases involving interpersonal ideological violence, which further complicates this exposure. I will analyze how legislation – exhibiting a more cohesive structure compared to other ideological cases – obscures its own role in social unrest within politically motivated capital murders. Finally, I will consider how certain segments of society were marginalized through the highly ideological framing of cases, even when the criminal acts themselves may lack explicit ideological content. Through this analysis, it will become evident that the transcendental conception of the state and society fails to represent the actors it claims to embody, thereby demystifying Parliament's self-proclaimed role as “the conscience of the whole society” and representative of the state. A structure that calls itself the “state” – claiming to be distinct from, yet representative of, society – conceals its own role in socio-political problems. As we will see in this chapter, those responsible for creating the conditions that give rise to the crime may hide behind an ambiguous definition of the state, reduce the issue to interpersonal hostility, or, by completely excluding the offenders from the definition of society, hide behind the very concept of society itself. Thus, in capital punishment cases, the legislation was not merely a voice for the victim; rather, it was a collective of individuals who must be held accountable both for creating the conditions that gave rise to the “crime” and for enforcing its ultimate penalty.

§ 5.1 State of Everybody and Nobody: Political Crimes Disguised as “Crimes Against the State”

It is evident that a number of ideological and political elements were operative in all cases of capital punishment. Crimes not classified as “political crimes” cannot be considered immune to any political influence, making it impossible to draw a clear distinction between political and non-political crimes.

However, certain cases stand out as exceptions due to their explicit reference to the political framework. The majority of capital crimes that were interpreted with a clear ideological aspect are, in fact, politically motivated crimes. This chapter addresses political crimes, examining them in interaction with the sense of the state within the context of capital punishment. It should be noted at the outset that there was (and still is) no legal category in the criminal justice system of Turkey that is specifically designated as “political offense.” Some political crimes, as defined in this study, were legally classified as offences against the state’s personality (*devletin şahsiyetine karşı suçlar*). In the capital crimes, “state” has been conceptualized “as a concrete object” which Radcliffe-Brown advocates “avoiding making a fetish of it.”¹⁹ The legislative and discursive practices in Turkey regarding the death penalty have reflected an understanding of the state as a puissant and unitary entity that enforces its own rules and order on society. This form of “mask,” “fetish,” or “mystification” endeavors to conceal the political realm that is inherent to the state.²⁰ It has been depicted as “a universal a priori predicate to our social existence rather than a product of our social existence.”²¹ The “state” was thus defined as the potential victim of capital crime, as if it were a discrete entity distinct from the ideology and the institutions such as the Court and the Parliament that impose and approve the capital punishment. By portraying the state as a separate, victimizable entity, responsibility is displaced from the actors and political structures that enact and maintain the death penalty.

It appears that Mitchell’s theoretical approach to the notion of the state is particularly well-suited to demystify this concept reflected by the capital punishment:

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- 19 Alfred Reginald Radcliffe-Brown, Preface to *African Political Systems*, ed. M. Fortes and E. E. Evans-Pritchard (London: Oxford University Press, 1940), 5 cited in Christian Krohn-Hansen and Knut G. Nustad, eds., *State Formation: Anthropological Perspective* (London: Pluto Press, 2005), 100.
 - 20 Philip Abrams, “Notes on the Difficulty of Studying the State,” *Journal of Historical Sociology* 1, no. 1 (1977): 58-89, <https://doi.org/10.1111/j.1467-6443.1988.tb00004.x>.
 - 21 Peter Bratsis, “Unthinking the State Reification, Ideology, and the State as a Social Fact,” in *Paradigm Lost: State Theory Reconsidered*, eds. Stanley Aronowitz and Peter Bratsis (Minneapolis: University of Minnesota Press, 2002), 249.

[T]he phenomenon we name “the state” arises from techniques that enable mundane material practices to take on the appearance of an abstract, nonmaterial form. Any attempt to distinguish the abstract or ideal appearance of the state from its material reality, in taking for granted this distinction, will fail to understand it. The task of a theory of the state is not to clarify such distinctions but to historicize them.²²

I will try to examine these mundane practices as legal and legislative narratives on crimes against the state that create a sense of mystical state. I argue that this mystification eclipses the political dimension of such crimes by creating the idea of the supra-human state – neither owned by anyone, yet claimed by everyone (as will be examined respectively in the following two sections.)

5.1.1 *Unmanned State: “Political Crimes” and Nubious Victims in Legal Texts*

The abstraction of the state in Turkey’s experience with the death penalty was not just an accidental but a deliberate legal and political strategy. Many criminal acts stemming from political opposition were officially classified as crimes against the state rather than as political crimes, in order to align with the constitutional principle of freedom of thought.²³ For instance, in certain cases, the ideology constitutes an inherent part of the criminal code itself, as evidenced by the notorious Article 141 of the TCK. The 1951 amendment to Article 141 introduced provisions for imposing the death penalty on those who lead and direct some or all “organizations aiming to establish the domination of one social class over others, or abolish a social class, or overthrow fundamental economic or social orders established in the country.”²⁴ The legislation makes reference to communist ideology, although it does not explicitly name it.

22 Mitchell, “Society, Economy, and the State Effect,” 77.

23 Article 70, 20, and 26 of the Constitution of the Republic of Turkey respectively dated 1924, 1961, and 1982.

24 Article 141 of the TCK dated 1926 was amended by Law no. 5844 issued December 3, 1951. The term “capital punishment” in this article was changed to “aggravated life imprisonment” by Article 27 of Law no. 3679 issued November 21, 1990, it was amended and inserted in the text. Article 141 was abrogated by Law no. 3713 issued April 12, 1991.

Even though Article 141 does not clearly articulate this, the prevailing Cold War rhetoric during the parliamentary debates underscored that the primary objective of this legislation was “to combat the monster of communism.”²⁵ Anti-communist discourse dominated legislative debates during at least eight parliamentary sittings in 1951.²⁶ Although the abstract state and mundane politics have been depicted as discrete entities in the context of Turkey, a crime associated with the domination of one social class, namely communist ideology, has not been classified as a political or ideological crime. Instead, it falls under the heading of “the crimes against the international legal personality of the state” (*devletin arsulusal şahsiyetine karşı cürümler*). In the context of Turkey, the boundaries between the state, society, and politics become indistinct, creating a nebulous environment where the positions of these entities are unclear. It seems appropriate to regard “capital crime against the state” as tantamount to a “political crime,” with the latter term being deployed to challenge the prevailing notion of the omnipotent state – a notion that obscures the reality that it is an assembly of practices and claims of certain actors.

The endeavor to make a distinction between the concepts of supranatural state and worldly politics was becoming increasingly apparent in cases involving political actors. The offences against the state’s personality (*devletin şahsiyetine karşı cürümler*) and the offences against the persons (*şahıslara karşı cürümler*) were distinct criminal categories codified in two separate books (*bap*) of the TCK enacted in 1926. In the criminal law on capital punishment, crimes against the current political regime have been classified as crimes against the abstract idea of the *state*. In contrast, crimes against all living actors collectively known as the state – such as gendarme, police officer, minister,

25 By “Cold War rhetoric,” I refer to the ideas, narratives, discourse, and ideologies prevalent during the period 1947–1991, which were used to describe, interpret, and justify the geo-political conflict between the Soviet Union and the United States and their respective allies. As a member of the Western bloc, Turkey framed this ideological conflict as a struggle between “democratic” liberal capitalism and its adversary, the “threat” of communism.

For the discussion during the legislative proposal and Report of Justice Commission (1/103, 2/37) on the amendment of Article 141: *TBMM Tutanak Dergisi*, D. 9, C. 10, T. 2, B.5, November 16, 1951; B.6, November 19, 1951; B. 7, November 21, 1951; B. 8, November 23, 1951; B. 9, November 26, 1951; B. 10, November 28, 1951; B. 11, December 30, 1951; B. 12, December 3, 1951.

26 *Ibid.*

legislator and others – have been categorized under the rubric of crimes against *persons*, (with the notable exception of the President of the Republic).²⁷ For instance, those who “forcibly attempt to overthrow the TBMM or prevent it from performing its duties” were regarded as having perpetrated “crimes against the state powers (*devlet kuvvetleri*),” whereas those who kill a member of this same Assembly were deemed to have committed “crimes against persons.”²⁸ At first glance, it may appear usual to define a murder between two individuals as a “crime against persons,” regardless of the victim’s profession. However, since the first day of the penal code, it has been stated explicitly that the penalty for murdering a member of the TBMM is death.²⁹ In contrast to the other capital murder laws, no additional conditions were specified in this case. The sole element of the crime is that the victim was a parliamentarian. Consequently, the assassination of a parliamentarian during their term of office, irrespective of the motivation for the crime, was categorically a capital crime.

In 1981, this law (Article 450) was broadened to include other public officials who were murdered. However, for the crime to qualify as capital murder, it was required that the act be committed “in the course of their duty or due to their official duty,” even if their status as a public official is terminated.³⁰ The absence of such a condition that the crime be committed “in the course of their duty” for parliamentarians – as opposed to other public officials – indicates that their personality was inseparable from their deputy status. It appears that a parliamentarian’s official role and personhood were legally fused. Since no element or motivation beyond the victim’s profession is presented for the classification of this act as capital murder, an attack against them may give the impression of being regarded as an attack against the entire Parliament. Since the murder of a legislator was not legally treated the same as the murder of any other Turkish citizen, and because jurisprudence of Turkey did not

27 Article 156 of the TCK 1926; Article 450/2 of the TCK 1926; Article 450/2,11 amended by the Article 16 of Law No. 2370 dated January 7, 1981.

28 Article 146/1 of the TCK 1926 and Article 450/2,11 amended by the Article 16 of Law No. 2370 dated January 7, 1981.

29 Article 450/2 of the TCK, enacted 1926.

30 Article 450/11 amended by Article 16 of Law no. 2370 dated January 7, 1981.

recognize a category of political crime, this “capital crime” classification could only be explained by considering it a crime against the state. But it is not true. It is not accurate to say that the murder of a parliamentarian was considered an attack on the Parliament itself. As mentioned, this crime falls under the category of offence against the persons, not as an offence against the Parliament. Moreover, within the legal framework, attacks on the Parliament were classified separately under Article 146 as a “crime against the state.” Nevertheless, the assassination of a member of parliament was not automatically regarded as an attack on the Parliament itself. To clarify, there have been two different stipulations: Article 450 portrays the Parliament as composed of individual *persons*, while Article 146 depicts the same Parliament as an entity devoid of all its constituents, representing the *state*. While all the actors constituting the Parliament are “persons,” the Parliament itself appears as a distinct structure with its own agency. Thus, the term “attempt to overthrow the TBMM” becomes a vague and all-inclusive definition.

Utilizing the term “political crimes” in lieu of “crimes against the state” enables the examination of both assaults on the regime and attacks on all the actors that embody it under a single category. However, this term demystifies what the law seeks to obscure. For this reason, it can be argued that such a category was not formally included in the legal framework. The ambiguity surrounding what remains when parliamentarians are removed from the Parliament – an institution seen as part of the state – exemplifies the complexities inherent in defining the state itself. The only instance where the state is not perceived as separate from individuals and politics was in the criminal code concerning the Head of state. The President of the Republic was the only living figure who was viewed as the embodiment of state according to the law related with capital punishment. The act of assassinating or attempting to assassinate the President of the Republic was considered a crime not against the person, but against the state itself, or more precisely, a “crime against the state powers.”³¹ The assassination of the Head of state was explicitly depicted as a crime against the state and the will of society, while the same act against members of

31 Article 156 of the TCK, enacted 1926. The expression “death penalty” in this article was amended as “aggravated life imprisonment” by Article 1 of the Law no. 5218 dated July 14, 2004 and inserted into the text.

Parliament was implicitly regarded as such. This kind of symbolism does not sound very unusual for any parliamentary regime and jurisdiction. However, one of the most demystified moments of what covers the state occurred when these state actors, whose murder is punished by death, were themselves executed for the same crimes. Following the 1960 coup d'état, the former President, former Prime Minister, two other members of the former government, and eleven deputies of the former ruling party were tried for capital crimes against the state.³² And three of them were executed. Specifically, they were charged under Article 141, pertaining to offences against the homeland (*vatan aleyhinde işlenen cürümler*), or Article 146/3, concerning violations of the Constitution.³³ The ruling cadres of the former regime have now been declared “enemies of the state” through the very laws that define the “state” of which they were once a part, indeed, a symbol.

As the definition of the state became more ambiguous and was emphasized as if it were an entity independent of human beings, the question of who it includes and who it excludes becomes open to interpretation and historically variable. For instance, during the 1974 parliamentary debates on including offences against the state within an amnesty law, the Chairman of the Justice Commission articulated a clear distinction between the state and society:

Every crime has a victim; in the case of crimes against the state, the state itself is the victim; but in the case of ordinary crimes, the victims of the crime are persons. Now, I would like to ask what we will say if the victims of ordinary crimes (if we include only ordinary crimes in the scope of the amnesty and exclude crimes against the state) come to us and ask: “How can you talk about crimes of which I am a victim,

32 Report of the Special Commission of the Turkish National Unity Committee on the Death Sentences Issued by the YAD (3/157), *Millî Birlik Komitesi Genel Kurul Toplantısı*, C.6, B. 105, September 15, 1961.

The MBK approved the death sentences of Adnan Menderes, Fatin Rüştü Zorlu and Hasan Polatkan by unanimous vote. However, Celal Bayar's death sentence was commuted to life imprisonment due to his age, and a further eleven death sentences were commuted to life imprisonment.

33 The YAD, *Constitutional Violation Case*, 1960/1, vol. 1-5, case no. 1960/30, *TBMM Kütüphanesi*, Location No. 1985-4501.

while you do not include crimes against the state, against yourselves in the amnesty?”³⁴

It was broadly implied that the Parliament is “the state,” and that other citizens are just “persons.” However, this view was contested by one deputy, who replied that this state is their state too.³⁵ In this instance, the state was considered as all-encompassing for society, with the exception of its “enemies.” Since the concept of state has been abstracted by law – as if politics and law were not the primary constituents of this idea of the state, as if there were another state beyond its officials – both the executed and the executor have been able to justify their actions by claiming they acted for the sake of this state. Furthermore, as will be shown in the following discussion, proponents of both execution and clemency can claim that their position was motivated by a desire to serve the best interests of the state, while accusing the others of being the “real enemy” of the state. Through the death penalty, then, we are witnessing another way of creating “others” to blame for both social unrest and the state-killing.

5.1.2 *Blaming “Father Crab:” Multiple Definitions of the State in Parliamentary Narrative*

The members of the MBK, who orchestrated the military intervention on May 27, 1960, became increasingly polarized, especially coinciding with the commencement of trials charging the former civilian regime with capital crimes. The moderate wing favored a return to civilian rule as soon as possible, while the other wing argued that reforms should be implemented under continued military rule. In the first general election after the moderates had sidelined their opponents, Democrat Party, which had been dissolved by the 1960 coup d'état and whose executives were sentenced to heavy penalties, gathered under

34 The parliamentary debate on the Amnesty Law Proposal for the pardon of certain offences to be enacted on the occasion of the fiftieth anniversary of the Republic, dated March 27, 1974. (This Amnesty Law, enacted on May 15, 1974).

Yalçın Oğuz (Chairman of the Justice Commission, Sinop), *Millet Meclisi Tutanak Dergisi*, D.4, C.3, T. B. 60, April 2, 1974, 488.

35 Vefa Tanır (Konya), *ibid.*

new names and it is possible to say that they received 48.5% of the total votes.³⁶ Nevertheless, the government did not consist of this group, and different coalition governments were formed. The military wing favoring reform under military rule instigated two coups, thereby demonstrating their distrust of civilian governments.³⁷ Despite having been pardoned after the first failed coup attempt, the second plot of the same cadre in 1963 resulted in the death sentence of four retired soldiers for attempting to overthrow the government.³⁸ The parliamentary debates on this case began in January 1964 and continued for five months, thus establishing an unconventional ground for debate that had not been previously observed. The following words were said in this context during the discussion of this case in the Parliament:

The point is this: There is a psychological mistake. The famous ... [pedagogue] Zazman [C. G. Salzman]... wrote a book called *The Crab*.... In this book there is a father crab and three little baby crabs. As you know, crabs do not walk straight, they walk crabwise ... Under [the picture on the cover], it is written: "Daddy, if I see you do it, I will do it too."... Now we have divided the students into faculties [in the military school].... Let us hope that from now on the crabs in front of them will be good, and that there will be sensible men in front of them. Therefore, this

36 "Two such parties were formed in 1961 as soon as political activity was restored. They were the Justice Party ... led by a retired general with close ties to the junta, and the New Turkey Party ... whose leader Ekrem Alican had opposed Menderes and formed the Freedom Party in 1955. In the general election of October 1961, these parties won 48.5 per cent of the vote between them (34.8% and 13.7% respectively) compared to the 36.7% won by the RPP" in Feroz Ahmad, *The Making of Modern Turkey, The Making of the Middle East Series* (London and New York: Routledge, 1993), 137.

37 The first attempt was on February 21-22, 1962 and the second on May 20-21, 1963.

38 Law no. 480, enacted on June 26, 1964.

The sentences imposed by the First Chamber of the Military *Yargıtay* were in accordance with Article 146/1 of the TCK (no.: 963/2171, Decision no.: 963/998, dated October 31, 1963). The Parliament determined that Aydemir and Gürcan should face capital punishment, while the remaining two (Deniz and Dinçer) should not be punished by death.

means that there is a mistake in Turkey, not only in the military academy. There is a mistake. It is the father crab's fault. (*Laughter*)³⁹

In post-1960 period, political organizing and mobilization reached an unprecedented scale in the history of the Republic. “This ‘insurrection’ was marked by very significant polarization, as the left-right divergence was deepened and normalized. Towards the end of the 1970s, this polarization led to a ruthless spiral of violence.”⁴⁰ In the politically motivated crimes, there were instances in which the responsibility of both the Parliament and general public must inevitably be exposed. Concurrently, a discernible shift occurred in transferring responsibility for capital crime and punishment away from the death-row inmates themselves toward alternative actors. During this multi-party period, the “father crab” allegory emerged to illustrate how responsibility and blame circulate beyond individual intent. The parliamentary minutes underscored that capital punishment for such crimes merely served to select a scapegoat, a “pawn,” whilst disregarding the social dynamics that give rise to criminal acts, or other factors that had triggered the crime.⁴¹ For example, during the 1964 attempted coup d'état case, a deputy advocating for commutation stated:

The only source of crime is not free will; it is not being born as a criminal. There are serious and important influences of the environment.... To condemn to the death those persons who are driven to the chair of guilt (*suçluluk sandalyesi*) by this potential as the sole perpetrators of the incident is not and should not be the solution to the problem.⁴²

39 Tahsin Demiray (İstanbul), *Millet Meclisi Tutanak Dergisi*, D.1, T.3, C.26, B.42, January 28, 1964, 36-7.

40 Tanıl Bora, “Left and Right Radicalism in the 1970s Turkey,” *Birikim* 105 (2020), <https://birikimdergisi.com/articles/10552/left-and-right-radicalism-in-the-1970s-turkey>.
Tanıl Bora, *Cereyanlar: Türkiye’de Siyasi İdeolojiler* (İstanbul: İletişim Yayınları, 2017).

41 Sait Sina Yücesoy (Konya): “Only actors and criminals of the third degree have appeared before the Grand Assembly. (*Voices from the center*) My honorable friends, the revolutionaries (*ihtilalciler*) who appear [who are sentenced to death] are often no better than pawns.” *Millet Meclisi Tutanak Dergisi*, D.1, T.3, C.26, B. 42, January 28, 1964, 30.

42 Mustafa Kemal Erkovan (Ankara), *ibid.*, 8-9.

When I first noticed this and similar discourses parallel to the argument of this dissertation, I thought that this might be a tone peculiar to politically motivated crimes that was not observed in other cases. Or, I considered that this attitude might evolve as the death penalty approached abolition, representing a genuine, but also anachronistic, “road to abolition.”⁴³ Nevertheless, a more nuanced examination reveals a more cynical picture.

Indeed, a surface-level reading of the legal and legislative texts and narratives reveals a clear emphasis on the emergence of crime within a broader historical socio-political context. However, reframe responsibility was deeply entangled with power dynamics in the Parliament, rather than efforts toward accountability. The first striking nuance is that references to perpetrators as scapegoats or pawns, along with discussions of root causes, dominate the speeches of all actors – whether they support execution or clemency. It was a shared rhetoric. Whereas, as mentioned in the previous chapter, the expectation is that the death penalty would be abandoned as soon as social commentaries come into play. The reasoning is that if the perpetrator is not solely responsible for the crime, then the ultimate punishment, which is death, cannot justly fit the crime. However, despite this theoretical framework, Turkey’s practice has diverged. Opposition to clemency has persisted alongside the shifting of responsibility beyond death-row inmates, implicating broader political and societal actors. The following words, articulated in 1972 regarding the dossier of three students accused of capital crimes against the state, exemplify a rhetorical style that concurrently acknowledges the socio-political context and advocates capital punishment in spite of it:

If, God forbid, [those students] killed one of [legislators’] children, would they say that this is a political crime and they should not be executed? If so, why do they defend the execution of the murderer of their children, but oppose the execution of those who want to kill the whole country?... I think it is a moral duty to emphasize another point: The students whose execution was demanded were once innocent

43 I have borrowed “the road to abolition” from the book of Charles J. Ogletree and Austin Sarat, eds., *The Road to Abolition?: The Future of Capital Punishment in the United States* (New York: NYU Press, 2009).

young people.... Are not the perverted and corrupted professors, associate professors, and assistants, and the politicians blinded by greed for power responsible for turning these students into anarchists through the propaganda of social justice, income inequality, and progressivism?⁴⁴

The analysis of this and similar excerpts reveals two principal elements: First, the crime is attributed not solely to free will but also to external influences, as referenced to “the propaganda” of certain intellectuals and politicians. Second, despite acknowledging these socio-political causes, the gravity of the attack – framed as an attempt to “kill the whole country” – is emphasized to justify the use of the death penalty. Hence, this duality calls for a re-examination of the concept of who sees whom as the “state” and a precise definition of what is meant by the reference to “context.”

In the vast majority of this post-1960 discourse, the term “context” was employed not in reference to an entire social pattern, but rather to denote the “other,” an opposing political center. Meanwhile, the “state” was conceptualized as an overarching structure encompassing the remaining group. According to the parliamentary minutes, the group that saw itself as the target of the capital crime recognized itself as the state and thus supported the execution. In contrast, proponents of amnesty did not adopt this position in principle. They did not categorically reject capital punishment for political crimes; rather, they asserted that the crime was committed not against the state, but against corrupt politicians or other prominent actors. Because if the crime had truly been committed against the state, they too would be targeted, but they did not see themselves as such. Therefore, they framed the act as crime against persons or ideas, not the state. Consequently, they defined a transcendent state, inclusive of themselves but exclusive of the target of the crime. In a nutshell, the focus shifts from the self-evident wickedness of the death-row inmate to a broader evil, but still to the “other.” Even if there have been few cases, the inescapable silence that characterizes the entire death penalty scene has been disrupted by cacophonous voices, particularly during the intervals of

44 Tayfun Sökmen (Member Appointed by the President), *Cumhuriyet Senatosu Tutanak Dergisi*, C.4, T.11, B.42, March 16, 1972, 82.

civilian coalition governments in the aftermath of military interventions. What has been lost in this political polemic, however, is the recognition that it is not “they” but “we” who drag persons into certain crimes, and the relativity of the criminality of what is being dragged.

In certain cases, the rhetoric surrounding decision-making on behalf of the state was contested, with legislators becoming noticeably agitated during these parliamentary sessions – particularly in two significant cases that continue to resonate today. First, following the failed military coup attempt in 1963, four retired military officers – Talât Aydemir, Fethi Gürcan, Osman Deniz, and Erol Dinçer – were sentenced to death.⁴⁵ Secondly, after the 1971 coup, left-wing activists Deniz Gezmiş, Yusuf Aslan, and Hüseyin İnan were executed amid polarized political tensions.⁴⁶ However, it would be erroneous to attribute the exceptionality of discussions in these cases solely to the political nature of the “crime.” For instance, the individuals involved in these cases were sentenced to death under Article 146 of the TCK. The files of sixty-seven individuals sentenced to death under Article 146, along with the files of a total of 100 death-row inmates categorized as political criminals in this study, were submitted to the parliamentary agenda under both military and civilian regimes.⁴⁷ The actors in these cases were sometimes civilian and sometimes

45 Discussions in the National Assembly, the Senate of the Republic, and the Joint Commission on the execution or non-execution of the death sentences of Talât Aydemir, Fethi Gürcan, Osman Deniz and Erol Dinçer; Law no. 480, enacted June 26, 1964.

46 Discussions in the National Assembly and the Senate of the Republic on the execution of the death sentences of Deniz Gezmiş, Yusuf Arslan and Hüseyin İnan; Law no. 1576, enacted March 25, 1972 which was subsequently overturned by the Constitutional Court on April 6, 1972 (decision no. 1452), and the enactment of Law No. 1586 on May 5, 1972.

47 Between 1926 and 1984, 100 individuals whose cases were submitted to the Parliament were sentenced to death under following laws and corresponding articles (Where law numbers were not specified, relevant offenses understood to fall under these categories are also included in the counts.): eleven persons were charged under Article 56 of the Military Penal Code (treason against national defense/espionage); three persons under Article 125 of the TCK (crimes against the international personality of the state/attack on territorial integrity); sixty-seven persons under Article 146 of the TCK (crimes against the forces of the state/attempts to overthrow the constitutional order and prevent Parliament from performing its duties); four persons under Article 149 of the TCK (crimes against the forces of the state/causing

military personnel. Nevertheless, only two cases involving those seven prisoners have been the subject of such extensive debate over approximately sixty years, from 1926 to 1984. These extensively debated cases share common characteristics: they occurred in the aftermath of military interventions (specifically the 1960 coup d'état and the 1971 Memorandum), within the framework of a multi-party, bicameral parliamentary system, and during periods of coalition governments. Within the same Parliament, both the politicians who were the targets of the crime and their opponents were in attendance. In this picture, numerous segments – government or opposition, civilian or military, perpetrator or victim – could self-define as the authentic representatives of the state and society. Consequently, the commonality among these positions lies not in their position for or against execution, rather in their shared recognition of the legitimacy of capital punishment, albeit not the legitimacy of those who say “I am the state.” As previously stated, one of the objectives of the death penalty is not necessarily to continue with the execution; but to continue to conceal those responsible for this crime and decision, maintaining their anonymity disguised as state and society in these instances. When referring to anonymity, it should be noted that in such cases, it is not possible for the identities of the actors – from those on trial to the judges, and to the members of Parliament voting for or against – to remain concealed. It would be more accurate to say that what they were attempting to create is the appearance that decisions, which inherently generate individual responsibility, were made anonymously. The image of acting on behalf of supra-human structures that transcend individuals seems, at least temporarily, to obscure both the individual affiliations, responsibilities, and accountability involved in the context of the crime as well as in the decision to impose the death penalty.

In one such case, referenced in the preceding chapter, three young members of the radical leftist group were sentenced to death for crimes against the

riots); and finally, fifteen persons under Article 450 of the TCK* (crimes of manslaughter/capital murder), which in this study is referred to as political animosity. *Although it is noted that one individual was tried under both Articles 149 and 450, since the decision to sentence to death was made pursuant to Article 450/4-5, the case has been categorized under that article.

Constitutional order and the Parliament in 1972.⁴⁸ The case remained on the parliamentary agenda for about two months, making it the second most intensely debated case after the 1963 failed coup attempt, which was discussed for five months.⁴⁹ During the trial, the defense team argued that the reasons behind the 1971 Military Memorandum against Parliament and the social circumstances under which the defendants committed these crimes were essentially the same. The military, through the Memorandum, asserted that the prevailing attitudes, perspectives, and conduct of the Parliament and the Government had led the country into “anarchy, fratricidal strife, social and economic unrest,” underscoring their failure for the implementation of Constitutional reforms.⁵⁰ The defense argued that this chaos and the social injustice in the country should also be considered as a kind of “unjust provocation” or “self-defense.”⁵¹ Although the Military Court did not formally recognize or rule on the defense’s argument, it left an open door. While the court has sentenced to death Gezmiş, İnan, and Arslan, it explicitly delegated responsibility to Parliament:

The court refrained from expressing personal opinions on these detailed criticisms and allegations. Instead, it deemed it appropriate to leave it to the public conscience, history, and the discretion of the TBMM to pass judgement on them.⁵²

48 The execution of the death sentences for Deniz Gezmiş, Yusuf Arslan, and Hüseyin İnan was initially authorized by Law no. 1576, enacted on March 25, 1972. This law was subsequently overturned by the Constitutional Court on April 6, 1972 (Decision No. 1452), but then re-approved with Law no. 1586, on May 5, 1972.

49 It is important to note that it was solely the capital law that was overturned by the Constitutional Court and consequently returned to the parliamentary agenda. For a more detailed explanation of the Court's decision please refer to the following: Chapter 4 / 4.1.2.2. “Respect for Parliamentary Procedure.”

The Constitutional Court’s decision of April 6, 1972 was published in the RG on April 1972, 7 (no. 1452, Repeated) File no: 1972/13, Decree no: 1972/18.

50 Hikmet Özdemir, “Siyasal Tarih: 1960-1980” in *Türkiye Tarihi 4: Çağdaş Türkiye 1908-1980*, ed. Sina Akşin (Ankara: Cem Yayınevi, 1997), 228-29.

51 Reasoned Judgement of Military Commission, No. 1971/23, dated November 9, 1971.

52 *Ibid.*

The court emphasized that, although it was legally impossible to mitigate the defendants' death sentences on the grounds of provocation based on ideological violence, "public conscience" and "history" could serve to do so. This stance clearly exposed both Parliament's authority in the legislative process and its role as "representative of the public conscience."

The following set of excerpts has been selected to illustrate the Parliament's response (or lack thereof) to this exposition. (It is first necessary to recall that Adalet Partisi (AP, or Justice Party) was the party that formed the coalition government at the time of the crimes under discussion and was overthrown by the 1971 Military Memorandum. The main opposition party in the same Parliament was Cumhuriyet Halk Partisi (CHP, or Republican People's Party). Additionally, Demokratik Parti (DP, or Democratic Party), which will be referenced at the end of the speeches, was a "third party" claiming to be the true political heir of the pre-1960 coup government and was distinct from both parties.)

A deputy from the AP stated:

These children, of course, did not suddenly grow up.... Their minds were brainwashed at the universities.... This is not a matter of inter-party struggle within Turkey, nor is it simply a struggle of regimes; in reality, it is a matter of existence or extinction, a matter of survival.... The concession made by the Chairman of the CHP to the left, I believe, has allowed those on the left to shift even further.⁵³

In response, a deputy speaking on behalf of the Parliamentary Group of the CHP argued:

They said: "We came to 12 March [1971 Memorandum] because of the opposition wing"... I just want to say one thing. If we came to 12 March because of that, why was the government that fell on 12 March called the AP government? And if that was the reason, you are still in the

53 Seyfi Öztürk (Eskişehir), *Millet Meclisi Tutanak Dergisi*, D.3, C.23, T.3, B.58, March 10, 1972, 142-3.

majority, there is a parliamentary system, why are you not in the government?⁵⁴

Another AP deputy countered:

Let's take them and hang them with you. Why aren't you with us on this one?⁵⁵

The CHP deputy replied:

You were a government; you acted as a government.... How do you know that if we had taken power we would not have ruled ... without bringing this country to anarchy?⁵⁶

Finally, a deputy speaking on behalf of the Parliamentary Group of the DP added:

The responsibility for this must be shared by the coalition partners and those who voted for this government. We have watched and listened to the bickering of the coalition partners in front of history and in the minutes of Parliament.... Those who allow the young of the snake to grow up have no right to complain when the snake bites them.⁵⁷

As is apparent, the share of social unrest in these crimes was acknowledged; however, the responsibility for this chaos was not clearly assigned, nor was there a clear understanding of who constitutes the legitimate counterpart of the “public conscience” to whom the Court delegated decision-making authority. As illustrated below, at least three divergent depictions of responsible actors are traced, which do not fully overlap with each other. It could be a former government, or an opposition party, or both. However, neither the socio-political structure nor the collective responsibility of the entire Parliament, encompassing both military and civilian regimes itself, was questioned. In contrast, each speaker accused an entire group of dominating the

54 Mustafa Necdet Uğur (On behalf of the Parliamentary Group of the CHP, İstanbul), *ibid.*, 162.

55 Hüsamettin Başer (Nevşehir), *ibid.*

56 Mustafa Necdet Uğur (İstanbul), *ibid.*, 163.

57 Mustafa Kubilay İmer (Konya), *ibid.*, 165.

opposition, based on their own perspective. Consequently, the contention that “they are not the actual perpetrators” diverges considerably from the perspective that this dissertation seeks to substantiate.

The following words, spoken by two Senators of the Republic during the case of Gezmiş, İnan, and Aslan, who were accused of “attempting to overthrow the Constitutional order” by engaging in communist ideology, offer a concise description of this vicious cycle of blaming. The first citation comes from an elected member of the Senate affiliated with the ruling party during the period of the crime, while the second is from a former member of the military junta that orchestrated the 1960 coup d'état.⁵⁸

An elected member from the AP: Where are the professors, writers, parliamentarians, and red intellectuals (*kızıl aydınlar*) who dragged these young people and left them in front of the gallows and then ran away? Let them come to the rescue of these young people, let them not hide ... while these young people go to their deaths.... Dear Senators, these young people are of course guilty, but the real criminals, the real murderers, are nowhere to be seen.... The judiciary, in self-defense of the Turkish state, has punished by death those who attacked it. This is right and just. For our state, a single person is valuable, the lack of a single person is a loss; but for the survival of our state, it is obligatory (*farz*) to sacrifice thousands of people, friends.⁵⁹

A natural member: Young people saw the general situation in Turkey as bad and could not see any hope for improvement. The members of the government before March 12 ... should say, “The perpetrators in front of us are somehow the victims of our sin” and they should suffer

58 There were three groups of Senators in the Senate of the Republic. One group, known as “natural members” (*tabii üye, yaşam boyu senatör*), were the former Presidents and ex-members of the MBK that formed the 1960 coup d'état. Fifteen members were appointed by the President of the Republic. One remaining group was elected by the citizens.

59 From October 1965 to March 1971, three different AP governments were formed under the prime ministership of Süleyman Demirel. Hamdi Özer (Malatya) was elected to the Senate of the Republic from the AP in June 1968.

Hamdi Özer (Malatya), *Cumhuriyet Senatosu Tutanak Dergisi*, C.4, T.11, B.42, March 16, 1972, 90-1.

a pang of conscience. If I were a member of the AP (*voices of "God forbid" from the ranks of the AP*), when the situation of those criminals is discussed,... I would at least have a feeling of guilt. The former government was not an impartial arbiter of events ... but a party to creating this atmosphere.... A few kids wanted to overthrow the Turkish state?... It is forgivable for those who came to power through legitimate means to resort to all kinds of illegitimate means,... and to violate the basic qualities of the state, the qualities of secularism and revolutionism, for years in order not to leave power; but even life imprisonment is considered too much for the victims of society's sins.... Trying to put the blame for the period before March 12 on a few kids, even if they were perverts, even if they were children, even if they were deceived, is also useless.⁶⁰

There is a consensus that the “real killers” are not these “few kids.” However, both sides attribute responsibility for societal disorder to the opposition, thereby portraying themselves as the true victims, as the state. In the case discussed, the civilian ex-ruling party (the AP) frames the responsible actors as “enemies of the state” aligned with communism or military tutelage. Conversely, the ex-military regime blames the civilian regime for “violating the basic qualities of the state.” In their work on the Singapore nation and the political edge of capital punishment, Alfred Oehlers and Nicole Tarulevicz present a highly comparable depiction of the situation in Turkey:

It is these “others,” characterized by weakness or driven by a sense of malevolence against Singapore’s achievements – “the dark forces waiting just outside the charmed circle of Singapore’s boundaries” – who are largely to be blamed and should be punished. As “saboteurs” of the

60 Ahmet Yıldız was a “natural member” or “life member” in the same Senate, as an ex-member of the National Unity Committee. Ahmet Yıldız (natural member), *ibid.*, 83-6.

Singapore project, they too deserve the harshest punishment possible – death.⁶¹

In cases of “offences against the state” in Turkey, all parties involved have also attributed responsibility to “dark forces,” reflecting a shared transcendental perception of the state, while viewing political conflict as a mundane practice. For each side, the punishment for attacking that state is death. The primary point of disagreement lies in whether the *state* itself is being attacked and, consequently, whether the perpetrators deserve execution.

Regardless of the underlying motivations, the advocacy of either the execution or the commutation is inherently carried its own ideological weight. Nevertheless, it would be erroneous to suggest that positions on this matter differ significantly according to political party or viewpoint in Turkey.⁶² It is, of course, unrealistic to expect that every legislator’s personal opinion on such matters will coincide with that of their political party. Therefore, it is more effective to consider statements made by representatives speaking on behalf of their parliamentary groups, as these better reflect the official stance within the legislative context. In the context of capital crimes against the state, an examination of the remarks made on behalf of the parliamentary group reveals a lack of a definitive retentionist-abolitionist stance, thereby, a lack of singular definition of the state. For instance, three political party leaders who had lobbied for the pardon of former state leaders – members of the party deposed in

61 John Clammer, “Framing the Other: Criminality, Social Exclusion and Social Engineering in Developing Singapore,” *Social Policy and Administration* 31 (December 1997): 136–53, quoted in Alfred Oehlers and Nicole Tarulevitz, “Capital Punishment and the Culture of Developmentalism in Singapore,” in *The Cultural Lives of Capital Punishment*, eds. Austin Sarat and Christian Boulanger (Stanford: Stanford University Press, 2005), 303.

62 For instance, in the days leading up to May 20–21, 1963, and during the debate on the commutation of the sentences of former soldiers accused of attempting by force to revise, amend, and abrogate the Constitution of the Republic of Turkey and to overthrow the Assembly, the government generally favored execution. Since the 1960 coup d’état, all civilian governments had been formed under the prime ministership of İsmet İnönü from the CHP. The speeches of deputies from the CHP, the government’s major partner, were predominantly in favor of execution. However, the CHP Niğde deputy Asım Eren diverged from his colleagues by adopting the opposition’s discourse of “forgiveness is *zekat* of victory (*af zaferin zekatıdır*)” and advocated for amnesty. *Millet Meclisi Tutanak Dergisi*, D.1, T.3, C.26, B.42, January 28, 1964, 16.

a coup d'état and sentenced to death in 1961 – took different positions in later two cases.⁶³ One group supported the death penalty after the unsuccessful coup attempt in 1964 but opposed it in 1972 in response to the perceived “communist threat.”⁶⁴ Conversely, another group opposed the executions of former soldiers in 1964, questioning whether “the state can kill a man for the interest of mankind,” yet supported the death penalty in 1972 to defend “the survival of the state” against the radical-left.⁶⁵ It should be noted that in all three cases, the relevant article was Article 146, (i.e. an attack on the Constitutional and parliamentary order). Therefore, it is more accurate to say that what changed was not the nature of the crime or the tendency towards death penalty, but whether or not the actors perceived themselves as victims of the attack.

In all instances where they advocated execution, they got invariably positioned as being part of the political regime or ideology under attack. This regime was depicted as the sole embodiment of the state as an entity above political contestation. In such cases, the death penalty was employed by those actors to portray themselves as an apolitical “state,” thereby concealing their own involvement in the context leading to attacks against them. The proponents of clemency, on the other hand, have reached the same conclusion from the opposite side. According to them, the attack was against certain political groups, thus it could not be against the state, which is regarded as an entity that transcends any realm of politics. Consequently, for those who did not feel

63 Letters of September 14, 1961 from İsmet İnönü, leader of the CHP, Ragıp Gümüşpala, leader of the AP, and Ekrem Alican, leader of the New Turkey Party, to the Presidency of the National Unity Committee, requesting that the executions of former state officials – who were ex-members of Democrat Party – not be carried out. In website of İsmet İnönü Vakfı, *Yassıada İdam Kararları-1961*, <https://www.ismetinonu.org.tr/yassıada-idam-kararlari-1961/>

64 The CHP was a main coalition partner from 1961 to 1965, a period that encompassed two attempted coups in 1963. Thereafter, the CHP positioned itself as an opposition in 1971 when the alleged political crimes were committed.

65 The AP adopted an oppositional stance in the Parliament during the two attempted coups in 1963. And it was in the government from 1965 to 1971 when the communist “crimes” were committed. The 1971 Memorandum resulted in its removal from power. Fethi Tevetoğlu (On behalf of the AP, Samsun), *Cumhuriyet Senatosu Tutanak Dergisi*, D.1, C.19, t.3, B.50, March 11, 1964, 228; Seyfi Öztürk (On behalf of the AP, Eskişehir), *Millet Meclisi Tutanak Dergisi*, D.3, C.23, T.3, B.58, March 10, 1972, 139.

targeted, there was no crime that required the death penalty. Because they believed they were the state but not the victims, they denied any responsibility for creating the hostile atmosphere, attributing blame instead to the “other” parliamentarians. In this instance, the absence of the death penalty, as opposed to its presence, replicates a transcendental state. And the potential onus of those who did not perceive themselves as being targeted was eclipsed. As Philip Abrams asserts, “[t]he state is not the reality which stands behind the mask of political practice. It is itself the mask which prevents our seeing political practice as it is.”⁶⁶ As a slight deviation from Abrams, this distinction is not merely illusory. In Mitchell's own words, “producing and maintaining the distinction between the state and society is itself a mechanism that generates the resource of power.”⁶⁷ This production of lines has not been maintained by one discourse in the capital punishment era of Turkey, but multiple lines have been depicted.

The divergence in the conceptualization of the state is discernible in select discourses. For instance, actors who view themselves as targets of criticism asserted that “this is not about the execution of three people. This is about the survival of the Turkish State, the Turkish nation and the survival of the regime. Today, our society is in self-defense.”⁶⁸ From this perspective, the attack was not against an ideology promoted by the current political actors but against the state itself. Therefore, the execution decision taken by the Parliament, which represents both the state and the nation, was framed as a measure of self-defense. In the counter-narrative, the former government targeted by capital crime is explicitly excluded from the definition of the state, positioning it instead as a distinct political actor or adversary rather than the legitimate part of the state itself. A deputy clearly said that:

As a result of your failure to implement the necessary reforms, equity in the distribution of income has gradually [developed] to the disadvantage of the lower income classes.... There is a belief in society that

66 Abrams, “Notes on the Difficulty,” 58.

67 Mitchell, “The Limits of the State,” 90.

68 Nahit Altan (Çanakkale), *Cumhuriyet Senatosu Tutanak Dergisi*, C.4, T.11, B.54, May 2, 1972, 388.

the government that came to power after 1965 refused to carry out these reforms.... *State institutions* were marching against *the Government* ... Did the members of *Yargıtay*, the members of the Council of state, the university professors take to the streets on their own? Where in the world have you seen that? But you have brought events to the point where they have taken to the streets, so why don't you look for it in yourselves? (emphasis added).⁶⁹

This time, against the ex-government that proclaims its own survival as synonymous with “the survival of the state,” another definition of state was produced that clearly excludes this government from *the state institutions*, even positioned in opposition to them. However, this cannot be attributed to a simple divergence between ruling and opposition parties. To illustrate this point, we may consider an example of the “communist threat” of 1972. In this case, a third-party legislator could simultaneously hold the ex-government, in which he was not involved, responsible for the social unrest, while also perceiving his own ideology as targeted by radical leftist death-row inmates. Since he also saw himself as part of the state, the crime was framed not merely as an attack on a government but as an attack against the state itself:

I ask you, today ... are we going to approve the death sentence because “we are ensuring the security of the government?” Is it a question of the regime or the survival of Turkishness?... It is well known that a political crime means not liking the existing regime and replacing it with another regime. Is this what [perpetrators] want or are they decided to destroy the Turkish nation ..., the Turkish State? If they only wanted a “regime change,” they could have been forgiven. But they are acting with the intention of killing a nation.⁷⁰

This legislator's stance illustrates how responsibility for unrest was attributed to the ex-government, yet the perceived threat from radical leftists was framed as an attack on the state's survival, justifying death penalty. Briefly,

69 Muammer Erten (Manisa), *Millet Meclisi Tutanak Dergisi*, D.3, C.23, T.3, B.58, March 10, 1972, 178.

70 Nuri Erdoğan (On behalf of the Democratic Party, İstanbul), *ibid.*, 116-7.

the intense depiction of a ghoulish murder scene in the preceding chapters was replaced by a discourse of scornful attack on sacred values of the state. As evidenced in 1972, these values could be represented as a communist attack on the supreme values of the state, or a greedy governmental attack on the values of the secular state, or a total power vacuum. To provide an illustration for latter one, in 1982, during the case of Mehmet Ali Ağca – the infamous assassin of a leftist journalist – a deputy who had not belonged to any political party before the military intervention of 1980 blamed the former civilian regime by stating that:

Ağca was one of the thousands of anarchists who had been involved in many anarchist incidents before ... September 12 [,1980 coup d'état] and who had been able to stay out, believing that their actions would go unpunished due to the lack of authority.⁷¹

While seeking a root cause which extends beyond the personality of the perpetrator is undoubtedly valuable, the difference between saying “we dragged them to the crime” and “you dragged them” is crucial, regardless of which political side – government, opposition, or former regime – is blamed. This difference matters because it creates uncertainty about which group should take responsibility for resolving the problem. Those held responsible were no longer depicted as isolated “monsters” but as monstrous “father crabs” – political governments consisting of a few “incompetent” individuals or “perverted” intellectuals, who were not considered part of society and incapable of providing any solutions.

It is evident that in some rare but notable politically motivated crimes, the idea of individuals being “dragged into crime” by socio-political conditions or provocation is seemingly predominant. Alongside these “dragger” factors, the criminality of the activities in which death-row inmates were involved is seen as relative. Finally, an examination of the content of the so-called “crime” is required. After all, “political crimes are only crimes according to the opposing

71 Halil Gelendost (Member appointed under the MGK quota), *Danışma Meclisi Tutanak Dergisi*, C.4, Y.1, B.62, March 6, 1982, 227.

side.”⁷² In politically motivated capital crimes against the state in Turkey, three prominent tendencies have emerged, largely because political crime is not formally recognized as a distinct category in Turkish legal system and thus reappears under other legal guises. The first argument posits that the act was not committed against an ideology, but rather against the state itself. More specifically, they contended that the victim was not a person but the Turkish State itself that was targeted for killing.⁷³ Nevertheless, the nature of this state remains nebulous. The second tendency recognized political crime in practice, yet argued that crimes discussed were exclusively limited to various ordinary crimes that do not warrant capital punishment as crimes against the state.⁷⁴ As illustrated by a Senator in 1972,

those who want to change this Constitutional order by force must have a power comparable to the forces that protect it. The Constitutional order of the Republic of Turkey is not a state ... that can be violated by a gang of five or ten, by two or three armed men through bank robberies and kidnappings.⁷⁵

This view suggests that small-scale violent acts, even if politically motivated, are ordinary crimes rather than existential threats to the state. Conversely, the same rhetoric was also used by the proponent of execution. In response to the argument that the death penalty cannot be imposed for the crime of political thought, they emphasized that these crimes, while having a political

72 Estevan Altamirano, “La abolición de la pena de muerte,” *La Nación*, August 31, 1856, 2–3, quoted in Patrick Timmons, “Seed of Abolition: Experience and Culture in the Desire to End Capital Punishment in Mexico, 1841–1857,” in *The Cultural Lives of Capital Punishment*, eds. Christian Boulanger and Austin Sarat (Stanford: Stanford University Press, 2005), 76.

73 İhsan Göksel (Member appointed under the MGK quota), *Danışma Meclisi Tutanak Dergisi*, C.4, Y.1, B.62, March 3, 1982, 229.

74 The dissenting opinion of Mucip Ataklı (Natural Member), MBG Member of the Senate of the Republic, on the Report of the Constitution and Justice Commission of the Senate of the Republic on the sentencing to death of Deniz Gezmiş, Yusuf Aslan and Hüseyin İnan,” *Cumhuriyet Senatosu Tutanak Dergisi*, C.4, T.11, B.42, March 16, 1972.

75 Fatma Hikmet İşmen (Kocaeli), *Cumhuriyet Senatosu Tutanak Dergisi*, C.4, T.11, B.54, May 2, 1972, 380.

dimension, were still “ordinary crimes” involving violence.⁷⁶ From this perspective, the death penalty should be imposed not because the crime is political, but because it is violent.

The final tendency also acknowledged the existence of political crime in practice but refrained from directly accusing alleged perpetrators of this specific crime. In the context of “communist threat,” for example, it was argued that while this ideology in itself is undoubtedly criminal, “these young people are not, in fact, communists.”⁷⁷ On the other hand, actors who were opposed to the execution of death sentences were compelled to emphasize their own non-affiliation with communist ideology. For example, a former member of the 1960 military junta, as a Senator, stated on at least three different occasions that they were not “defending anarchists or communists,” but were simply “listing the faults of those who, out of stupidity, try to justify communism.”⁷⁸ Despite the absence of a consensus regarding the causes of crime and the definition of state, there seems to be a consensus on the concept of “criminality.” The nature of political crime was rarely, if ever, discussed. As a result, in the parliamentary debate over death-row inmates in Turkey, discussions about whether these individuals represented communists or other ideologies and whether their targets were the state or merely some politicians eclipse any potential discussion surrounding the legitimacy of the criminalization of any ideology.

I think that a quote that would best depict all of this picture, if it had not been uttered by a pro-execution Senator of the former ruling party and aimed at criticizing those blaming the ex-government, would be the following:

If this had not happened, if society had not been like this, if Parliament had not made this mistake, if the governments based on this Parliament – which are themselves [opposition parties] in the Parliament – had implemented these reforms or had refrained from doing this or

76 Hüseyin Kalpaklıoğlu (Kayseri), *ibid.*, 283-5.

77 The dissenting opinion of Mevlüt Ocakçıoğlu (Niğde) on the Justice Commission Report on the sentencing to death of Deniz Gezmiş, Yusuf Aslan and Hüseyin İnan, *Millet Meclisi Tutanak Dergisi*, D.3, C.23, T.3, B.58, March 10 1972.

78 Ahmet Yıldız (On behalf of the parliamentary group of MBG, natural member), *Cumhuriyet Senatosu Tutanak Dergisi*, C.4, T.11, B.42, March 16, 1972, 87-9.

that; these children would not have committed these crimes.... What is that, dear friends, if not self-denial? You are going to be in Parliament, you are going to be a controller (*murakıp*) of the government based on this Parliament, [yet] here you are defending people who have committed crimes according to the laws you yourselves have made.⁷⁹

§ 5.2 Allies or Enemies of Regime: Ideological Dimension Hidden Under “Crimes Against Persons”

So far, I have examined that the state is vaguely defined by law and within legal discourse, often portrayed as a transhistorical entity existing beyond human influence and political dynamics. This conceptual vagueness has allowed the legislature to operate as a shadowy agent, as an imaginary victim wielded by those who define both crime and punishment. While this illusion of victimization in cases of “offences against the state” can be relatively easily dispelled, the same cannot be said for cases with a political edge but that legally fall under “offences against persons.” Because the problem of agency, which has become visible in parliamentary debates on crimes against the state, can once again be concealed beneath a thick veil of silence. In other words, the disagreement among parliamentarians regarding who represents the state and the nation, as discussed in the previous section, has been replaced by a relative consensus, or at the very least, a silent acceptance in the examples will be discussed here. More precisely, the consensus does not center on defining who the state and society are, but rather on identifying who they are *not*.

The right to represent the state and society was reserved solely for the legislative and executive branches. Put differently, as the first section shows, different voices can emerge within the Parliament, each defining the state in distinct ways. However, when these voices originate from outside Parliament and the boundaries defined by the regime, they were typically and collectively ignored. Referring to Zerrin Özlem Biner’s research on Turkey’s conflict zone in the Southeast, a complex dynamic emerges between the “illusions” of state and

79 Hüseyin Kalpaklıoğlu (Kayseri), *Cumhuriyet Senatosu Tutanak Dergisi*, C.4, T.11, B.54, May 2, 1972, 283.

society. Drawing on Begoña Aretxaga's concept of mutual fantasy, Biner observes that,

It is not only the state that has been fetishized by the people; people have also been fetishized by the state.... The state can also be haunted by the fantasized power of the subversive subjects that it wants to control. State officers, village guards, and security force personnel were also haunted by the power of the subversive Kurds to fight against the state. The power of Kurdish citizens to enrage the state was produced by the very same potent stuff that enables the state to enrage its citizens – the potential of transmutation from friend to stranger, from loyalist to separatist, from citizen to terrorist and back again.⁸⁰

This section primarily focuses on this side of the coin.

The first part addresses crimes that, while legally categorized as crimes against persons, were explicitly driven by political motivation. These politically motivated capital crimes involve acts that harm individuals but are fundamentally rooted in challenges to the political order, reflecting the perpetrator's ideological objectives rather than mere personal gain.⁸¹ In the public opinion "political delinquents very often appear to be unlucky gamblers rather than criminals."⁸² However, in these cases, politico-legal elites depicted themselves as representatives of an apolitical state while simultaneously concealing the sense that ordinary citizens may commit crimes motivated by their perception of serving the state and society, sometimes even out of altruism. This concealment has been achieved by depoliticizing the acts, individualizing the crime and marginalizing the criminal, thereby obscuring any political or social motivations behind such acts and reinforcing the regime's legitimacy and control. In the second part, I will examine whose "conscience" the decision-making system – which claims to act in the name of the conscience of the state

80 Begoña Aretxaga, "Maddening States," *Annual Review of Anthropology* 32 (2003): 402, cited in Zerrin Özlem Biner, *States of Dispossession: Violence and Precarious Coexistence in Southeast Turkey* (Philadelphia: University of Pennsylvania Press, 2020), 19.

81 M. Denis Szabo, "Political Crimes: A Historical Perspective," *Denver Journal of International Law & Policy* 2, no. 1 (Spring 1972): 7–22, <https://digitalcommons.du.edu/djilp/vol2/iss1/4/>.

82 *Ibid.*, 15.

and the nation – truly represents, and consequently, who it implicitly excludes from that society.

5.2.1 *Deadly Loyalties: “Political Animosity” and Capital Murder Cases*

The bifurcation of the state and political realm is not only apparent in criminal legislation but also in judicial practice. This distinction, separating offences against the state’s personality from offenses against real persons, effectively obscures any political dimension in capital crimes except those legally framed as crimes against the state itself. For instance, not a single person has been tried and executed under the “communist threat” provision of Article 141, but this does not mean that ideological executions have never occurred in the history of Turkey. Conversely, the most renowned cases are always those that demonstrate ideological facets. Therefore, I include specific capital murders driven by political/ideological motivations within the category of political crimes, regardless of their legal categorization as crimes against persons. In order to describe this motivation most accurately, I would suggest that the term “political animosity” (*siyasi husumet*) be employed. This term has not been defined as a crime in jurisprudence of Turkey, nor does it appear as a legal expression in legislative or executive texts. I propose using this term to define particular capital crimes that were politically motivated but not directly committed against the state, as defined by the prevailing criminal code. This concept captures the motivation behind certain violent acts driven by political hostility without fitting neatly into existing legal categories.

Especially in the aftermath of the 1980 coup d’état, an examination of parliamentary minutes revealed numerous cases where capital punishment was imposed for crimes such as premeditated murder that were clearly politically committed and prosecuted on political grounds. In accordance with the TCK, a considerable number of ideologically motivated crimes could not be prosecuted as crimes against the state because they did not meet the legal criteria for such offenses. Moreover, there was no other official category specifically for political crimes. As a result, the perpetrators were convicted under the provisions of other articles, typically under the heading of murder, Article 450. This form of categorization conceals the political basis of these crimes,

equating ideologically driven murders in the legal system with other murders resulting from motives like a robbery or a love affair.⁸³ The perpetrators became regarded as an “ordinary” murderer. Consequently, the ideological violence that characterized the era, along with the violence perpetrated by both civilian and military regimes themselves, were hidden from view. Therefore, the need to portray the state as a victim of political violence began to fade away.

The term “political animosity” is used for certain cases of capital murder in order to overcome the legal obstacle posed by the impossibility of defining political crimes without reference to the state. Furthermore, this approach allows for the examination of primarily politically/ideologically-driven cases under the same category without relying solely on the legal definitions tied to the state-related crimes. While there is no legal definition of political animosity, and while the *letter* and *spirit* of many laws lack any ideological implication, the reference to political engagement of perpetrator and victim has been hidden within the parliamentary and legal narratives. It is important to note that this section adopts the “political” categorization expressed and implied by the actors themselves, namely parliamentary members, victims, perpetrators and other relevant members of society. The term political is not, and has never been, neutral in its connotations. It carries an extensive historical and cultural baggage. This term has not been determined solely by structural and legal grounds; but has also emerged from the context of concrete political movements and conflicts in Turkey. In the collective memory of society in Turkey, especially the period between the 1970s and 1980s – which is marked by mass political violence – occupies a significant position. In this context, political violence can be defined “as a particular repertoire of collective action that involved physical force, considered at that time as illegitimate in the dominant culture.”⁸⁴ The post-1960 period of Turkey witnessed this kind of collective

83 It is not my intention to suggest that love affairs, burglary, or any other social phenomenon have no political component; rather, I want to emphasize that they are distinct from crimes against the regime itself and occur more commonly in the cases of capital punishment.

84 “Operationally, I included forms of action such as attacks on property, when damage or theft of property is the main goal; rioting, when unorganized disorder leads to damage to property;

action marked by significant polarization between the left and right. The left predominantly consisted of diverse socialist movements, including radical groups influenced by various revolutionary ideologies, whereas the right was primarily led by nationalist-conservative elements, including ultranationalist radical groups.⁸⁵ This polarization became “a ruthless spiral of violence” throughout the decade.⁸⁶ Therefore, “being political” became to denote as a part of radical-left or radical-right groups in the capital punishment cases.

From the military regime on September 12, 1980 until the final decision for execution on October 5, 1984, the political opinions of perpetrators and victims (such as those holding leftist, communist, Marxist-Leninist, rightist, *ülküciü*, nationalist views) were clearly delineated in the dossiers in which the perpetrators committed murder due to their political animosity and were sentenced under Article 450. Prior to the 1980 coup d'état, the parliamentary dossiers on capital punishment contained no explicit references to the political motivation or socio-political background of murder crimes. It is not meant that the politically motivated capital murders did not occur before the military regime of the 1980s. First of all, it would be wrong to assume that the inadequate archival data necessarily indicates the absence of criminal motivations behind capital crimes. Secondly, this assertion is technically inaccurate. Although the archival records of Parliament prior to the 1980 military coup lack any explicit references to ideology, only about one-fifth of the murders

violent confrontation, when members of opposing political groups fight with one another; clashes with the police, when protestors interact violently with the police; violent attacks directed against persons, when one political group attacks another group, or members of the elite or the public, causing injuries or deaths; random violent attacks, when organized violence is directed against persons, regardless of their political or social identities; armed seizure of places or people, including armed trespassing, holdups, and hijacking. It is worth noting that, in all these forms of action, the main objective is a de facto display of physical force (della Porta and Tarrow 1986:614)” in *Social Movements, Political Violence, and the State: A Comparative Analysis of Italy and Germany*, Donatella della Porta, (Cambridge: Cambridge University Press, 1995), 4-5.

85 Liza M. Nell, “The Shadow of Homeland Politics: Understanding the Evolution of the Turkish Radical Left in the Netherlands,” *Revue européenne des migrations internationales* 24, no. 2 (2008): 123-27. <https://doi.org/10.4000/remi.4572>.

86 Bora, “Left and Right Radicalism.”

motivated by political animosity were committed after the coup d'état, with the vast majority occurring during the 1970s – a decade marked by intense political violence.⁸⁷ I argue that it was not the political animosity itself, but the remark on it that became prominent during and after the military regime of the 1980s. It can also be argued that the military regime placed greater emphasis on the context of political violence of the previous regime in the 1970s, rather than on its own violence. Alternatively, the unprecedented controversy surrounding capital cases classified as crimes against the state during the 1960s and 1970s may have led the new actors to redefine certain crimes as less akin to political crimes, at least on paper – such as the all-encompassing charge of capital murder – thereby eroding the basis for parliamentary debate and public contestation. It can be said that what changed was not the ideological dimension of accusations, but rather their legal framing, shifting politically motivated violence into categories that obscured its political nature.

In that era, a significant number of politically well-known death-row inmates were convicted of capital murder, rather than crimes against the state, according to the law under which they were sentenced. Given the social context, their political involvement added a layer of premeditation that distinguished these cases from other instances of premeditated murder. Because the parliamentary discussion, even lack thereof, has been mainly shaped around the political aspect. To illustrate, Erdal Eren, a prominent left-wing figure in Turkey's history of death penalty, was sentenced to death in 1980 under Article 450/9 for the murder “committed with the intent of evading punishment for himself or another person.”⁸⁸ The perpetrator was protesting the killing of a leftist student by state violence. The victim was a military officer who had intervened in this protest. And, both criminal acts – the killing of a protester and an officer – were driven by a highly ideological motivation. However, because Eren was tried under the general capital murder provision rather than a crime against the state, his case, clearly influenced by ideology, was technically camouflaged among murder cases. Since the crime was not legally classified

87 One fifth of the dossiers of capital punishment that were based on the crime of politically motivated murder and that were submitted to the Parliament.

88 Prime Ministry Memorandum and Justice Commission Report on the Execution of the Death Sentence of Erdal (3/25), *Milli Güvenlik Konseyi Tutanak Dergisi*, C.1, B.23, December 12, 1980.

against the state, there was no need to discuss who the victim was, namely the state. As in other capital murder cases, the Parliament could decide execution in silence. In this way, the regime's own involvement in political violence could be kept out of sight.

Despite the lack of verbal discussion in Parliament, this does not imply an absence of political references within the legislative texts. In fact, the political and ideological tendencies of actors were explicitly mentioned in the parliamentary and legal narratives in certain case files. The Justice Commission Reports included definitions such as premeditated murder for ideological reasons or mass murder due to difference of opinion to describe politically motivated crimes.⁸⁹ For instance, in the case from 1980, the perpetrator was prosecuted and sentenced to death under Article 450/4 for premeditated murder.⁹⁰ However this case can be defined as a political crime due to the type of the incitement, which can be considered as a form of political animosity. In accordance with *Yargıtay*'s verdict, the defendant, a member of the *ülküçü* movement, was found guilty of the premeditated murder for killing the leader of the Youth Branch of the CHP over a political disagreement, shooting him in the back on February 20, 1980.⁹¹ While legally classified as premeditated murder under Article 450/4, parliamentary documents consistently emphasize that the perpetrator "who is understood to espouse *ülküçü* perspective, committed the murder due to dissent [here, *dissent* implicitly refers to political divergence, though not explicitly stated]."⁹² These recurring themes reveal that, although legislative debates may have been limited or silent, the political motivations behind specific cases were documented within official records.

89 The Legislative Proposal and the Justice Commission Report on the Execution of the Death Sentence of Ali Aktaş (Ağtaş) (3/353), *Danışma Meclisi Tutanak Dergisi*, C.13, Y. 2, B.39, January 6, 1983; The Legislative Proposal and the Justice Commission Report on the Execution of the Death Sentence of Ali Bülent Orkan (3/135), *Danışma Meclisi Tutanak Dergisi*, C.5, Y.1, B.96, April 24, 1982.

90 Law no.2664, issued April 28, 1982.

91 Cengiz Baktemur was perpetrator and Hasan Doğan, who was the leader of the Doğanşehir Youth Branch of the CHP, was victim in this case. *Danışma Meclisi Tutanak Dergisi*, C.5, Y.1, B.86, April 26, 1982.

92 *Milli Güvenlik Konseyi Tutanak Dergisi*, C.6, B.103, April 28, 1982, 594.

In certain cases, the murder motivated by political animosity was regarded, and also declared by parliamentarians, as a political version of a blood-feud.⁹³ In this instance, it is not two rival families but two opposing political groups seeking retribution for the murder of one of their members by targeting an individual from the opposing group. Forty percent of murders motivated by political animosity on the parliamentary agenda would be defined as such.⁹⁴ In the parliamentary documents and debates, a recurring theme was the cycle of violence driven by the pursuit of revenge among political communities. For instance, in a case from 1983, the Justice Commission Report on the execution of the death sentence described how the perpetrators had decided to take revenge for a leftist attack on a coffee-house (*kahvehane*) that had resulted in the deaths of their right-wing friends.⁹⁵ As an act of retaliation “for clearing the air (*havayı dağtırmak*) on *ülküçü* group,” these two perpetrators murdered four individuals who were known to be associated with the leftist movement.⁹⁶ Similarly, another Report from 1982 stated that a perpetrator, represented as an *ülküçü*, massacred the left-wing individuals in revenge for the murder of his two friends by their political rivals.⁹⁷ In these cases, the victims were not the individuals who had perpetrated the original criminal acts; rather, they were members of the same ideological group targeted in retaliation.

In such cases of capital murder motivated by political animosity, there was a tendency to portray the perpetrator as a “cruel” murderer of another “cruel” murderer, especially when the perpetrator was right-wing oriented. For instance, in January 1980, a perpetrator murdered two individuals who, according to parliamentary minutes, were implicitly accused of involvement in past

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- 93 For instance: Ömer Zekâi Dorman (İstanbul), *Millet Meclisi Tutanak Dergisi*, D.1, c.26, T.3, B.47, February 4, 1964.
- 94 A total of fifteen capital murder cases have been derived from political animosity, with six of these cases specifically referencing the violent history of the victim as in the cases of blood feud.
- 95 Law no.2834 issued June 3, 1983 based on the Legislative Proposal and the Justice Commission Report on the Execution of the Death Sentences of Selçuk Duracık and Halil Esendağ (3/163).
- 96 *Ibid.*
- 97 Law no.2694, issued August 11, 1982 based on the Legislative Proposal and the Justice Commission Report on the Execution of the Death Sentence of Ali Bülent Orkan (3/135).

violent acts linked to the leftist movement.⁹⁸ One of the victims was portrayed as a leftist teacher who “incited attacks on coffee-houses” and “encouraged the young people to engage in armed action.”⁹⁹ Another victim was described as a lawyer,

about whom the perpetrator was informed that he was known as a leftist, instilling leftist views in younger people, providing support for the activities of Dev-Sol by attending their trials at no cost, and providing them with money and weapons.¹⁰⁰

It is important to note that there is no consistent pattern of victim-blaming associated with leftist ideology in all cases of capital murder motivated by political animosity. In many such cases, the leftist victims were not portrayed either positively or negatively based solely on their political affiliation.¹⁰¹ However it is also important to acknowledge that there was not a single case where rightist victims were described in terms of their violent past. In all cases of capital murder motivated by political animosity where the victim’s political violence history was specifically mentioned, the victim was identified as having a left-wing political affiliation, while the perpetrator was represented as having right-wing affiliation.¹⁰² Briefly, it can be argued that although not every leftist victim was blamed for prior political violence, every victim who was implicitly blamed for such violence belonged to the left and was murdered

98 Law no.2465, issued June 2, 1981.

99 The Legislative Proposal and the Justice Commission Report on the Execution of the Death Sentence of Cevdet Karakaş (3/60), *Milli Güvenlik Konseyi Tutanak Dergisi*, C.3, B.56, June 1, 1981, 421.

100 *Ibid.*
Dev-Sol, also known as *Devrimci Sol*, was an armed Marxist-Leninist leftist group that operated in Turkey between 1978 and 1994.

101 For instance, there is neither a positive nor negative representation of leftist victims in the cases of Ahmet Kerse (Law no. 2793 issued January 28, 1983) and Fikri Arıkan-Kemal Özdemir (Law no. 2643 issued January 26, 1983) based on the murder motivated by political animosity.

102 Law no. 2465, issued June 2, 1981; Law no. 2630, issued March 12, 1982; Law no. 2664, issued April 28, 1982; Law no. 2694, issued August 11, 1982; Law no. 2834, issued June 3, 1983. Those five cases involve six perpetrators.

by a right-wing perpetrator. Those death-row inmates on the right side of the political spectrum were generally represented as murderers of “monstrous” leftists as if there were an ideological version of a blood-feud. Thus, a clear victim-blaming pattern emerges regarding references to victims’ past political violence.

The actors involved in the murders motivated by political animosity were not merely ordinary citizens with a political affiliation to rival groups. Especially by the end of the 1970s, “violence no longer only consisted of reciprocal killings by left and rightwing extremists. Both groups began to kill public figures, such as the deputy chairman of the MHP and a leftist trade union leader.”¹⁰³ From the outset, the criminal law included a specific provision addressing the murder of members of Parliament and other public officials. As mentioned earlier, Article 450/2 stated that if a murder is committed against members of the TBMM, the perpetrator shall be sentenced to death. Until 1981, only the murder of deputies during their parliamentary term was classified as a capital crime. However, in January 1981, Article 449/2 – which covered the murder of public officials other than parliamentarians – was repealed and its provisions incorporated into Article 450 as the eleventh paragraph.¹⁰⁴ This

103 Nell, “The Shadow of Homeland Politics,” 126.

Gün Sazak, a prominent Turkish nationalist politician from the MHP), was assassinated in front of his home in Ankara on May 27, 1980. Although some perpetrators involved in his assassination were tried under charges eligible for the death penalty, they were ultimately sentenced to different punishments due to mitigating circumstances. “Gün Sazak’ın Katilleri Mahkum Oldu,” *Hamle Dergisi*, April 11, 1983, Year 3, Issue 14.

Kemal Türkler, a prominent figure in the democratic trade union movement, the founder and president of the Confederation of Progressive Trade Unions of Turkey (DİSK), was assassinated in front of his home in Istanbul on July 22, 1980. After twenty-six years, the case was closed due to the statute of limitations. “Türkler Murder Trial Closed by Prescription after 26 Years,” *Bianet*, July 3, 2014.

104 Article 16 of Law no. 2370, issued January 7, 1981. “Paragraph 2 of Article 450 of the Turkish Penal Code No. 765 has been amended as follows and the following paragraph (11) has been added to the said Article:

(2) If the act is committed against a member of the TBMM or against him/her even if his/her membership status ended

(11) If the act is committed against a public official while they are performing their duties, or as a consequence of these duties, even if their status as a public official has ceased.

change expanded the capital crime classification to include the murder of public officials committed during or as a consequence of their official duties, even if their status as public officials had ended. In summary, since 1981, the legislation of Turkey has considered the murder of current or former public officials, whether parliamentarians or not, due to their professional duties, as a capital crime. As emphasized again, these are legally considered offenses against persons, not against the state. Moreover, it should be noted that until the abolition of the death penalty in the legal system of Turkey, no dossier was submitted to the parliamentary agenda under this legal provision.¹⁰⁵ However, there were several cases where capital murder was perpetrated against public officials due to political motivation, which falls under a different legal category. And it is notable that in cases where the death penalty was imposed for the murder of state officials or soldiers of any rank, the perpetrators were consistently identified as leftists.¹⁰⁶ Those with leftist political tendencies have been burdened with considerable connotation of antagonism towards the entire state apparatus. Whereas right-wing perpetrators tend to be characterized as individuals seeking retribution for past leftist violence, left-wing perpetrators were less often defined in this way. They were more frequently represented as actors directly opposing the state. While right-wing violence was contextualized as *revenge* against leftist aggression, left-wing violence was framed as *rebellion* against authority – reflecting, as Aretxaga suggests, “a structure and *modus operandi* that produces both the state and its threatening Other as fetishes of each other”¹⁰⁷

If we need to discuss the data, from 1926 until the abolition of the capital punishment, the files of hundred people sentenced to death – eighty-five for

105 Since some parliamentary assassination cases are well-known in public memory, I should clarify that the scope of this study is limited to capital punishment dossiers *submitted* to the Parliament for final decision, rather than encompassing all cases prosecuted under capital crime jurisdiction.

106 Law no. 2360, enacted December 12, 1980; Law no. 2466, enacted June 2, 1981; Law no. 2473, enacted June 9, 1981; Law no. 2505, enacted August 19, 1981.

In addition, the Justice Commission Report related with the Law no. 2322, issued October 25, 1980 emphasizes that one of the perpetrators' fugitive accomplices was responsible for the death of a captain.

107 Aretxaga, “Maddening States,” 18.

capital crimes against the state and fifteen for capital murder motivated by political animosity – were discussed in the Parliament. The death sentence was approved for sixty-seven individuals convicted of crimes against the state, as well as for all fifteen individuals found guilty of capital murder.¹⁰⁸ In thirty-three cases, either the perpetrators themselves or the parliamentary documents identified the actors as belonging to politically right-wing or left-wing groups.¹⁰⁹ All thirty-three cases were punishable by death, either for crimes

108 The final decision of the parliament on the execution of the death sentence of the remaining eighteen individuals is as follows: In February 1931, the sentences of two of the thirty-one individuals who participated in the Menemen Incident and attempted to forcibly alter the Constitution of the Republic of Turkey, for whom files were transferred to Parliament, were commuted. It was decided that one of them was not subject to execution (due to his death). The amnesty of July 13, 1950 commuted the death sentence of an espionage convict. One of the four former state leaders (Celal Bayar) who had been sentenced to death by the YAD on September 15, 1961 was subsequently commuted to aggravated life imprisonment, along with eleven other convicts in the same case. On June 26, 1964, the Parliament decided to “non-execution” of death sentences of two of the four former military personnel (Osman Deniz and Erol Dinçer) who had been convicted of attempting to a coup d’état and sentenced to death under Article 146 of the TCK.

109 While the majority of cases do not emphasize political orientation, there is no other common and recurrent reference point among them, such as a right-left emphasis. In terms of the common emphasis, cases with a reference of political orientation (thirty-three) represent the majority. The remaining cases (sixty-seven) are mostly instances that occur in a state of exception, with varying emphasis.

The crimes committed by those sixty-seven people, who were not labeled as leftist or rightist, but who could have been subjected to capital punishment for political crimes, are as follows: military espionage (eleven persons – Article 56 of the AsCK); attempt to violate the internal security of the Republic of Turkey, to forcibly revise and alter the Constitution of the Republic of Turkey, and to assassinate the President of Republic (collective case charging three persons – although the parliamentary minutes and legal text does not make this explicit, the relevant articles should be Articles 146 and 156 due to the content of crime); the perpetration of the Menemen Incident which was described Islamist emphasize, attempt to forcibly alter the Constitution of the Republic of Turkey, the murder of the Military Commander Kubilay Bey in monstrous feeling and the massacre of other people (collective case charging thirty-one persons – although the parliamentary and legal documents does not make this explicit, the relevant articles should be Articles 146 of the TCK); attempts to separate a part of the territory under the control of the Republic of Turkey (three persons – Article 125 of the TCK); the

against state powers as government and Assembly (*Devlet kuvvetleri aleyhinde cürümler*-Articles 146 and 149) or for capital murder arising from political animosity (Article 450). Two-thirds of the perpetrators whose political affiliation was indicated were identified as belonging to the left-wing. Of those executed for crimes against the state forces, sixteen were identified as belonging to the left-wing and two to the right-wing. In cases of murder falling under Article 450, the perpetrators were identified as leftist in all cases where political animosity was the motive and a public officer, police officer or gendarme was the victim. Conversely, in a significant majority (82%) of cases where political animosity was solely between civilians, the perpetrators were identified as rightist. In conclusion, it can be argued that in both cases (left or right), violence driven by ideological motives is not depicted as a challenge to the prevailing socio-political order or as a form of political dissent. Instead, it is portrayed as an opposition to the very concept of the state, as seen in left-wing violence, or as a cycle of revenge rooted in the conflicts between politically polarized civilians, as depicted in right-wing violence. However, both forms of violence should be punished for their failing to recognize the state authority, albeit in different ways, since neither side is permitted to regard themselves as part of this state, which operates simultaneously as both the victim and the retaliator.

In an interview conducted several years after the end of the 1980 military regime, Kenan Evren, who had been the Head of state, Chief of General Staff and Chairman of the MGK at the time, stated that:

The first death sentence came before us, and we said, “There are no rightists, there are no leftists.” If it is possible, let’s do one rightist and one leftist, two rightists and two leftists, whatever, however many there

verdicts of the YAD against former state leaders, including constitutional violation (collective case charging fifteen persons, Article 146 of the TCK); the forcible attempt to amend, revoke and abrogate the Constitution of the Republic of Turkey and to overthrow the TBMM, as established by this law, (collective case charging four persons, former military personnels Article 146 of the TCK).

are, let's do them together. Then they won't say to us, "This new regime, *efendim*, favors the right, favors the left."¹¹⁰

Although the post-1980 numerical data on capital punishment substantiates the military regime's claim, two important factors should be considered. Firstly, it can be argued that the ideological divergence is not about numbers but about content – specifically, how leftists are portrayed as “enemies of the state,” while rightists are depicted as “enemies of the leftists.”

Secondly, and more crucial for this study, by emphasizing the ideological engagement of both perpetrators and victims (focusing on the sense of revenge between them, or portraying the state as a victim of the prevailing violence), the military regime has positioned itself outside of this cycle of political violence. While the same regime has been responsible for several human rights violations, the burden of excessive violence has been transferred to certain political groups by the agency of capital punishment. Moreover, the occurrence of state-killing was not solely a consequence of judicial rulings in opposition to regime adversaries. The acts defined as political crimes in this context could be subject to extra-judicial punishment, including unsolved murder, enforced disappearance, torture and maltreatment in prison, and so on. It is possible that those crimes were committed by non-state actors.¹¹¹ Nevertheless, even in such scenarios, these acts were orchestrated, tolerated, ignored, or met with inaction by state actors. While the regime, in either military or civilian form, has continued to spread terror, certain politically engaged groups have been represented as the only responsible for the ongoing cycle of violence. The focus remains on the actors who were depicted as transgressors, either perpetuating a political blood-feud or threatening the existing political order through violence. This framing under “offences against person”

110 Mustafa Ünlü (director), Ali İnandım (producer), *12 Eylül Belgeseli*, October 12, 1998, “Episode 8: 12 Eylül’ün Bilançosu,” https://www.youtube.com/watch?v=fwSY8MzrkyA&ab_channel=DARBELER.

111 I use the term non-state actors/agents to refer to individuals or groups who act without the direct authorization or acquiescence of the state but nonetheless commit violations of human rights to some degree. Robert McCorquodale, “Overlegalizing Silences: Human Rights and Nonstate Actors,” *Proceedings of the Annual Meeting (American Society of International Law)* 96 (March 13-16, 2002): 384–88, <http://www.jstor.org/stable/25659810>.

allowed the regime to depict itself as a neutral arbiter restoring order amid chaos of *outsiders*. Thereby, capital punishment has operated to divert attention away from the role of the regime in the causes and escalation of the political polarization resulting in a vicious cycle of violence, and away from the violence perpetrated by the very same regime.

Capital punishment has also obfuscated its own role, as a legitimate form of murder, in the political murders of civilians perpetrated on behalf of the state. As Charles Tilly argues in his book on the French history of repertoire of contention, “[a]ny population has a limited repertoire of collective action,” and “people tend to act within known limits, to innovate at the margins of existing forms.”¹¹² In Turkey, during the period of capital punishment, the execution of enemies of the *state* for the greater good of the *society* was a legal and public practice. This was part of this limited repertoire of social action and a societal heritage of punishment. In the context of political violence in the 1970s, all parties to the conflict attributed responsibility for attacks on the state to each other. In the ultranationalist’s discourse, “the 1970s are mystified as a heroic era and an undoubtable proof of patriotism” and *ülküçüs* are regarded as those who “‘got the state’s back’ in the face of communism threat.”¹¹³ On the other hand, “[t]he idea that a native form of socialism could reinvigorate and ‘propel’ Kemalism forward was very strong among socialists throughout the 1960s” and some part of left-wing radicals saw themselves as the “true heirs of the Kemalist legacy.”¹¹⁴ Since the idea of the state and society was abstracted by the death penalty, since death was defined as a just punishment for “enemies of the state,” both sides could justify their murderous actions by claiming that they committed the crimes for the greater good of this state. They operated in the collective heritage of punishment. As pointed out by İpek Yosmaoğlu regarding the parallels that can be identified between the executions perpetrated by the authority of the Ottoman Empire and that of the militia in the Balkan region, in twentieth century’s Turkey, political violence of civilians did actually “not transgress an established norm. The

112 Charles Tilly, *The Contentious French: Four Centuries of Popular Struggle* (Cambridge: Cambridge University Press, 1986), 1-5, 390.

113 Bora, “Left and Right Radicalism.”

114 *Ibid.*

transgression was, rather, in the appropriation of the authority to perform that act.”¹¹⁵ In other words, in these cases, the issue is not about killing in the name of the state – that is exactly what the death penalty does. The real problem lies in the lack of legitimacy granted to the group that sees itself as part of this state and kills for that reason. The ruling group as a whole did not tolerate any other group claiming to represent the state. It prevents them from positioning themselves as a victim and thus becoming a legitimate retributive authority. In this way, the legislature retained the exclusive right to kill in the name of the state. After all, “[t]he execution is not just a punishment, but a performance of a narrative about what the state stands against, as well as an attempt to eliminate an alternative narrative of the state.”¹¹⁶

5.2.2 *Invisible Monsters: Capital Murder and Self-evident Others*

The practice of determining the execution of a death sentence with reference to the state is often observed in cases pertaining to political crimes, irrespective of whether such crimes were legally categorized as crimes against the state or persons. However, it would be erroneous to assert that cases with a political edge are exclusively political crimes. Moreover, when responsibility and control become visible in capital crimes, the state’s obscure agency is not the only referent that legal and legislative actors have allegedly acted on its behalf, there is also the agency of “society.” In the cases presented in this part, the references to society as a victim more overtly occur in the legal and legislative documents. The concept of “society” (*cemiyet*), which was employed interchangeably with the “state” at times, and yet at other times with a wholly divergent signification. From a constitutional perspective, these two entities were regarded as distinct yet interdependent. The state has been characterized by its

115 İpek Yosmaoğlu, *Blood Ties: Religion, Violence, and the Politics of Nationhood in Ottoman Macedonia, 1878–1908*, (New York: Cornell University Press, 2013), 226.

116 David Pan, “Merging Sovereignty and Meaning in Capital Punishment: Franz Kafka’s *Der Proceß* and Bertolt Brecht’s *Die Maßnahme*,” in *Death Sentences: Literature and State Killing*, ed. Birte Christ and Ève Morisi, NED-New edition, vol. 49 (London: Modern Humanities Research Association, 2019), 100–20. 100.

sovereignty, which belongs to the nation.¹¹⁷ The Parliament, vested with both legislative and executive powers, has exercised sovereignty on behalf of this nation as its sole lawful representative.¹¹⁸ Within the context of legislative discourse, the terms “society” and “nation,” specifically “the Turkish nation,” were employed in a largely interchangeable manner. In the parliamentary minutes, the “interest of the society,” “national consciousness,” and “public/national conscience” were presented as the sole factors with the capacity to direct the execution or pardon of an individual.¹¹⁹ Nevertheless, within the context of Turkey, it would be erroneous to suggest that the society they claim to represent genuinely encompasses all citizens of the country.

The parliamentary narrative of the state and society has historically drawn sharp boundaries between “true” Turkish citizens and the criminal outsiders who were said to “pretend to be citizens” and thus must be excluded from society. This framing was evident in 1956 during discussions about a soldier of the Turkish Armed Forces serving under the UN command in the Korean War who was found guilty of the capital murder of a sixteen-year-old South Korean boy.¹²⁰ The following remarks reflect that those who violate the social and legal order – even if formally citizens or nominally within the state’s ranks, as the armed forces – could be cast as outsiders and therefore subject to exclusion or harsh punishment:

My friends, this news is very sad. If the incident is true, our minds and imaginations cannot accept the possibility that the person who did this is a Turkish soldier. This man has infiltrated our army by claiming to be a Turk. Therefore, this man must be isolated from Turkishness before the necessary death sentence is carried out.... Now there is a crime

117 Article 3 of the Constitution 1924, Article 4 of the Constitution 1961, Article 6 of the Constitution of 1982. For the full text of articles: Refer to footnote 6.

118 Article 4 of the Constitution 1924, Article 76 of the Constitution 1961, Article 80 of the Constitution of 1982. For the full text of articles: Refer to footnote 6.

119 For some examples where the “interest of society,” “national consciousness” and the “public conscience” are mentioned, see: footnote: 16.

120 Turkey sent troops as part of the UN forces supporting the Republic of Korea at the beginning of 1950. As the Cold War gradually polarized the international era, Turkey’s involvement in the Korean War coincided with its integration to Western institutions, including NATO.

committed against Koreans in Korea. This soldier, who somehow convinced the authorities that he was a Turk, killed a person in this foreign country for his money.... So, when the perpetrator is hanged, it will not be easy for the world radios to say that a Turkish soldier was hanged for the following reason. I wish this matter had been settled there.¹²¹

Although the perpetrator was legally (and most likely ethnically) a Turkish citizen, the parliamentary discourse insisted that a “normal” Turkish citizen could not commit such a serious crime while representing the nation and the state. Therefore, this person could only be described as having “infiltrated” Turkish society. Such an act was seen as damaging the well-constructed social fabric of Turkey.¹²² The remark also expresses concerns about the international image, noting that when this soldier is executed, it should not be seen as a Turkish soldier being punished for killing a child, but rather as the punishment for an outsider masquerading as a Turk. As it can be seen, some capital cases did not involve political crime but were perceived in a highly political manner.

The term “Turkish citizen” spread beyond its legal definition. For instance, in a discussion of the role of capital punishment in the construction of a developmentalist Singaporean identity, Oehlers and Tarulevicz state that “unique and separate cultures, religions, languages, and values that fill individuals with a distinctive sense of identity are subsumed into a generic ‘Singaporeanness’ and blurred.”¹²³ The capital crime of drug dealing is seen as “a form of social deviance” from this Singaporeanness, “something typically committed by ‘outsiders,’ by ‘un-Singaporean’ criminals.”¹²⁴ In the case of Turkey, the label of “outsider” was attributed not only to specific criminal acts but also to specific criminals who were not subordinate to a broader social collective – in this case, the Turkish nation. It is important to note that the term “outsider” does

121 Muhit Tümerkan (Sinob), *TBMM Zabıt Ceridesi*, D.10, C.12, İ.3, İn. 78, June 18, 1956, 360.

122 Further reading on nationality and social exclusion: John Clammer, *Singapore: Ideology, Society, Culture* (Singapore: Chopmen, 1985), John Clammer, “Framing the Other: Criminality, Social Exclusion and Social Engineering in Developing Singapore,” *Social Policy and Administration* 31, no.5 (December 1997): 136–53, <https://doi.org/10.1111/1467-9515.00079>.

123 Oehlers and Tarulevicz, “Capital Punishment,” 295.

124 *Ibid.*, 298–99.

not imply being a foreigner in the strict legal sense in this context. Those on the fringes of society are outside insofar as their elimination can be legitimized by those who claim to represent society, yet they remain inside insofar as they can be punished under Turkish law. To borrow Homi Bhabha's definition of a reformed and recognizable Other, the death penalty in Turkey defines a particular group "as a subject of a difference that is almost the same, but not quite."¹²⁵

The situation here is very similar to the discussion in Chapter 3 about how the death penalty produces a sense of normality. It is true. However, the key difference is that this time, the "abnormal" has been defined as "self-evident others," whose monstrosities are taken for granted and do not even require a spotlight. Louise Tyler, in the article on the analysis of the portrayal of criminals in European and American cinema, states that:

Since capital punishment, the most final of society's punishments, is almost always reserved for the easily identifiable other, "the poor, the Negro and members of unpopular groups," then this white male who is also deserving of the ultimate punishment must clearly exist outside the established norm.¹²⁶

In the context of Turkey, the cases in the third chapter are mostly the perpetrators who are not included in these "unpopular groups," but are regarded as "ordinary Turkish citizens." Therefore, the transgressions of norms and their distinctive traits, such as monstrosity, madness, immorality, drunkenness etc., should be emphasized. Nevertheless, within the paradigm of capital punishment, certain identifications, such as "Gypsy," "immigrant," and "ex-slave," appear to require no extra explanation for proving their otherness. They were defined as self-evident referents.

125 Homi Bhabha, "Of Mimicry and Man The Ambivalence of Colonial Discourse," in *Tensions of Empire Colonial Cultures in a Bourgeois World*, eds. Frederick Cooper and Ann Laura Stoler, (London: University of California Press, 1997), 153.

126 *Furman v. Georgia* 408 U.S. 238 [1972] Justice Douglas, concurring, quoted in Louise Tyler, "Crime and Punishment / Self versus Other: The Cultural Life of Capital Punishment in European and American Film," in *The Cultural Lives of Capital Punishment*, eds. Austin Sarat and Christian Boulanger (Stanford: Stanford University Press, 2005), 141–42.

In relation to the performance theory, the concepts as society “exists only as an ensemble of discourses, rules, practices, institutions, techniques, and performances which define ... which sort of behavior ... is considered adequate in this society or not, and what might be part of this society or not.”¹²⁷ So that the law-abiding side of society was no longer defined solely by the criminal law but also by broader social expectations about who is a “good citizen,” irrespective of the criminality of their actions. In the socio-political context of Turkey, certain socially and historically marginalized communities have become particularly vulnerable despite being official citizens of the Republic. Racist, xenophobic, and religious bias have been observed in various capital punishment cases. These capital crimes were not always directly derived from ethno-nationalist conflicts or ideological goals; however, the approach of legal and legislative organs toward them was palpably influenced by exclusionary ideology.¹²⁸ The politically dominant group within these state apparatuses, who feel their nation, ethnicity, or religion, as indistinguishable from the state itself, have emphasized the “otherness” of those subject to capital punishment, on the basis of their shared identity.

For example, in the cases from the 1930s, there was no reference to specific identities of actors involved, but they can be assumed to be Turkish, Muslim, and settled.¹²⁹ However, the two perpetrators sentenced to death in 1934 and

127 Martschukat, “Nineteenth-Century Executions,” 51.

128 I used “ethnonationalism” by referencing the studies of Walker Connor who emphasizes the inherent ethnic feature of nationalism and “a growing tendency among individuals and groups to link political legitimacy with ethnic identity.” Although this term is generally used for analyzing the self-aware “other” groups in a nation-state, it should be valid for vice-versa; politically dominant ethnic/national groups.

Walker Connor, “The Politics of Ethnonationalism,” *Journal of International Affairs*, 27, no. 1 (1973): 1–21. <http://www.jstor.org/stable/24356606>.

Patrick Macklem, “Ethnonationalism, Aboriginal Identities, and the Law,” in *Ethnicity and Aboriginality: Case Studies in Ethnonationalism*, ed. Michael D. Levin (Toronto: University of Toronto Press, 1993), 9–28.

129 In the files submitted to the Parliament prior to the enforcement of the Surname Law in January 1935, titles referring to individuals’ ethnicity, beliefs, and professions were present in parliamentary minutes (for example, “Çingene Memetoğlu Ali, from Menemen,” “Memetoğlu Kürt Hüseyin from Çakıloğulları from the village of Binelli in Boyabat). However, these titles

1937 for murder motivated by robbery (and also illicit love affair for the former) were explicitly mentioned as *Kıpti*.¹³⁰ Rather than delineating a singular ethnic and religious group in the geographical context of the late Ottoman Empire and the early Republic of Turkey, the term *Kıpti/Çingene* (Tsigani/Gypsy) serves as a blanket term for peripatetic groups, which are characterized “by high levels of mobility, endogamy, and sustenance through migratory routes.”¹³¹ Even when these groups share religious and linguistic traits with the majority (in the case of Turkey, even if they are Muslims and Turkish-speaking), the lack of capitalist property-ownership, which is so evident among peripatetic communities, renders them as an unsettling group to others, prone to unexpected acts and crimes.¹³² It is also noteworthy that both references to *Kıpti* occurred in capital crime cases where the perpetrators have

were not appended by legislative or judicial authorities but were based on the individuals’ own declarations and are therefore beyond the scope of this study.

During the period of the tenth term of the TBMM, particularly beginning in 1956, official documents such as the Prime Ministry Memorandum and the Justice Commission Reports often described death penalty convicts using specific demographic and social attributes. These included being single, Turkish, Muslim, divorced, literate, and without a prior criminal record, and so on. However, this practice was short-lived, and it was discontinued with the establishment of the first bicameral Parliament in 1961. These classifications undoubtedly carry their own significance, yet this period marks a distinct departure from both earlier and later times in which the term defining the majority – such as “Muslim” – was not explicitly stated when referencing the minority, for example, “non-Muslim,” in parliamentary minutes.

- 130 In the first case, two perpetrators were involved, and the crime was motivated by an illicit love affair and stealing the victim’s money. The Court handed down the death penalty to both of them. However, the sentence of one of the perpetrators, *Kıpti* Salim, was commuted to twenty-four years of aggravated imprisonment on the grounds that he was under twenty-one years of age at the time of the crime and therefore ineligible for capital punishment.

Decree no. 816, dated June 17, 1934, *TBMM Zabıt Ceridesi*, D.4, C.23, İ.3, İn.67, June 11, 1934.

Decree no. 995, dated June 7, 1937, *TBMM Zabıt Ceridesi*, D.5, C.18, İ.2, İn.69, May 31, 1937.

- 131 Aparna Rao, “The Concept of Peripatetics: An Introduction,” in *The Other Nomads: Peripatetic Minorities in Cross-Cultural Perspective* (Köln: Böhlau, 1987), 3, cited in Egemen Yılıgür, “Tek Parti Döneminde ‘Kıpti’ Nüfusun İskânı ve Vatandaşlığa Kabulü Üzerine Genel Bir Değerlendirme,” *MSGSÜ Sosyal Bilimler Enstitüsü Dergisi* 12, no. Fall 2015: 32–45.

- 132 Joseph C. Berland and Aparna Rao, “Unveiling the Stranger: A New Look at Peripatetic Peoples,” in *Customary Strangers: New Perspectives on Peripatetic Peoples in the Middle East, Africa and Asia*, Praeger, eds. Joseph C. Berland and Aparna Rao (London: Praeger, 2004), 15.

stolen property. It is also notable that both cases of this reference occurred during the 1930s. Because those years of the newly-established Republican regime saw significant effort to define what is Turkish culture and who could be considered as a Turk. This was the period during which the forced resettlement and migration policies of the early Republic began to assume greater significance. Specifically, the Settlement Law (*İskan Kanunu*) of 1934 simultaneously prohibited the settlement of nomadic Gypsies (*göçebe Çingeneler*) into the country as refugees; while also providing for their resettlement in Turkish nationality with the aim of enabling them to settle in regions where they would adopt “Turkish culture.”¹³³

The same era was characterized by “the ascent of nominal Islam as a marker of Turkishness,” as defined by Çağaptay.¹³⁴ It was not the faith dimension of religion, but its culture.¹³⁵ The de facto conversion by embracing Muslim-Turkish names was a common way to integrate into this culture for non-Turks, with the exception of the Ottoman-Armenians. During the 1930s,

Ankara [i.e. the government] prudently followed people with possible Armenian heritage. According to the government, such people were Armenians even after they converted to Islam.... This demonstrated that in Ankara’s eyes, being an Armenian was not a religious matter. Rather, Armenianness was an immutable identity inherent in all those who were or had been Armenian.¹³⁶

In parallel, the one and only capital punishment case submitted to the parliamentary agenda with a reference to the perpetrator’s identity as *mühtedi* (a person converted to Islam) belongs to a person with Armenian background and occurred in 1932.¹³⁷ This reference is not only noticeable between the lines

133 Articles 4/c and 9 of Law no.2510, issued June 14, 1934.

134 Soner Çağaptay, *Islam, Secularism and Nationalism in Turkey, Who is a Turk?* (London: Routledge, 2006), 15.

135 Çağaptay defines nominal Islam as “the Muslim identity and culture shared by these groups” and argued that “when secularism pushed the faith dimension of the religion to the margins of the society, nominal Islam remained central to Turkish society as its culture and identity.” in *ibid.* 123, 15.

136 *Ibid.*, 134.

137 Decree no.740, issued December 27, 1932.

of parliamentary minutes; it is also explicitly evident in the title of the Report and Decree as “the death sentence of the son of Kirkor (*Kirkoroğlu*) Karabet, also known as *mühtedi* Mustafa.”¹³⁸

In this context, the perpetrators were identified as transgressors of the social, cultural, and economic norms of desired society, not solely on the grounds of their unlawful violence, but also on their stigmatized identities such as *Kipti*, *mühtedi*, and so on. They were made visible through capital punishment. And the Parliament excluded them on behalf of proper society. The death penalty was operated under the assumption that there exists a consensus on who is included within the boundaries of this society. As Duncan Kennedy stated,

the legal system creates as well as reflects consensus (this is true both of legislation and of adjudication). Its institutional mechanism “legitimizes,” in the sense of exercising normative force on the citizenry. Even when we are dealing with very deep-seated norms, like that against intentional killing of another person, the legal system can be an important vehicle of change.¹³⁹

For instance, when the murder victim was located at the fringes of society rather than the perpetrator, the Parliament continued to portray itself as a public consciousness, albeit in a different manner.

In 1944, the Parliament commuted a man convicted of capital murder to a fifteen-year prison sentence.¹⁴⁰ The victim was the ex-husband of the murderer’s wife. A member of Parliament who was in favor of commutation of the sentence described the incident and the actors as follows:

138 “Sivereğin Camiikebir mahallesinden *Kirkoroğlu Karabet namıdiğer mühtedi Mustafa*’nın ölüm cezasına çarptırılması hakkında 3/231 numaralı Başvekâlet tezkeresi ve Adliye encümeni mazbatası,” *TBMM Zabıt Ceridesi*, D.4, C.11, İ.2, İn.16, December 24, 1932.

Krikor: an Armenian male name (Armenian: Գրիգոր = Old Armenian: Grigor); Karabet (Garabet): an Armenian male name (Armenian: Կարապետ). Sevan Nişanyan, *Nişanyan Adlar: Türkiye Kişi Adları Sözlüğü*.

139 Duncan Kennedy, *Sexy Dressing Etc.: Essays on the Power and Politics of Cultural Identity* (Cambridge, MA: Harvard University Press, 1993), 107.

140 Decree no.1394, issued May 8, 1944.

Friends ... the murdered Muharrem, a former black slave, an evil, criminal, intimidating, in our sense of the word, a ruthless *fellah*,... *izbandut*, a terrible man, kidnapped a girl from a neighboring village and took her as his wife. This miserable girl, whom he had treated very badly and who was tired of his evil deeds ... ran away, divorced and married Mehmet.... Mehmet is not an enemy to him.... But this black man, who is not only black from the outside but black with bad habits from the inside as well, becomes a fierce enemy to poor Mehmet because he has taken his divorcée.... He threatened to kill him.... As well as the community council (*köy heyeti*) of his own village, Mehmet also begged the neighboring villages to save him from this evil person. Once again [Muharrem/victim] beats Mehmet, scares him to death and chases him, and Mehmet, whose rage has reached its end, kills this negro (*zenci*).... Dear friends, would poor Mehmet, who has never hurt a fly, who was never convicted of anything, suddenly have the black blood of this black man on his hands?¹⁴¹

Throughout the parliamentary discourse, the victim was portrayed as the antithesis of all that represents the imagined Turkish society. For instance, in the narrative, the deceased's ex-wife appeals to the elders' committee of the village (*ihitiyar heyeti*) "in the heat of Turkish dignity and honor."¹⁴² The committee had helped the woman, "whose innocence and modesty, despite all, was recognized with the unique common sense of the Anatolian people," to get a divorce.¹⁴³ Then they married her to the murderer, "a *Türkoğlu Türk*, a Turk who is a very good person in his own way."¹⁴⁴ Meanwhile, in this portrayal, the

141 The term *fellah* is an Arabic word denoting a farmer. However, in the late Ottoman and Turkish contexts, particularly in the Çukurova region, it acquired a pejorative connotation, particularly towards Arabs.

The term *izbandut*, which translates as "bandit" in English, was particularly employed during the late Ottoman period in reference to Greek guerrilla fighters and marine bandits in the context of the Greek riots.

Yusuf D. Karşıoğlu (Yozgat), *TBMM Zabıt Ceridesi*, D.7, C.9, İ.1, İn.49, April 26, 1944, 251-2.

142 Behçet Kemal Çağlar (Erzincan), *ibid.*, 253.

143 *Ibid.*

144 *Ibid.*

deceased was depicted as a “vile *zenci* who is attempting to take revenge for his life of slavery by committing evil acts against the innocent Turkish peasants.”¹⁴⁵ The narrative was conveyed through the means of references to who is and is not part of society, which has the right to take a life. The question of who is in control of capital punishment appears to be easily answered: Society. It is evident that Parliament has positioned itself as an entity that is acting on behalf of Turkish society against its enemies. However, the other question remains: Who is responsible for defining the parameters of this society in such a manner as to exclude whom? Some individuals, whether perpetrators or victims, were located on the fringes of the society in which they lived. Parliament has only acted as a representative of the whole, yet in doing so, it has excluded some.

The exploitation of public sentiment plays a crucial role not only in defining the limits of society, but also in obscuring the certain bureaucratic deficiencies by means of the parliamentary rhetoric of the “public/national conscience.” For instance, a patriotic reference was employed in a case of commutation from 1948 for the purpose of shadowing some technical dilemmas. The significance of this case also lies in its reinterpretation of moral stigmas and conceptions of normality. In this case, the perpetrator was a forty-two year-old female death-row inmate who had committed a murder with the intention of concealing evidence of burglary in Erzurum.¹⁴⁶ She, who was engaged in sex-work, was portrayed as a woman who could only have been *compelled* to engage in this occupation. As established in Article 438 of the TCK, in cases where the victim was a female sex-worker, the victim was implicitly defined as a woman who had been murdered due to the *expected* risks associated with her *chosen* profession. However, it seems interesting at first that there is a certain reference to the social context in the case we are talking about, even though it is the perpetrator, rather than the victim, who was a sex-worker.

The assumption of the Parliament that this woman was coerced to become a sex-worker rather than choosing to do so was implicitly built on a patriotic argument that she was a member of “a generation of heroic women from

145 *Ibid.*, 252.

146 Decree no. 1615, issued June 21, 1948.

Erzurum” who fought against the enemy “with a noble and sincere sense of national pride” seventy years ago.¹⁴⁷ It is implausible that the perpetrator participated in the Battle of Erzurum during the Russo-Turkish War of 1877-78, given her birth year.¹⁴⁸ Furthermore, the criminal act and actors involved did not also evince any nationalist tendencies. The crime was just an ordinary felony murder. The arguments for commuting her sentence were not based on her personal characteristics, but rather on the values attributed to her community, as demonstrated in the following two speeches of deputies:

Efendim, I do not know what this woman has done or who she is. I have not even read the reasoned decision (*esbabı mucibe*) pertaining to her case. But I just want that the death sentence of a woman, who has touched my soul, should be commuted to thirty years in prison as a tribute to all women who have done great things for our country.... I do not focus on this particular woman, but rather on the fact that she is a woman from Erzurum, I want the commutation of her sentence to aggravated imprisonment.¹⁴⁹

I do not know her age. She might be a disaster victim (*felâketzede*) of World War I. (*It was said*: “She is forty-year-old”) Then, she was a seven-year-old victim at the time. She stayed on the streets. We have seen many such people and witnessed similar tragedies. Our country has experienced a significant migration, and it has created moral degradation.¹⁵⁰

The stigmatization of sex-work, which in some cases – such as those discussed in Chapter 3 – might even serve as a mitigating factor when a female sex-worker dies from sexual assault, was overshadowed in this particular case by a broader appeal to patriotism. Despite this difference in framing, the underlying causes of the crimes in both cases remain in the shadows. In 1948,

147 Mithat Aydın (Aydın), *TBMM Tutanak Dergisi*, D.8, C.12, T.2 B.74, June 21, 1948, 296.

148 Although Mithat Aydın did not explicitly specify which war he was referring to, it is highly likely that he meant the Russo-Turkish War of 1877–1878, which took place in that region approximately seventy years prior to this incident from 1948.

149 Mithat Aydın (Aydın), *TBMM Tutanak Dergisi*, D.8, C.12, T.2 B.74, June 21, 1948, 297.

150 Fahri Karakaya (Elazığ), *ibid.*, 298-9.

World War II was still a recent traumatic incident, while World War I had taken place some thirty years earlier under the Ottoman regime. Consequently, the political actors at the time could be held directly responsible for the consequences of the later war. However, in the burglary case at hand, there was no emphasis on the impact of World War II on the socio-economic structure of society. Instead, the responsibility was transferred to the former regime. Nevertheless, the occurrence of such references is uncommon. The focus on the impact of war or other drastic events on the moral fabric of society, as observed in this case, is notably absent in other cases pertaining to sexual assault against sex-workers. Then, this raises a question: why did the legislators feel compelled to show merciful and patriotic tendencies in this particular case?

I argue that the commutation of death sentences, framed as acts of mercy on behalf of the nation, may paradoxically perpetuate injustice. In this case, the perpetrator had an accomplice. In the case of the two individuals tried for the same crime, while one was sentenced to death, *Yargıtay* overturned the verdict against the other, necessitating a re-adjudication. A critical question inevitably arose regarding the need for the testimony of the aforementioned woman linked to the case: if she were executed before the accomplice's retrial, how could her testimony be obtained? It was emphasized that the execution decision should be deferred until the legal proceedings against the co-accused were finalized. One deputy even expressed the gravity of the situation in a sarcastic manner, asking whether "the court would appeal to Azrael" if the execution proceeded prematurely.¹⁵¹ Nonetheless, Parliament lacks the authority to postpone a court decision that has been legally finalized. Consequently, the only technically feasible option to prevent the execution was not a postponement, but rather a commutation of sentence. Commuting her death sentence to a prison term would not interrupt ongoing legal proceedings of her accomplice. Accordingly, it was amended to thirty years aggravated imprisonment.

While the Parliament's emphasis on the "grace (*atıfet*) of the Turkish nation" as a means to bring justice may appear legitimate on the surface, the broader picture suggests a tendency to avoid responsibility rather than

151 Abdürrahman Konuk (Bursa), *ibid.*, 297.

genuinely seeking a just outcome. I argue that by reinforcing nationalist sentiments, they commuted the sentence, and through this commutation, they obscured systemic flaws and deeper institutional deficiencies behind the victims – understood here as society’s – right to forgiveness. To clarify, according to the Court of Appeal’s overturned verdict, if the local court follows *Yargıtay*’s stipulations, the accomplice would also face the death penalty. However, the sentence of the other accomplice had already been commuted to allow more time for the proceedings. And it is not possible for this individual, whose sentence was once commuted, to face a sentence of death once again. This scenario creates what one deputy described as “an oddity,” where two perpetrators convicted of the exact same capital crime could receive vastly different outcomes – one potentially facing execution, the other serving thirty years’ imprisonment.¹⁵² Even though we do not know the final fate of her accomplice, this dossier was commuted. Consequently, the attempt to prevent Parliament from participating in any miscarriage of justice is unconvincing, as this very action engenders injustice. The shift in focus, evident in the emphasis on justice intertwined with nationalist references, appears to serve a strategic diversion from addressing the legal deficiencies and personal responsibility. Instead of expressing their unwillingness to take responsibility for a miscarriage of justice, they relied on the mercy of society.

In the majority of cases where the phrase of “the conscience and grace of the Parliament” was mentioned, reference invariably encompassed both society and the Turkish nation.¹⁵³ The documents submitted to the Parliament repeatedly emphasized those who were not considered part of the Turkish community, regardless of whether they held Turkish citizenship. For instance, the characterization of the citizen accused of espionage as “of Turkish nationality and Soviet race” within the documents represents a rare instance where ethnicity is explicitly linked to the nature of the crime.¹⁵⁴ This is exceptional because, in most parliamentary documents, references to ethnicity or race are typically disconnected from any legal or substantive connection to the crime

152 Hazim Bozca (Afyon Karahisar), *ibid.*

153 For example: *TBMM Zabıt Ceridesi*, D.11, C.1, İ.1, İn.30, January 27, 1958; D.10, C.19, İ.3, İn.75, May 31, 1957.

154 Decree no.1528, dated May 16, 1947, *TBMM Tutanak Dergisi*, D.8, C.5, T.1, B.58, May 9, 1947.

or punishment. Instead, such references more commonly represent the right to exclude others by the death penalty. In different periods, irrelevant references such as “Romanian-born” citizen, “muhajir,” “Turkish refugee (*mülteci*) of Bulgarian nationality” have been identified in parliamentary minutes.¹⁵⁵

These references were not merely produced momentarily to accentuate the “abnormality” of the victim or perpetrator. Moreover, they serve as a litmus paper, revealing the composition of society. The parliamentary narrative in death penalty cases not only excludes certain groups but also forcibly includes some individuals into the Turkish nation. Sometimes, those who do not perceive themselves as outsiders were nonetheless positioned as “the other,” whereas at other times, the self-definitions of those who identify outside the Turkish nation were overridden. For example, in one of the cases from 1963, it was discussed whether the victim’s address to the defendant – “Why are you following me, *Kurd*, are you going to rob me?” – should be recognized as a discretionary ground for mitigation, irrespective of the ethnicity of the actors.¹⁵⁶ Given that the existence of a Kurdish identity had been denied during this period, this was included in the texts as an *insult* rather than as just an expression of otherness. Within this framework, the acknowledgement of non-Turkic minorities in official discourse was perceived to be tantamount to disloyalty or a threat to the integrity of the Turkish nation-state.¹⁵⁷ It can be argued that this rhetoric reflected a more extensive policy of assimilation and the construction of a proper society as a homogeneous national identity. As Hamit Bozarslan consistently used, the Kurdish issue is “first and foremost a

155 The reference to the “Roman-born” individual carries a connotation of Gypsy ethnicity: *TBMM Zabıt Ceridesi*, D.11, C.11, İ.3, İn. 28, January 25, 1960. “Bulgarian muhajir:” *TBMM Zabıt Ceridesi*, D.10, C.16, İ.3, İn. 23, January 9, 1957. “Born in Plovdiv, Bulgarian nationality, Turkish refugee:” *Millet Meclisi Tutanak Dergisi*, D.1, C.18, T.2, B.103, June 27, 1963.

156 Sabri Keskin (Kastamonu), *Millet Meclisi Tutanak Dergisi*, D.1, C.18, T.2, B.95, June 13, 1963, 153.

157 Hay Eytan Cohen Yanarocak, “Turkish Staatsvolk vs. Kurdish identity: Denial of the Kurds in Turkish school textbooks,” *The Journal of The Middle East And Africa* 7, no. 4, (2016): 405–19, <https://doi.org/10.1080/21520844.2016.1239176>.

question of denial” in Turkey.¹⁵⁸ As seen in another case, it was emphasized that the perpetrator committed a political capital crime not because he was Kurd, but rather because he “thought he was Kurd.”¹⁵⁹ As posited by the discourse, this politically referent identity was not even regarded as external to *our* law-abiding society; rather, it was regarded as erroneous beliefs, as opposed to objective or legitimate identities.

Terms such as nation, society, and citizen are far from neutral; they carry significant historical and cultural baggage shaped by their contexts. In light of these definitions, certain capital crimes – although legally categorized as crimes against the person – reveal an ideological dimension that reflects the tendencies of the regime. The Parliament treated such crimes, criminals, and victims as a threat, describing crime metaphorically as “like a germ or a virus ... must be stamped out before it begins to infect even wider ranges of the social order.”¹⁶⁰ They were excluded from this social order, especially in politically motivated or ethnically charged capital crimes. The violence of others and our violence through legal institutions represented fundamentally different phenomena. In other words, the violence tolerated by the state – and the state’s own violence through the death penalty – were portrayed as fundamentally distinct from capital violence within society, based on the premise that the state is not part of society. Moreover, members of Parliament who see themselves as the state hold the power to decide who falls outside the state, who is recognized as part of society, that is who is deemed a victim, and then whose violence is considered acceptable. Yet, as Shai J. Lavi observes, “the true power of the state is ... a monopoly on the unjustifiable application of vengeance.”¹⁶¹ This statement reveals how the state’s authority extends beyond lawful

158 “Paris-based Middle East Expert Highlights ‘Denial’ at Heart of Kurdish Question,” *Medya News*, <https://medyanews.net/paris-based-middle-east-expert-highlights-denial-at-heart-of-kurdish-question/>.

159 Salah Yargı (Kocaeli), *TBMM Zabıt Ceridesi*, D.6, C.26, İ.3, İn.68, June 3, 1942, 34-5.

160 John Clammer, “Framing the Other: Criminality, Social Exclusion and Social Engineering in Developing Singapore,” *Social Policy and Administration* 31, no. 4 (December 1997): 136–53. <https://doi.org/10.1111/1467-9515.00079>.

161 Shai J. Lavi, “Imagining the Death Penalty in Israel,” in *The Cultural Lives of Capital Punishment*, eds. Austin Sarat and Christian Boulanger (Stanford: Stanford University Press, 2005), 227.

enforcement to encompass a sanctioned form of retribution that blurs the line between justice and vengeance. Consequently, the unspoken resemblance between the act of law and the act of killing becomes visible, particularly within parliamentary texts, where the language and framing of capital crimes expose this convergence of legal responsibility and lethal violence.

§ 5.3 Summary

The following words were spoken by a pro-execution member of Parliament in response to those who argued for commutation regarding the execution of three young communist men convicted of crimes against the state, claiming that the government's inertia in implementing constitutional reforms contributed to the emergence of these crimes:

These children ... did not suddenly grow up.... Their minds were brain-washed at the universities This is not a matter of inter-party struggle within Turkey, nor is it simply a struggle of regimes; in reality, it is a matter of existence or extinction, a matter of survival.... We do not accept that the incomplete establishment of the constitutional order in Turkey is the cause of communist activities.... If you start from this point, you end up saying someone steals because they are hungry, kills because they are in despair, or wants to overthrow the regime for other reasons. This is to seek justification for crime, to seek legitimacy, and this, my friends, is the seed of anarchy in this country. (*From the AP's benches come "bravo" voices and applause*)... No one has the right to disparage the Republican generation, my friends.¹⁶²

This quote is a clear encapsulation of the opposite of every argument I have made in this chapter. This *is* a matter of inter-party struggle and a struggle of regimes in Turkey. Deficiencies in the political order *are* parts of the underlying causes of this struggle. Furthermore, according to this discourse, one of the main arguments of my dissertation is fearfully labeled as "the seed of

162 Seyfi Öztürk (On behalf of the AP, Eskişehir), *Millet Meclisi Tutanak Dergisi*, D.3, C.23, T.3, B.58, March 10, 1972, 142-4.

anarchy.” This interpretation can be ironic but also true, since the word “anarchy” originally means “without a ruler” in Ancient Greek, rather than simply “chaos” by implying this deputy.¹⁶³ By emphasizing a broader network of responsibility – rather than limiting the connection solely to the crime and the individual criminal – it becomes possible to show that some crimes actually arise from the genuine absence of a single, responsible authority and thus lie beyond the control of any particular individual or group. In other words, these crimes may reflect situations where there truly is a “lack of a leader.”¹⁶⁴ However, the tendency to focus on individual cases rather than the broader social context, which also emerges in Chapter 3, continues to some extent.

As we can see, the Parliament took a different position in each case. However, two things remain constant: first, the crime (or what is considered a crime) is never depicted as a common product of a community but rather blamed on the actions of one or a few individuals. Second, the state and the nation – on whose behalf decisions were claimed to be made – were repeatedly redefined as separate and superior structures to this community, in a way that overshadows some of the responsible parties. As explained in the first part, the state may be depicted either as an external actor with no involvement in, or even as a victim of, the criminal act. Capital punishment eclipses the political dimension inherent to the state by characterizing certain ideologically motivated crimes as crimes against the state. The state, as a “floating signifier,” is legally defined by law as an abstract and indeterminate entity, distinct from individual persons.¹⁶⁵ It has an undetermined amount of meaning, which is inherently devoid of fixed meaning, and open to various interpretations.¹⁶⁶ In parliamentary debates concerning cases involving such capital crimes, this ambiguity in the definition of the state has facilitated the construction of

163 Jeff Shantz, “Anarchy Is Order: Creating the New World in the Shell of the Old,” *M/C Journal* 7, no. 6 (2005), <https://doi.org/10.5204/mcj.2480>.

164 “Anarchy,” *Online Etymology Dictionary*, <https://www.etymonline.com/word/anarchy>.

165 Boris Groys and Carsten Strathausen, “Claude Lévi-Strauss: Mana; or, the Floating Signifier,” in *Under Suspicion: A Phenomenology of Media*, ed. Carsten Strathausen (New York, NY: Columbia University Press, 2012), online edition, Columbia Scholarship Online, November 19, 2015, <https://doi.org/10.7312/columbia/9780231146180.003.0010>.

166 *Ibid.*

multiple, varied interpretations of statehood. As Richard Mohr said that “the state operates as a ‘floating signifier’ which maintains its domination by overwhelming us with its excess meanings.”¹⁶⁷

This excess meaning can be observed in certain debates on politically motivated crimes, where the confrontation between old and new regimes, or between ruling and opposition parties, becomes crystallized. This pattern is independent of an individual’s position on the political spectrum. Simply put, when a crime is legally committed against the state, the actors in power at that time – the “victim” of the crime – often support the death penalty in Parliament. Conversely, the successors, whether military or civilian, or, in cases where the same ruling cadre remains in power, their opponents often tend to favor amnesty, arguing that the crime was not committed against the “state.” This stance stems from their refusal to recognize the attacked actors’ legitimacy as the state’s representative. Advocates of clemency claim that the true victim is not the “state,” but rather the “provocateur” who instigated the conflict. This discourse highlights a distinctive feature of such cases, emphasizing the social dynamics that lead to crime more intensely than in other contexts. However, as previously explained, this focus on societal factors differs from the connotation presented in this study, which argues that capital punishment obscures these dynamics. It is actually observed that political rivals often blame their political “enemies” rather than the condemned individual, thereby excluding both themselves and the broader social context from responsibility. Ultimately, those involved in the crime’s context are portrayed as *they*, not *we*. They redefine the state by including themselves and excluding others. This selective recognition of legitimacy allows them to shape narratives around capital crimes, concealing their own role in violence and the deficiencies that contribute to it.

Furthermore, certain capital crimes conceal the regime’s own role in violence by framing their causes as mere individual political antagonisms. This tendency became especially dominant after the turbulent period of the 1970s. As Kassymbekova argued, in such a period;

167 Richard Mohr, “Living Legal Fictions: Constituting the State or Submerging the Signifier?” *International Journal for the Semiotics of Law* 19 (2006): 237-258, 1, <http://dx.doi.org/10.1007/s11196-006-9021-1>.

Chaos and criminality make people desire cruel punishment for criminals and all those who destabilize the social order. Capital punishment then is not seen as an illegitimate way to “fight” with the chaos of the everyday. Paradoxically, strict punishment and control of the streets are not problematic and are even desired despite the general distrust of the courts and the legal structure.¹⁶⁸

In Turkey, the paradoxical acceptance of state-sanctioned killing, authorized by the very state that failed to prevent political chaos and may have even contributed to it, was made to seem less contradictory by individualizing politically motivated capital crimes. Those who disturb “the peace of society” were punished in the name of society itself, rather than directly in the name of the state. This is true even when the crimes and their actors were not motivated by ideological reasons. Some segments of society were granted the right to kill on behalf of the entire society, while others were systematically excluded from this community – as if they have never belonged to it, lived within it, or been shaped by it. Sarat’s arguments about the American jury system in capital trials resonate with the position of Turkish parliamentarians and other “good” citizens in several ways. “[A] death penalty that is democratically administered, a death penalty that enlists citizens to do the work of dealing death to other citizens, implicates us all as agents of law’s violence.”¹⁶⁹ Just as Sarat discusses the jury’s role in legitimizing state violence through community sanction, legislators of Turkey have adopted capital punishment as a means to assert social consensus, even while clearly excluding certain groups pushed to the fringes of society.

Hugo Adam Bedau, as a philosophically sophisticated abolitionist, argued:

[E]ven the worst and most dangerous murderer is not a fit subject for annihilation by others.... Society has no authority to create and sustain

168 Botagoz Kassymbekova, “Capital Punishment in Kyrgyzstan: Between the Past, “Other” State Killings and Social Demands” in *The Cultural Lives of Capital Punishment*, ed. Austin Sarat and Christian Boulanger, 176.

169 Austin Sarat, “Violence, Representation, and Responsibility in Capital Trials: The View from the Jury,” *Indiana Law Journal* 70, no. 4 (1995): 1103, <https://www.repository.law.indiana.edu/ilj/vol70/iss4/3>.

any institution whose nature and purpose is to destroy some of its members. Cruelty, which has such a nature and purpose, matters – because our own status as moral creatures matters.”¹⁷⁰

After all my inquiries on parliamentary narrative, I believe if this quote had been read during any parliamentary session when the death penalty was in force, the dominant voices rising from the seats would have affirmed its truth: society is composed of moral creatures, and Parliament represents this morality. However, they would likely have insisted that they have never destroyed any members of this society; rather, they would argue that external dark forces have been the ones annihilated. The question of who, or what, holds the “right of death” has become increasingly ambiguous. Decisions regarding capital punishment were made on behalf of “society” or the “state” through the agency of Parliament, reflecting the discourse of legislators. The state and/or society were represented as the victims of capital crimes and, consequently, as the sole actors entitled to retribution. However, the ambiguity surrounding which entities fall under the umbrellas of the state and society overshadow which groups are included or excluded from these categories, and who determines these boundaries.

In conclusion, the Parliament – whether complicit in causing the crime or unwilling or unable to prevent its causes – has found a way, through the death penalty, to avoid portraying itself as the responsible party. In politically charged cases, the criticized group deflected blame by asserting that dissent was directed not at them but at “sacred state values.” Rather, they might deny being victims themselves, framing attacks as directed at the mundane politics of “father-crabs” rather than at the state they claim to represent. Or, by reducing political dissent to mere interpersonal animosity, the Parliament could completely absolve itself of responsibility. Alternatively, in ideologically framed cases, especially those invoking nationality, it was emphasized that politically dominant groups bear no responsibility for the society’s conditions that tolerate or gave rise to the crime, as the actors involved in capital crimes were deemed outside society. Civilians who claim to defend the state, or state

170 Hugo Adam Bedau, *Death is Different: Studies in the Morality, Law, and Politics of Capital Punishment* (Hanover, NH: University Press of New England, 1987), 127.

officials might be excluded from the definition of the state, while official Turkish citizens might be cast as “outsiders” within Turkish society. In every scenario, legislators portray themselves not as a responsible party but as victims, as the state or conscience of society, redirecting blame elsewhere – even turning accusations against one another.



Conclusion

A system which kills a few people while allowing others who have committed the same or worse crimes to live or go free is not a system of retribution but of human sacrifice.

– Amnesty International, *Moving Towards A World Without Executions: Obstacles and Hopes* (1991)

The individual who called for the reinstatement of the death penalty for various crimes, including terrorism, in 2022 – the politician quoted at the very beginning of the Introduction Chapter – is the same person who served as chairman of the MHP and participated in the coalition government in 2002, when the death penalty was abolished for terrorism offenses.¹ As a coalition government partner, this person also signed the document in January 2000 that postponed the execution of Abdullah Öcalan – one of the most prominent death-row prisoners of that time and today – in accordance with

1 Devlet Bahçeli was the leader of the MHP, which formed a coalition government with Demokratik Sol Parti (Democratic Left Party) and Anavatan Partisi (Motherland Party) in the fifty-seventh government. Law no.4771, enacted August 3, 2002.

the ruling of the ECtHR.² However, in 2007, he addressed Adalet ve Kalkınma Partisi (Justice and Development Party) government with the words, “You are the one in power alone. Why did not you hang [Öcalan]?... Can’t you buy enough rope to hang him? Come on, hang him,” even throwing a rope in their hands.³ Yet, by 2024, he was the same individual advocating for “the right to hope” rather than execution for Öcalan, who was sentenced to life imprisonment without the possibility of parole following the abolition of capital punishment in Turkey.⁴ Reflecting at the Conclusion of this dissertation, this is no longer the picture of an inconsistent politician, but rather the manifestation of a death penalty rhetoric that operates with remarkable consistency.

§ 6.1 The Afterlife of the Death Penalty: Enduring Narratives During and Beyond Abolition

The past actively operates in the present of the death penalty, while the present also influences how past cases are selectively remembered – together creating what can be called the “death penalty effect.” The abolition of the death penalty in Turkey, as much as its existence, serves purposes that go beyond crime control. The rhetoric surrounding capital punishment, along with the ensuing legal and moral debates, acts like a black hole that absorbs all other issues in itself. Once invoked, it becomes nearly impossible to discuss any related topic without being drawn into this dominant moral discourse or at least referencing it. It diverts attention. In fact, the death penalty’s absence has redirected focus just as powerfully, though in a different manner, as its presence once did.

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- 2 In January 2000, the same coalition government announced a temporary suspension of Öcalan’s execution pending the ECtHR’s decision, though the government retained the option to resume the death penalty process later.
 - 3 Türey Köse, “Bahçeli ‘ip’ attı, Erdoğan ‘hukuk devleti’ dedi,” *BBC News Türkçe*, July 18, 2016, <https://www.bbc.com/turkce/36828182>.
 - 4 Merve Kara-Kaşka, “Umut hakkı nedir, Abdullah Öcalan’a uygulanabilir mi?,” *BBC News Türkçe*, May 12, 2025. <https://www.bbc.com/turkce/articles/clyg58qv9460>.

As Sarat and Boulanger observed, “what is clear is that the death penalty lives many different lives and dies many different deaths.”⁵

The most striking feature of the abolition process of Turkey was that, despite framing itself as a narrative of “modernity” and “a civilized society that respects human rights,” it has become a powerful bargaining tool. This narrative is not purely about modernity because the presence of capital punishment in Turkey has been referenced as much as its absence as evidence of “being part of a modern society.” In particular, the location and method of execution of death sentences have been cited repeatedly in Parliament as evidence that Turkey was, throughout the existence of the death penalty, a part of the most civilized world. For instance, in 1965, the Parliament of Turkey concealed the brutal performance of public executions behind the prison walls. The private executions, as Jürgen Martschukat suggests, “contributed to the definition of how a civilized society had to behave and present itself, rational and humane as it considered itself to be.”⁶ In 1965, the prohibition of public execution was described by a deputy as an “improvement” that was observed “not only in the Turkish community but also in other nations around the world.”⁷

The country’s capital punishment policy has consistently been reevaluated to measure and adjust its position among “peer countries.” For instance, in 1951, a legislator stated that the execution of capital punishment should not be displayed in our country, in accordance with the amendments made by “all countries governed by democratic regimes.”⁸ The relocation of executions was considered as an “expression of civilization,” consistent with the Eliasian

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- 5 Austin Sarat and Christian Boulanger, “Putting Culture into the Picture: Toward a Comparative Analysis of State Killings,” in *The Cultural Lives of Capital Punishment: Comparative Perspectives*, eds. Austin Sarat and Christian Boulanger (Stanford, CA: Stanford University Press, 2005), 34.
 - 6 Jürgen Martschukat “Nineteenth-Century Executions as Performances of Law, Death, and Civilization,” in *The Cultural Lives of Capital Punishment: Comparative Perspectives* (The Cultural Lives of Law), ed. Austin Sarat and Christian Boulanger (Stanford, CA: Stanford University Press, 2005), 55.
 - 7 Bahri Cömert (Samsun), *Millet Meclisi Tutanak Dergisi*, D.1, C.42, T.4, B.132, June 22, 1965, 270-1.
 - 8 Umran Nazif Yiğiter (Konya), *TBMM Tutanak Dergisi*, D. 9, T. 1, C. 9, July 2, 1951, 17.

perspectives of Spierenburg.⁹ The teleological civilization comprehension has articulated the changing pattern of the capital punishment system in Turkey. In line with Martschukat' conclusion, "these [penal policy-making] elites actively create their fantasies of 'civilization.'"¹⁰ Capital punishment was not an "archaic" feature of Turkey's criminal justice system, but rather a criteria for a "modern" society. And private executions were not a step towards the abolition of capital punishment, but a "civilized" way to retain it, even after two semi-moratorium periods, as Ron Dubai's challenge to the perception of "death penalty as always 'on the move', often in a teleological trajectory inevitably leading to universal abolition."¹¹

However, after decades, the Foucauldian sense of "modern state" formation linked with extinction of physical punishment centered on bodily pain became a more prominent discourse in Turkey. As Foucault declared, "[f]rom being an art of unbearable sensations, punishment has become an economy of suspended rights."¹² Following the argument of Roger Hood and Carolyn Hoyle, a "new dynamic" has emerged since the 1960s – especially from the 1980s onward – recognizing capital punishment as a denial of universal human rights.¹³ This was not unique to selected countries. As Franklin E. Zimring and Gordon Hawkins point out, "abolition of capital punishment was the international trend among our Western peer nations throughout the twentieth century."¹⁴ Examples include the development of international

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- 9 Petrus Cornelis Spierenburg, *The Spectacle of Suffering: Executions and the Evolution of Repression: From a Preindustrial Metropolis to the European Experience* (Cambridge, UK: Cambridge University Press, 1984).
 - 10 Boulanger and Sarat, *The Cultural Lives*, 18.
 - 11 Ron Dubai, "Symbolic Laws, De Facto Abolitions and Path Dependence: When Death Penalty Policies Remain Stable," *The Howard Journal of Crime and Justice* 62, no. 1 (2023): 11, <https://doi.org/10.1111/hojo.12502>.
 - 12 Micheal Foucault, *Discipline and Punish: The Birth of the Prison*, trans. Alan Sheridan (London: Penguin Books, 1991), 11.
 - 13 Roger Hood and Carolyn Hoyle, "Abolishing the Death Penalty Worldwide: The Impact of a 'New Dynamic,'" *Crime and Justice* 38, no.1 (2009): 1-63, <http://www.jstor.org/stable/10.1086/599200>.
 - 14 Franklin E. Zimring and Gordon Hawkins, *Capital Punishment and the American Agenda* (Cambridge: Cambridge University Press, 1986), cited in Mona Lynch, "The Disposal of

covenants, treaties, and legal institutions under the UN, as well as the political influence exerted by the EU and the CoE to achieve total abolition of the death penalty across the continent.¹⁵ Peer pressure to embrace international human rights and European abolitionism was a significant factor in Turkey's abolitionist period, overlapping with its path to the EU membership and the extradition and trial of Öcalan, a prominent suspect charged with crimes against Turkey's territorial integrity.

In 1999, Turkey was accepted as a candidate country for the EU membership – a status it had pursued since 1987 – and the same year Öcalan, arrested on charges of leading a terrorist organization and committing crimes against the state, was sentenced to death.¹⁶ This case highlighted ongoing international scrutiny of Turkey's criminal justice system and the political will to move away from capital punishment, especially under pressure from the EU and the European Convention on Human Rights (ECHR). In January 2000, the government of Turkey suspended the execution of Öcalan's death sentence, which had been finalized, pending the outcome of his case before the ECtHR.¹⁷ In

Inmate #85271: Notes on a Routine Execution," *Studies in Law, Politics, and Society* 20 (2000): 3, ISBN: 0-7623-0653-X.

- 15 The CoE, "Protocol No. 6 to the Convention for the Protection of Human Rights and Fundamental Freedoms concerning the Abolition of the Death Penalty," ETS No.114, Strasbourg, April 28, 1983; "Protocol No. 13 to the Convention for the Protection of Human Rights and Fundamental Freedoms, concerning the abolition of the death penalty in all circumstances," ETS No. 187, Vilnius, May 3, 2002.
- 16 On December 10-11, 1999 Helsinki Summit, Turkey was officially recognized as a candidate for the EU membership. Accession negotiations would begin once Turkey met the 1993 Copenhagen Political Criteria, which include abolishing the death penalty except in cases of war. On November 25, 1999, the ninth Criminal Chamber of *Yargıtay* upheld Abdullah Öcalan's death sentence under Article 125 of the TCK dated 1926.
- 17 *Öcalan v. Turkey*, no. 46221/99, ECtHR, March 12, 2003, judgment, HUDOC, Council of Europe.
 "In November 1999, the ECtHR requested Turkey to suspend the execution of Abdullah Öcalan to enable a thorough examination of his application under the ECHR. In response, the Turkish government agreed in January 2000 to temporarily halt the execution while the ECHR reviewed the case. At that point, discussions continued within Turkey regarding the timing and terms for introducing legislation to abolish the death penalty." cited from T.C. Dışişleri Bakanlığı Avrupa Birliği Başkanlığı, Avrupa Komisyonu, *Türkiye'nin Katılım Yönünde İlerlemesi Üzerine Komisyon'un 2000 Düzenli Raporu* (November 8, 2000), 12.

2001, the Constitution of Turkey was amended to limit the death penalty to times of war, imminent threat of war, or terrorism.¹⁸ Then, in 2002, the criminal code was revised to exclude terrorism from these capital offenses.¹⁹ Following Turkey's ratification of several ECHR protocols, the death penalty was fully abolished in 2004 through constitutional and legal amendments.²⁰ The abolition of the death penalty has become a key component of Turkey's effort to present itself to the international community as a democratic and modern state. This parallels the situation twenty-two years earlier, when the death sentence of Mehmet Ali Ağca – also known for his attempted assassinate of the Pope John Paul II – was upheld rather than commuted for exactly the same purpose.²¹ At that time, the death penalty was framed not by its absence but by its presence as a sign of civilization, described as “a price paid in free societies for protecting the population against terrorist violence.”²²

Two important points should be noted in this context: first, the role of international pressure in the abolitionist movement is neither unique to Turkey nor universally applied to all countries. For example, Sangmin Bae emphasizes that:

Unlike countries such as Ukraine and Poland, which abolished the death penalty to meet one of the conditions for admission to the

18 Article 15 of Law no.4709 (*Türkiye Cumhuriyeti Anayasasının Bazı Maddelerinin Değiştirilmesi Hakkında Kanun*), enacted October 3, 2001.

19 Article 1 of Law no.4771 (*Çeşitli Kanunlarda Değişiklik Yapılmasına İlişkin Kanun*), enacted August 3, 2002.

20 The CoE, *Protocol No.6* was signed on January 15, 2003, and its ratification was approved by Law no. 4913 on June 26, 2003. In 2002, Turkey had already abolished the death penalty, except for crimes committed during war or imminent war threats, while converting existing death sentences to life imprisonment; therefore, the TBMM almost unanimously accepted this protocol. *Protocol No.13* was signed on January 9, 2004, and ratified by Law no. 5409 on October 6, 2005.

Law no.5170 (*Türkiye Cumhuriyeti Anayasasının Bazı Maddelerinin Değiştirilmesi Hakkında Kanun*), enacted May 7, 2004; Law no.5218 (*Ölüm Cezasının Kaldırılması ile Bazı Kanunlarda Değişiklik Yapılmasına İlişkin Kanun*), enacted July 17, 2004.

21 Law no.2630, enacted March 12, 1982.

22 Tevfik Fikret Alpaslan (Eskişehir), *Danışma Meclisi Tutanak Dergisi*, C.4, Y.1, B.62, March 3, 1982, 225.

Council of Europe and the European Union, East Asian countries are not subject to binding multilateral checks on their domestic policies.²³

This highlights that international pressure to abolish capital punishment varies depending on regional and political contexts rather than being a generalized phenomenon. Second, the debate surrounding the death penalty extends beyond the framework of regional integration. As Zimring observes, capital punishment has only recently emerged as a significant human rights concern.²⁴ When separated from human rights discourse, the death penalty's bargaining power manifests both in international and domestic politics. For instance, Turkey's 1991 Anti-Terrorism Law stipulated that existing death sentences would not be carried out and allowed conditional release for those affected, while abolishing two articles prescribing the death penalty.²⁵ However, while this international-oriented de facto abolitionist reform reduced the number of capital offenses, it also introduced a vague definition of terrorism, classifying certain capital punishment law as "terrorist offences."²⁶ In other words, the scope of laws providing for the death sentence was narrowed, while simultaneously, the scope of laws carrying the death penalty for terrorism-related crimes was theoretically expanded. There were also periods in Turkey when opposing the death penalty was equated with supporting terrorism.²⁷ Although the long absence of death penalty cases in Parliament and the reduction in the number of capital offenses suggest a sincere move toward de facto abolition, it remains premature to consider this outcome inevitable, as the legal existence of the death penalty continues to function as a bargaining tool both domestically and internationally.

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- 23 Sangmin Bae, "International Norms, Domestic Politics, and the Death Penalty: Comparing Japan, South Korea, and Taiwan," *Comparative Politics* 44, no. 1 (2011): 42. <http://www.jstor.org/stable/23040657>.
 - 24 Franklin E. Zimring, *The Contradictions of American Capital Punishment* (New York: Oxford University Press, 2003).
 - 25 Article 23 and Provisional Article 1 of Law no.3713 (*Terörle Mücadele Kanunu*), enacted April 12, 1991.
 - 26 Article 1 and 3 of Law no.3713, enacted April 12, 1991.
 - 27 Gökçer Tahincioğlu, *Çünkü Umurumuzda: 11 Sivil Toplum Başarısı* (İstanbul: Hakikat, Adalet ve Hafıza Çalışmaları Derneği Yayınları, 2022).

The narratives arising from the absence of the death penalty, like those stemming from its presence, seem to absorb everything into itself. One of the most important elements of this debate is its power to overshadow even the second most severe punishments, drawing all discussion into the orbit of its own moral dilemma. In practical terms, abolitionists who focus solely on eliminating the death penalty often overlook that life imprisonment without the possibility of parole – the next most severe sentence – does not always guarantee more humane treatment. A life sentence without the possibility of parole may be seen as a more humane alternative to the death penalty, yet those serving such terms are often regarded as “civilly dead” or, in contemporary Japanese practice, as having been “killed socially before physically.”²⁸ This form of sentencing emphasizes and “relies upon a vision that not simply some people are unable to change, but that anyone in a democracy – no matter their position – is some steps away from irretrievable exclusion.”²⁹ As expressed by an American inmate serving life without parole: “In their opinion, a pine casket is my only way out, and since I am not directly sentenced to the death penalty, they must wait for me to die on my own. I’m sitting on a painstakingly slow death-row.”³⁰

Yet, even after the abolition, the conversion-stopper effect once attributed to the death penalty has not been replaced by life imprisonment without the possibility of parole. Rather than being confined to what Reiman calls “the prison’s peculiar dead time” – a civil death exchanged for a natural one – the reference to death sentence has persisted, now accompanied by the threat of reinstatement.³¹ Particularly following the 2016 coup attempt, statements from various political figures expressing willingness to reinstate the death penalty

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- 28 Jeffrey H. Reiman, “Justice, Civilization, and the Death Penalty: Answering van den Haag,” *Philosophy and Public Affairs* 14, no. 2 (Spring 1985), 130, <http://www.jstor.org/stable/2265453>; Sarat and Boulanger, “Putting Culture into the Picture,” 28.
- 29 Nolan Bennett, “The State was Patiently Waiting for Me to Die: Life without the Possibility of Parole as Punishment,” *American Journal of Criminal Justice* 49, no. 2 (2024): abstract, <https://doi.org/10.1177/0090591720927800>.
- 30 Patricia Prewitt, “Slow Death Row,” in *Too Cruel, Not Unusual Enough*, ed. Kenneth E. Hartman, John Purugganan, and Robert C. Chan (Lancaster, CA: The Steering Committee Press, 2013), 31–32, cited in *ibid.* 165.
- 31 Reiman, “Justice, Civilization, and the Death Penalty,” 130.

came to the fore.³² However, just as it is necessary to distinguish the discourse on abolition or reinstatement from the legal existence of the death penalty, it is equally important to separate its current role from its past one. In the era of social media, capital punishment operates as the juridical embodiment of the Heisenberg uncertainty principle – mirroring the observer effect – where the very act of observing a pattern inevitably alters the behavior of individuals involved, thereby transforming the pattern itself. The legal absence of the death penalty has been and continues to be on the parliamentary agenda, carrying bargaining power, serving as a symbol of a civilized society, and accompanied by the threat of reinstatement – reflecting the willingness of the “innocent” members of society to set apart their “wicked brothers and sisters by attempting to execute them.”³³ However, to understand the strength of this “distractor” effect, it is necessary to examine the socio-legal history of capital punishment in Turkey.

§ 6.2 The Death Penalty as Parliamentary Performance: A Socio-legal Analysis

The light that could expose who or what truly bears responsibility for the flaws in the social and legal structure – whether by producing, enabling, ignoring, not preventing, or showing the inertia to unaware of them – cannot easily escape from this black hole within the legal order; the death penalty. This dissertation strives to chase those elusive rays of light that might otherwise go unseen. This study examined the death penalty regime in Turkey, specifically from 1926 to 1990, revealing its complex role beyond legal punishment. The documents I analyzed both chart the legal path of the death penalty and the social one surrounding it. Ultimately, a legal tradition is woven into a much broader, complex normative world. This tradition “includes not only a corpus

32 For some reflection on media, see: Chapter 1, footnote 35.

33 Craig Haney, “The Social Context of Capital Murder: Social Histories and the Logic of Mitigation,” *Santa Clara Law Review* 35 (1995): 557, <https://digitalcommons.law.scu.edu/lawreview/vol35/iss2/7>.

juris but also a language and a mythos.”³⁴ This is why the text of the law alone is insufficient; it requires the narrative that surrounds it. For this reason, I have chosen to focus on the parliamentary narrative. Before delving into the separate arguments of the chapters, it is important to highlight three main features that have emerged in the case of Turkey that connect and unify the various thematic discussions throughout the dissertation.

First, the death penalty is universally unique as it is the only form of punishment that extends beyond the judiciary and requires the approval of another body. What sets Turkey apart is that the legislature sits at the very center of this process. The Parliament of Turkey must authorize every death sentence, acting as a collective moral and political arbiter rather than leaving such decisions solely to the judiciary. One of the most important features of this power in a parliamentary system is that it enables it to operate in a way that “implicates us all as agents of state-killing,” distributing responsibility collectively rather than resting it solely on individual political actors.³⁵ The second notable feature in the case of Turkey is that, in capital punishment, what matters is not simply the elimination of a body and soul but its ability to symbolize a broader power relationship. It goes beyond the act of execution or commutation; it is about the legal presence and meaning of the punishment itself. This distinguishes it from other forms of state-killing and helps explain, for example, why measures exist to prevent suicides among death-row inmates already doomed to die. Because the crucial question is not whether they die or are killed, but whether they are “executed” or shown mercy by those in power. Moreover, even if the persons were executed, the process does not end with the execution itself. Execution carries a meaning that transcends death – the prohibition on burial ceremonies or public display of the body have continued to convey a message within Turkey’s history.³⁶ The final peculiarity of capital punishment

34 Dicle Koğacioğlu, “The Tradition Effect: Framing Honor Crimes in Turkey” *Differences: A Journal of Feminist Cultural Studies* 15, no. 2 (Summer 2004): footnote 11, <https://doi.org/10.1215/10407391-15-2-118>.

35 Austin Sarat, “Violence, Representation, and Responsibility in Capital Trials: The View from the Jury,” *Indiana Law Journal* 70, no. 4 (1995): 1103, <https://www.repository.law.indiana.edu/ilj/vol70/iss4/3>.

36 Article 12 of the TCK, dated 1926.

lies in its ability to highlight “capital crimes” while simultaneously masking the responsibility of other actors and the social norms that underlie those crimes. To explain my main argument, I refer to Craig Haney’s well-articulated analysis highlighting the social context of capital murder cases. Haney emphasizes that:

By blurring the core realities of capital punishment, these myths distort the terms of the death penalty debate and undermine its authenticity. They prevent each of us from taking full responsibility for our actions when our society executes one of its citizens.³⁷

Broadly, this dissertation contends that the death penalty operates not only as a tool of punishment but also as a veil that conceals deeper social and political dynamics. Through an interdisciplinary approach across three thematic chapters, it examined how this concealment is enacted primarily through legislative performance. In Turkey, Parliament holds not only the power to legislate capital punishment but also the critical responsibility to approve or commute each death sentence. This parliamentary role effectively diffuses accountability, often through bureaucratic silence that distances legislators from the violence of their own decisions, by shifting blame for systemic violence onto individual actors – whether perpetrators or victims – and by delegating responsibility to ambiguous entities such as the state or society.

First, this dissertation found that capital punishment functioned as a social performance, shaping collective notions of justice, normality, and deviance by constructing “monstrous” individuals who embodied societal fears and anxieties. Parliamentary debates and legal discourse acted as symbolic courtrooms, defining and reinforcing social norms through ambiguous and fluid categories such as honor, morality, or love. These narratives distracted the attention from systemic issues by focusing on individual “monsters” rather than broader social and legal responsibilities. Law neither exists nor evolves in isolation from society.³⁸ Capital punishment law has at times codified, and at other times challenged, prevailing social practices, yet it has ultimately

37 Haney, “The Social Context of Capital Murder,” 548.

38 Philip Goodman, Joshua Page, and Michelle Phelps, *Breaking the Pendulum: The Long Struggle over Criminal Justice* (Oxford: Oxford University Press, 2017).

helped shape a “legal truth” and established “ordinary” societal expectations. The legal and legislative narrative surrounding on the death penalty have created an image of ordinary experience – one that is “relatively tacit, grounded in agreement rather than rule, in practice rather than knowledge or belief, and happening without calling undue attention to itself.”³⁹ Each law involving the death penalty, including its text and the debates that accompany it, reflects the most brutal and extreme manifestations of what is regarded as normal. The moral and legal debates within Parliament surrounding capital punishment have obscured how “normal” social norms influence violent acts by focusing excessively on individual guilt. By criminalizing or legitimizing various social actors – including perpetrators, victims, and others – the death penalty creates “abnormal” deemed deserving of death. However, there is not an image of a world inhabited solely by victims and perpetrators, “combined with the flawed perception that victimhood and guilt are mutually exclusive categories.”⁴⁰ While capital punishment brought certain capital crimes into light, it simultaneously rendered invisible other victims and responsible ones of comparable societal violence by tolerating or legitimizing particular harmful behaviors.

Sister Helen Prejean, author of the well-known book *Dead Man Walking*, asks, “You could say, ‘They deserve to die,’ but the key moral question is, ‘Do we deserve to kill them?’”⁴¹ I argue that Turkey’s past legislators have systematically avoided facing this rhetorical question at all costs. This study also uncovered a persistent cycle of silence and mystification within parliamentary processes, where legislative actors evade accountability for state-sanctioned executions by shifting blame between branches and relying on procedural ambiguity. This process conceals flaws within the legal and judicial institutions and the arbitrary nature of decision-makers by wrapping them in silence.

39 Michael Lambek, “Introduction,” in *Ordinary Ethics: Anthropology, Language, and Action*, ed. Michael Lambek (New York: Fordham University Press, 2010), 1–36, 2.

40 Stathis Kalyvas, *The Logic of Violence in Civil War* (Cambridge: Cambridge University Press, 2006), 21, quoted in İpek Yosmaoğlu, “Logic and Legitimacy in Violence,” in *Blood Ties: Religion, Violence, and the Politics of Nationhood in Ottoman Macedonia, 1878–1908* (Ithaca: Cornell University Press, 2014), 220

41 Marvin E. Wolfgang, “We Do Not Deserve to Kill,” *Crime and Delinquency* 44, no.1 (January 1998): 30, <https://doi.org/10.1177/001128798044001003>.

Silence have obscured the identity of those bearing responsibility for the execution of sentences in two key ways: by choosing not to discuss individual cases within a silent loop, and by refraining from making decisions altogether, instead leaving files pending indefinitely.

First, the system has deliberately camouflaged the manner of how it works. It created its own loop. The legislation, which enacts the capital punishment laws and is the final decision-maker of execution of the death sentence, has attempted to remain unseen regarding its own authority and responsibility to determine (or blur) any border between act of killing and act of law. This is achieved by invoking the concept of judicial independence, by portraying itself as a mere bureaucratic approval mechanism, by maintaining silence throughout the process, and by silencing any debate on the appropriate role of Parliament. Furthermore, Parliament's breaking of silence does not always mean it was taking full responsibility. For example, the Senate of the Republic debated for three sittings over a bureaucratic issue: it had to defer the execution of a death sentence previously passed by the National Assembly but later withdrawn by the court for retrial, in order to just "save time."⁴² In other words, not every debate reflects active responsibility, nor is every rejection of execution an act of mercy. Whether the death penalty is carried out or not, its silent operation and mere legal existence support Nils Jareborg's observation about Swedish criminal law:

We do not want to express disapproval if someone commits such a deed. Instead, we might even want to encourage people to perform an otherwise criminalized act, because it is the 'right thing to do.' In any case the message is: this is all right, it is not wrong to do this.⁴³

42 The text of the law proposal concerning the execution of the death penalty on Hüseyin Sesli, as adopted by the National Assembly, and the Constitution and Justice Commission Report of the Senate of the Republic (National Assembly 3/159; Senate of the Republic 2/320), *Cumhuriyet Senatosu Tutanak Dergisi*, C.65, T.10, B. 86, July 8, 1971; B.109, September 2, 1971; B.110, September 7, 1971.

43 Nils Jareborg, "Justification and Excuse in Swedish Criminal Law," *Scandinavian Studies in Law* 31 (1987): 170.

The death penalty also produces a state of limbo for death-row inmates, as delayed executions stretch on for years. The politics of waiting produces a liminal condition where undiscussed or undecided sentences act not as steps toward abolition, but as another form of state violence. Moreover, this kind of waiting is not simply an opportunity for inmates to live longer; it carries a deeper, coercive dimension. As Andreas Bandak and Manpreet K. Janeja note, “waiting has been, and is increasingly used as, an instrument to elicit particular forms of subjectivities, or as a weapon to make existence intolerable for certain groups such as refugees and asylum seekers trying to obtain the right papers.”⁴⁴ Thus, such silence – manifested in undecided or unaddressed sentences – forces individuals to live in limbo, masking the power dynamics underlying capital punishment and obscuring the roles of those who administer it.

Moreover, this study also highlighted how Parliament rhetorically displaced its agency by framing death sentences as collective acts of self-defense or societal retribution on behalf of abstract entities like the state or society itself. The state and/or society were portrayed as victims of capital crimes and consequently positioned as the sole actors entitled to retribution. Referring to Gianfranco Poggi’s definition, “Parliament must, at the same time, ‘couple’ and ‘uncouple’ the society and the state – the former as the locus where private individuals freely form and express views and preferences, the latter as a machine for framing and executing binding commands.”⁴⁵ This dual role and the ambiguity embedded in the umbrella terms of the “state” and “society” highlights the inherent tension in defining the relationship between socio-politically dominant actors, as well as who legitimately belongs to each sphere and exercises power within them.

First, in the context of the death penalty, the state’s structure – legally portrayed both as belonging to no one and as transcending individuals, yet simultaneously claimed by multiple, often conflicting actors – has been used to

44 Gaibazzi 2012; Andersson 2014a: 796, cited in Andreas Bandak and Manpreet K. Janeja, “Introduction: Worth the Wait,” in *Ethnographies of Waiting: Doubt, Hope and Uncertainty*, ed. Manpreet K. Janeja and Andreas Bandak (London: Bloomsbury Academic, 2018), 3.

45 Gianfranco Poggi, *The Development of the Modern State: A Sociological Introduction* (Stanford, CA: Stanford University Press, 1978), 112.

disperse accountability. Various segments of society – whether government or opposition parties, civilian or military regimes, perpetrator or victim of crime – could each claim to be the true representatives of the state. The state was seen as an overarching structure excluding an opposing political center. Those who viewed themselves as victims of capital crimes identified themselves as the state and supported executions. Clemency advocates in the same cases, however, argued that such crimes targeted corrupt officials, not the state itself, distancing the offense from the state and defining it instead as a crime against individuals or ideas. This upheld a notion of the state that included themselves but excluded the crime's targets. Thus, focus shifted from the individual offender to a broader "other." Although silence often dominates death penalty debates, it was occasionally broken by intense political disputes, particularly during civilian coalitions after military rule. Still, these debates often miss that "we," not just "they," implicate responsible actors and that criminality is ultimately relative. Their common ground was not based on being for or against execution, but rather on a shared acceptance of the legitimacy of capital punishment itself, even if they questioned the legitimacy of anyone asserting, "I am the state." A key purpose of the death penalty is not necessarily to carry out executions, but to obscure those responsible for the crime and the decision, keeping their identities hidden under the guise of the state and society.

Looking at the flip side of the coin, it is not only the state that has been fetishized by the people; people have also been fetishized by the state. As Begoña Aretxaga argues, the state can "be haunted by the fantasized power of the subversive subjects that it wants to control."⁴⁶ This enabled the exclusion and marginalization of political and ethnic minorities, who were portrayed as perpetual "others" threatening social order. In politically motivated interpersonal capital crimes, by reducing political animosity to mere interpersonal conflicts, Parliament can fully exonerate itself. Through reinforcing selective boundaries of inclusion and exclusion, capital punishment legitimized state violence while concealing the complicity of dominant political actors in ideological conflicts. Ultimately, the death penalty can cyclically perpetuate capital violence by

46 Begoña Aretxaga, "Maddening States," *Annual Review of Anthropology* 32 (2003): 402, cited in Zerrin Özlem Biner, *States of Dispossession: Violence and Precarious Coexistence in Southeast Turkey* (Philadelphia: University of Pennsylvania Press, 2020), 19.

devaluing human life and justifying retaliatory acts when framed as upholding sacred values like the state or public conscience. In cases that are not directly political but ideologically charged – especially those involving ethnicity – dominant political actors emphasize their innocence regarding the social conditions that enable such crimes, portraying those involved as outsiders to society. If these actors are deemed outside “Turkish society,” then society’s representatives claim no responsibility for actions of outsiders. Citizens who believe they were defending the state but committed crimes may be excluded from the state’s definition, while other citizens can be labeled “outsiders” within their own society. In all these scenarios, legislators depict themselves not as accountable parties but as victims or guardians of the state’s conscience, shifting blame onto others – and often onto each other in the very Parliament.

Overall, this dissertation has demonstrated that the death penalty in Turkey operated as a symbolic and political instrument, shaping and shaped by social narratives and power dynamics well beyond its immediate criminal and legal role. Its prevailing legal and legislative narrative mask the broader socio-political context, encouraging society to perceive perpetrators, victims, and itself in sharp dichotomies. This framing allows those responsible to deflect their share of accountability onto others, perpetually constructing tales of villains and victims around capital crimes and punishment. It dualistically includes and excludes parts of population from any political significance. It diverts attention from systemic injustices and obscured the responsibilities of legal and political institutions as well as society in perpetuating violence in different forms. In doing so, it effectively maintains existing social hierarchies and blocks avenues for genuine accountability or reform.

§ 6.3 Expanding Inquiry: Directions for Future Research on Capital Punishment

This study provides a legal and legislative understanding of capital punishment as a socio-legal and political phenomenon, underscoring the importance of addressing both legal frameworks and broader socio-political contexts to advance justice. Throughout this dissertation, I have emphasized that many concepts – such as the Constitution, the Turkish nation, and the right of

sovereignty – are frequently taken for granted through repeated references. Yet, the representations of these institutions often do not capture the full reality. I vividly remember my surprise in high-school when I realized that, despite the Constitution's transcendental and revered status, it was ultimately a consolidated text authored by a small Constituent Assembly composed of just a few people. Applying a similar approach, this study examines the death penalty. By exposing who precisely enacts and enforces capital law, the myth of sovereignty can be challenged. Although this study cannot map the entire network of events and actors, it can reveal the existence of this constellation and what it may conceal. This critical perspective does not diminish the importance of the death penalty, the Constitution, or the state; each remains a locus where power is concentrated and articulated. However, revealing what these concepts may obscure enables a deeper understanding of what we truly defend. Of course, such disenchantment is not achieved solely by examining Parliament; it is only one of multiple paths to deeper understanding. Certain questions remain unanswered and still await scholarly attention.

Future research might further explore the intersections of law, common people, and political powerholders in shaping penal practices and societal responses to state violence, as well as how these dynamics have evolved post-1990 amid Turkey's changing political landscape and human rights discourse. But first, I would like to note that certain institutions and periods, which I have chosen to exclude from this study, should be considered separately. The first are the Independence Tribunals and Martial-Law Tribunals, which exceeded the decision-making authority of the Parliament. These practices do not shift the focus by generating moral or legal debates on capital punishment or by existing silently; rather, they represent instances where the real elimination of a segment of the population was explicitly prioritized. It can even be said that there was no effort to conceal those responsible. Moreover, these are exceptional cases in which the legislature and judiciary effectively merge. In this respect, they differ from the legally justifiable and responsibility-shifting aspects typically associated with capital punishment. However, when viewed as part of a broader policy – particularly during the founding years of the new Republic – these practices, which have their own distinct agenda, stand out as remarkable examples serving purposes beyond crime control and extending

far beyond the legal realm. Therefore, they deserve to be examined through a socio-legal lens.

Secondly, while comprehensive studies regarding the legal end of the death penalty in Turkey after 1990 and the many subsequent rhetorical changes fall beyond the scope of this dissertation, it is crucial to acknowledge that these topics merit focused academic attention. The post-1990 period saw transformations not only in legislative frameworks but also in the public and political discourse surrounding abolition – ranging from pragmatic policy adjustments to fluctuating symbolic references within the realms of domestic and international politics. In conclusion, the abolitionism of Turkey has not always followed a consensual or ardently defended path. Rosa Slegers’ distinction between hope and desire aptly captures this complexity: “hope involves a courageous openness to, and active acceptance of, vagueness and mystery, while desire is focused on a particular outcome to be achieved.”⁴⁷ Throughout Turkey’s abolitionist journey, there has consistently been hope for abolition, but it has not always been driven by pure desire or humanitarian motivations. Moreover, the death penalty – whether on its path to abolition or in its complete absence – continues to transcend legal boundaries, serving functions beyond strict juridical frameworks.

I believe one of the most significant aspects of this study that remains under-examined and warrants separate focus is the executions themselves. Just as the existence of the death penalty within the legal framework functions as a black hole, the moments of execution can be seen as a kind of supernova – a brutally bright spectacle that commands attention with all its intensity. By portraying state-sanctioned executions as lawful, “modern,” or legitimate acts, their inherent violence is disguised. Whether witnessed as public events or encountered through newspaper columns, representations of executions encourage audiences to emotionally distance themselves from the “others” defined by the criminal justice system, while simultaneously emphasizing the horror unleashed by the state-killing apparatus. The narrative invites the

47 Rosa Slegers, “Reflections on a Broken World: Gabriel Marcel and William James on Despair, Hope and Desire,” in *Hope Against Hope: Philosophies, Cultures and Politics of Possibility and Doubt*, eds. Janet Horrigan and Ed Wiltse, *At the Interface / Probing the Boundaries*, vol. 67 (Leiden: Brill, 2010), 55–74.

audience to see perpetrator and victim in stark and straightforward terms, thereby obscuring the social complexities involved. While the law inscribes its authority on the bodies and encounters of offenders, it also constructs the image of an inhumane criminal rather than acknowledging these individuals as living beings who are ultimately murdered by the state power. It would be highly fruitful to examine both the media portrayal and legislative discourse surrounding the location and method of execution – often invoked alternately to defend the state’s mercy or its modernity. Such an inquiry would shed light on how executions were socially and symbolically framed beyond their penological function.

Despite the archival challenges, tracing the entire journey of a death sentence – from the start of the trial, through judiciary and media portrayals, parliamentary debates, and finally to the moment of execution – in a few accessible cases would offer the opportunity to examine the involvement of actors beyond those addressed in this dissertation. For example, not only legislators but all individuals involved in the process – whose voices often go unheard in Parliament – from labor unions advocating for abolition to academic institutions producing reports, from judges to public prosecutors, from bureaucratic staff managing execution budgets to even the executioners (*cel-lad*) themselves, deserve equal scholarly attention. I think that executioners, in particular, warrant focused study in the context of Turkey. Referring to Emmanuel Taïeb, they “stood halfway between the people, from whom he originated, and the sovereign, whose weapon he became once legitimized by the divine.”⁴⁸ There is no indication that a formal executioner’s office existed in Turkey for carrying out death sentences. Those who carry out executions were delegated the task when required and were often pejoratively segregated from society. Press materials frequently otherize executioners as much as the executed individuals. For instance, a public execution scene from 1939, a

48 Emmanuel Taïeb, *Hiding the Guillotine: Public Executions in France, 1870-1939*, trans. Sarah-Louise Raillard Foreword by Mitchel P. Roth (Ithaca and London: Cornell University Press, 2020), 5.

journalist mentioned the “incompetent” executioner was a seventeen-year-old *Kıpti delikanlı* who performed the act solely for payment.⁴⁹

Although not within the scope of this study, another significant gap deserving attention is the “truths” produced through the “judicial truth-making process.”⁵⁰ As demonstrated in this research, the law seeks to simplify reality by categorizing and systematizing it – resembling what James C. Scott calls “seeing like a state.”⁵¹ However, complex cases – such as capital murders driven by “monstrous feelings” – require examination beyond the legal categories to which the law remains blind. The judicial process is a dynamic space where many actors – from defendants and lawyers, to witnesses, prosecutors, journalists, and again parliamentarians – project their own interpretations of the “crime” and assert their agency. Put more simply, it can be asked: who are these people? Feelings such as hope or despair are also shaped by social strata, just like all “mentalities and sensibilities.” For example, a deputy’s personal definition of “good fatherhood” may sharply contrast with the fatherhood a death-row inmate sees as legitimate within himself, creating a dichotomy outside the law’s framework. While the question “who are these people?” is not exclusive to capital punishment, it gains particular complexity here – because, as the saying goes, “death-is-different.” This question is not one I intend to address in this study, but it must eventually be explored in future researches.

Moreover, I think that two types of capital offences, which I had to exclude from the cases included in this study due to their exceptional nature and to maintain focus – although they would be quite appropriate to include – can create a very rich study ground in line with my arguments. The first is murder-for-hire (also known as contract killer). These were classified as premeditated murders, legally referred to as “crime of instigation,” usually committed in

49 “Beceriksiz.” Cemal Refik, “Katil Sultanahmet’te Bu Sabah Nasıl Asıldı,” *Akşam Gazetesi*, July 18 1939, no 7449, 2. <https://www.gastearsivi.com/gazete/cumhuriyet/1939-18-06/4>.

50 Robert Jacob, “The Judge and the Sacred: Notes for a Comparative History of Western and Chinese Judicial Cultures,” *Asian Journal of Law and Society* 1, no. 1 (2014): 17–30, DOI: 10.1017/als.2014.1.

51 It simply captures how state practices simplify and categorize complex social realities to make them legible and manageable from a bureaucratic perspective. James C. Scott, *Seeing Like a State: How Certain Schemes to Improve the Human Condition Have Failed* (New Haven: Yale University Press, 1998).

exchange for money and without other motivations. A remarkable element of these cases is that both the instigator and the hired killer were sentenced to death if the crime leads to execution.⁵² The second type concerns capital crime descriptions that directly reference the occupation of the victim or perpetrator. As mentioned in this study, the hatred derived from or the “potential” risks related to the victim’s profession – such as capital crimes against state officials or cases involving sex-workers – play a role.⁵³ There were also articles prescribing death sentence for prohibited drug-related offences by medical workers and bribery allegations against judges.⁵⁴ Taken together, normalcy is once again redefined from scratch according to professions. The animosity directed toward specific profession has been embodied as an aggravating or mitigating factors.

Finally, I highly anticipated a comparative analysis of capital punishment jurisprudence alongside other morally debated issues. For example, in the United States, some pro-life advocates consistently oppose abortion and euthanasia based on the inviolability and sacredness of the right to life, yet they can simultaneously be staunch supporters of the death penalty.⁵⁵ Similarly, considering infanticide of illegitimate children – as discussed in Chapter 3 of this study – in relation to anti-abortion tendency and the ban on euthanasia that coincided historically can illuminate a broader picture. This comparison transcends capital punishment and, at times, the entire legal field, revealing

52 Article 64 and 450/4 of the TCK, dated 1926.

53 Article 449/2, 450/2, 11 (crimes related state officials) and Article 438 (crimes related sex-workers) of the TCK, dated 1926.

54 Article 403, 406, 407 (drug-related crimes) and Article 216, 217 (work ethic of judges) of the TCK, dated 1926.

55 For further discussion on the right to live, euthanasia, abortion, and capital punishment: Hans-Georg Ziebertz and Francesco Zaccaria, “The Right to Life Questioned. Introductory Remarks,” *Euthanasia, Abortion, Death Penalty and Religion: The Right to Life and its Limitations – International Empirical Research* (Cham: Springer, December 2018); Douglas K. Blount, “Euthanasia, Capital Punishment and Mistakes-Are-Fatal Arguments,” *Public Affairs Quarterly* 10, no. 4 (October 1996): 279-290, <http://www.jstor.org/stable/40435961>; James D. Unnever, John P. Bartkowski and Francis T. Cullen, “God Imagery and Opposition to Abortion and Capital Punishment: A Partial Test of Religious Support for the Consistent Life Ethic,” *Sociology of Religion* 71, no. 3 (Fall 2010): 307-322, <http://www.jstor.org/stable/40961207>.

how certain individuals are “monsterized” and how contradictions in rhetoric about honor or the “right to life” reveal inconsistencies in societal and legal attitudes toward whose life is valued and protected. This kind of analysis can provide profound insights into the selective application of moral and legal protections in life-and-death matters.

I would like to close my study with a scene from Mithat Cemal Kuntay’s *Üç İstanbul* (Three Istanbul), a piece gifted to me amid the newly imposed, legally obscure, state-sanctioned waiting practices that characterize our experience of Turkey in 2025. This fictional scene vividly depicts the “enthusiastic” anticipation of a large crowd awaiting the verdict that sentences a murderer to death in armistice-era Istanbul, while both the crime and the criminal are portrayed in an “unnatural” manner:

The excitement of the audience in the theatre before the curtain rose...The crowd awaited the verdict in the Murder Court with eager appetite and enthusiasm. Because today was the final hearing, and the court would render its last word on the murderer Benli Ahmet.... The judges did not yet know, but the crowd know that the death sentence would be handed down.... The deputy chief prosecutor described the murder with exacting detail – the year, the month, the precise quarter-hour, even the mile of the prayer rug on which the deceased had lain. Then he declared loudly that the crime fell under [a specific article of] the criminal code and that there were grounds to increase the punishment. The murderer did not recognize his murder from the mouth of the deputy chief prosecutor. The murder became beautiful, it became a sermon, it became literature; it was a piece of art.⁵⁶

56 Mithat Cemal Kuntay, *Üç İstanbul* (İstanbul: Everest Yayınları, 2024), 606, 609.

Appendix A The Path of a Capital Punishment Dossiers in the Parliament

The documents attached to the parliamentary minutes, along with the discussions concerning their contents, represent the final stage for any capital punishment decree or law before promulgation. This section outlines the aim of tracing the path of capital punishment verdicts, beginning with the final decision and interpretation of *Yargıtay* (namely, the Court of Cassation; however, for distinctions, please refer to footnote 46 in Chapter 2.) as the ultimate judicial authority. However, this starting point can only be partially examined because, although an electronic database contains *Yargıtay*'s decisions from the post-2000 period, not all decisions were published while the capital punishment law was still in effect. Searches by convicted persons' names and their case or decision numbers (*esas no/karar no*) in the official databases of *Yargıtay* and the criminal courts of first instance yielded no results.¹ Similarly, searches in the Resmi Gazete (RG, or Official Gazette) database retrieved only first-instance courts' notices by publication (*ilanen tebligat*) for some future death-row inmates who could not be located at their official addresses.² No records were found regarding *Yargıtay*'s decisions on capital punishment cases. The sole exception concerning *Yargıtay*'s decisions published in the RG is the unification of case law (*içtihadı birleştirmek Kararı*) issued by the Grand General Assembly of *Yargıtay*. Furthermore, for certain prominent capital punishment cases, *Yargıtay* decisions are available in only secondary sources such as Ministry of Justice journals (in chronological order: *Ceride-i Adliye*, *Adliye Ceridesi*, and *Adliye Dergisi*) and the Journal of *Yargıtay*, which has published certain decisions of *Yargıtay* since 1975. Nevertheless, the available information is insufficient to draw any definitive conclusions. Consequently, an investigation was conducted into the subsequent destinations of these cases.

1 For the judgement search: <https://karararama.yargitay.gov.tr/>, https://vatandasilam.yargitay.gov.tr/proxyYargitay/jsp/yargitay_jsp/yargitayDosyaSorgullam.html

2 For the archive of the RG: <https://www.resmigazete.gov.tr/>

After *Yargıtay* finalized the criminal courts' verdicts on death sentences, the case files were submitted to the Ministry of Justice and subsequently presented to the Prime Ministry. However, access to the Ministry of Justice records and *Yargıtay*'s accompanying files is currently unavailable. It is important to note that only the resolutions of the Ministry of Justice and the Prime Ministry (*Adliye Vekaleti/Adalet Bakanlığı Tezkeresi* and *Başvekalet/Başbakanlık Tezkeresi*) are accessible in the parliamentary database, not the complete case dossiers. These two documents contain solely technical and bureaucratic content. My review was limited to the legal decisions summarized by the Ministry of Justice in documents distributed to legislators prior to parliamentary sitting and appended to parliamentary records.

The next step following the finalization of death sentence verdicts by *Yargıtay*, which was the last stop for the dossier within the judiciary, was their referral to the Justice Commission (*Adliye Encümeni/Adalet Komisyonu*). The Justice Commission then examined the case and prepared a legislative text recommending either approval or disapproval of the execution. This commission constituted the last stage before the capital punishment dossier was submitted to Parliament. The Justice Commission is a specialized body tasked with justice matters including civil and criminal law, civil codes, criminal law, codes of obligations, civil and military jurisdiction, amnesty law, and subjects related with courts, judges, prosecutors, and attorneys. The Commission's report serves as a comprehensive and informative document, summarizing and reviewing the parties involved, the crimes, litigation processes, and technical details of the capital punishment case. As an advisory document, it informs parliamentary consultation prior to formal discussion. Based on its report, the Justice Commission drafted a decree or law expressing an opinion on whether to carry out execution, grant pardon, or commute the sentence for each death sentence case. Where consensus was lacking, the report sometimes included judicial justifications (*gerekçe*) for decisions despite this not being obligatory. This report remains the most detailed document tracing the procedural path of capital punishment verdicts, incorporating all preceding bureaucratic correspondence with relevant dates and information attached.

The draft decree/law and the Justice Commission Report were introduced to Parliament and added to the agenda. The parliamentary sitting represented

the final stage before enactment, where legislators could adopt or reject the proposal, aggravate or mitigate the sentence, request re-interviews, or return the draft to the Commission. Upon approval, the decree/law on capital punishment was enacted through publication in the RG. Parliamentary minutes documenting these processes and discussions constitute a foundational element of my study. Additionally, the Justice Commission Reports, available in the official electronic database of Türkiye Büyük Millet Meclisi (TBMM, or Turkish Grand National Assembly), provide valuable records on this subject.

There are three exceptions to the aforementioned process that should be emphasized. Firstly, only civil lawsuits follow this path from the decision of *Yargıtay* to promulgation. For cases heard in military courts, the procedure differs slightly. Military courts have jurisdiction “to try military personnel for military crimes, crimes committed against other military personnel or in military facilities, or crimes connected with military service and duties.”³ The Military Court of Cassation (CCa, or *Divanı Harp, Askeri Yargıtay*, or *Sıkıyönetim Komutanlığı*) may confirm or alter death sentences concerning individuals within the military courts’ jurisdiction. Unlike civil cases, these dossiers were submitted to the Ministry of Defense (*Milli Müdafa Vekaleti*, later *Milli Savunma Bakanlığı*) instead of the Ministry of Justice. The subsequent procedural steps generally mirror those of civil cases. Although the Military Court’s decision is legally binding, the execution of death sentence requires parliamentary approval, as with all other cases.⁴ Access to documents related to military court cases is as challenging as in civilian cases. The official archives of the Military CCa provide access to lawsuit dossiers concluded between 1974 and 2012.⁵ However, only the suspect, accused, plaintiffs, victims, involved parties, and their legal representatives (*müdafi*) may request these documents directly. Others, including first-degree relatives, must seek access via judicial authorities. In summary, accessing military court decisions is more complicated than civil cases; my review is limited to summaries and decisions appended to the parliamentary records. A further exception to this exception

3 Article 138 of Constitution of 1961; Article 145 of the Constitution 1982.

4 Article 244 of Law no. 1631, enacted May 22, 1930; Article 249 of Law no. 353, enacted November 25, 1963.

5 <https://www.msb.gov.tr/ArsivAskeriTarih/icerik/hukuki-konular>

concerns capital punishment verdicts during wartime. Under these circumstances, “the Commander of the Turkish Armed Forces is authorized to approve death penalties, which are carried out without requiring a decision by the TBMM.”⁶ Official documents on such cases are unavailable, as parliamentary records do not exist for wartime executions.

The second exception relates not to military jurisdiction but to a regime changes. Seven months after the May 27, 1960 coup d'état, the first capital punishment case involving a military area was placed on the agenda of the Milli Birlik Komitesi (MBK, or National Unity Committee).⁷ During this period, capital punishment dossiers were submitted to the MBK rather than Parliament, and by the Commission of Social Affairs (*Sosyal İşler Komisyonu*) instead of the usual Justice Commission. Furthermore, until the establishment of the Chamber of Deputies (*Temsilciler Meclisi*) alongside the MBK as the Constituent Assembly (*Kurucu Meclis*), the Commission Reports were not publicly available. Although these reports were read aloud during parliamentary sittings, they were neither transcribed in the official records nor appended to the parliamentary minutes.⁸ The absence of these reports obscures the procedural path I aim to trace. After the establishment of the Constituent Assembly, documents again began to be submitted as attachments to parliamentary records, although the capital punishment process largely remained as it was during the MBK's initial months. The sole exception to this exceptional procedure involved cases concerning the executions of former political figures. In such cases, capital punishment verdicts were issued by the Yüksek Adalet Divanı (YAD, or Supreme Justice Court), which was not subject to appeal. These verdicts were subsequently presented to the Assembly through the MBK Special Commission (MBK *Özel Komisyonu*).

The process following the September 12, 1980 military coup was very similar. For approximately one year, capital punishment dossiers were submitted

6 Article 248 of Law no. 353, enacted November 25, 1963.

7 The MBK sitting on December 13, 1960.

8 It is evident that the reports were read aloud during the sittings, as indicated by the Speaker of the MBK's statement, “we read the report,” and the parenthetical note stating, “the report was read.” It is also clear that the decision not to print the report was intentional, as explained in a footnote stating, “the report is not printed. It became the decision number X.”

to the Milli Güvenlik Konseyi (MGK, or National Security Council) instead of Parliament, and reviewed by the MGK Specialized Commission (*İhtisas Komisyonu*) rather than the Justice Commission. After the formation of the Constituent Assembly – comprising the Advisory Assembly (*Danışma Meclisi*) and the MGK – the procedure changed. From March 1982 to June 1983, the Advisory Assembly's Justice Commission prepared a report and draft law for each dossier, which the Council then discussed. The dossier was subsequently transferred to the MGK, where the MGK Justice Commission issued a revised report based on the Advisory Assembly's version. Finally, the law was enacted in a separate MGK sitting.

The third exception to the path of capital punishment verdicts pertains to features of the Parliament and changes in technical procedures, representing a temporary variation rather than a true exception. Following the 1960 coup d'état, the 1961 Constitution established a bicameral parliamentary system, effective until the 1980 coup suspended it.⁹ During this period, each capital punishment dossier was reviewed twice: first in the National Assembly (*Millet Meclisi*), then in the Senate of the Republic (*Cumhuriyet Senatosu*). This dual examination marked the first time in the parliamentary history of Turkey that such cases were considered by two separate chambers of representatives. Another significance of the bicameral system is the composition of the Senate. The Senate, known colloquially as the “assembly of the educated” (*okumuşlar meclisi*), required its members to have higher education degrees and be over forty years old.¹⁰ Of its members, fifteen were presidential appointees “distinguished for their services in various fields,” and at least ten appointees were required not to have political party affiliations.¹¹ This bicameral system introduced procedural complexity and reflects a distinct phase in the legislative handling of capital punishment cases.

Furthermore, until the Constitution of 1961, parliamentary decisions on capital punishment cases – whether to carry out execution, commute a

9 Article 63 of the Constitution of 1961: “The TBMM is composed the National Assembly and the Senate of the Republic. The two bodies meet in joint session in such instances in Constitution.”

10 Article 72 of Constitution of 1961.

11 Article 72/2 of the Constitution of 1961.

sentence, or grant a pardon – were published as a “decree” in the RG. Following the adoption of the new constitutional framework, this parliamentary decision was reclassified from a “decree” to a “law,” with the first such law relating to execution promulgated on October 27, 1962. Although this change appears largely procedural and did not affect the substance of the process or discussions, it introduced an important technical requirement: according to Article 99 of the 1927 TBMM By-law (*Dahili Nizamname*), which remained effective until replaced by the 1973 parliamentary By-law of National Assembly (*Millet Meclisi İçtüzüğü*), all draft bills and legislative proposals (*kanun tasarısı* and *kanun teklifi*) were required to be presented in at least two separate parliamentary sittings.¹² This “double-sitting” rule also applied to the Senate of the Republic.¹³ Consequently, under the bicameral system, each capital punishment dossier was subject to review twice in each chamber, meaning that a total of four examinations were necessary before the law’s enactment. This constituted a significant procedural departure from the previous practice, wherein a single discussion sufficed. Nonetheless, in practice, many capital punishment dossiers were finalized within a single sitting of each chamber by invoking the By-law provision permitting expedited consideration “on grounds of emergency” (*ivedilikle görüşme*).¹⁴

Due to the bicameral system and the double-sittings rule for laws, the path of capital punishment verdicts underwent significant changes. Initially, the capital punishment dossier followed the same procedure as before: it was sent from *Yargıtay* to the Ministry of Justice, then to the Prime Ministry, and finally to the Justice Commission, which reconstituted it as a draft law. This draft, together with the Justice Commission Report, was introduced to Parliament and placed on the agenda. The draft was then voted on in a sitting of the National Assembly. The divergence in the post-1961 system begins after this point

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- 12 Article 99 of the By-law of 1927. Exceptions to the double-sitting rule: Chapter 4, footnote 95. Decree no.584, dated on March5, 1973 (*Millet Meclisi İçtüzüğü*), dated April 12, 1973, the RG no: 14506.
- 13 The Senate of the Republic By-law, dated on December 27, 1963 also proposed double-sitting rule for bills or legislative proposals. The RG no.11610, January 18, 1964.
- 14 Dr. Seyfettin Kara, “Prohibition on Urgent Assembly Meetings for Discussions Regarding Constitutional Amendment Proposals Under Turkish Law,” *TAAD* 8, no.31 (July 2017): 524.

(excluding “urgency” cases discussed in Chapter 4). Previously, the decree had been ratified at this stage and published in the RG. However, under the new system, if the Justice Commission Report was not returned for revision, the same draft was scheduled for a second agenda placement at least five days after the first sitting.¹⁵ After this second meeting, the draft was designated as “the scripture draft of a law enacted by the National Assembly.” Instead of being published directly in the RG, this scripture was then forwarded by the General Secretary of the National Assembly to the Presidency of the Senate of the Republic for further consideration.

This scripture and other relevant materials concerning the capital punishment case then reached the Senate’s specialized judicial committee, the Constitution and Justice Commission of the Senate of the Republic (*Cumhuriyet Senatosu Anayasa ve Adalet Komisyonu*). The Senate was constitutionally mandated to decide on a received scripture within a period not exceeding the duration of discussions in the National Assembly’s commissions and General Assembly, with an overall maximum of three months. This period could not be shorter than fifteen days in urgent cases (*ivedilik hali*) or one month in non-urgent cases.¹⁶ Texts not concluded within these stipulated periods were deemed accepted by the Senate in the form adopted by the National Assembly.¹⁷ Subsequently, the report from the Constitution and Justice Commission was debated in the Senate across two sittings, separated by a minimum of five days.¹⁸ If the bill or legislative proposal, having been adopted by the National Assembly, was then passed by the Senate without amendments, it became law, consistent with the 1961 Constitution and its by-laws.¹⁹

If the Senate adopts the draft with amendments, the President of the Senate sends the amended text to the Presidency of the National Assembly. If the National Assembly approves the amendments, the draft becomes law. If the National Assembly rejects the Senate’s amendments, a Joint Commission

15 Article 106 of the Parliamentary By-law 1927.

16 Article 83 of the By Law of the Senate of the Republic.

17 *Ibid.*

18 Article 75 of the By Law of the Senate of the Republic.

19 Article 91, 92 of the Constitution of 1961. Article 79, 80, 81,82, and 83 of the By-law of the Senate of the Republic, dated December 27, 1963

(*Karma Komisyon*) is formed with equal members from the relevant committees of both assemblies. The Joint Commission prepares a draft, which the National Assembly then reviews, choosing between three versions: its own original draft, the Senate's amendment, or the Joint Commission's draft. The final law is enacted by the National Assembly's decision. If a bill or legislative proposal is rejected by both the National Assembly and the Senate, it must be dropped. If rejected by the National Assembly but adopted by the Senate – either as is or with amendments – the Senate sends it back to the National Assembly. The National Assembly then either adopts or rejects these amendments following the same procedure. The Senate is required to decide on any proposal within the timeframe allocated for review by the National Assembly's commissions and General Assembly. This review period is limited to one and a half months, while the total discussion period cannot exceed three months.

²⁰ In urgent cases, the period cannot be shorter than fifteen days; in non-urgent cases, no less than one month. If the Senate fails to decide within these deadlines, the text is considered accepted as received from the National Assembly.²¹

The law-making process in the bicameral system was a complicated one. Every step of this process was carried out in cases involving well-known political figures such as Talât Aydemir, Osman Deniz, Fethi Gürcan, and Erol Dinçer. The double-sitting rule for law-making was abolished by the National Assembly By-law of 1973. The bicameral system, which was suspended by the 1980 coup d'état, was terminated by the 1982 Constitution. This effectively marked a return to the pre-1960 legislative path for capital punishment cases, reverting to a unicameral parliamentary structure.

Up to this point, the main path and its exceptions have been explained. However, there is an additional process that deviates from the expected path, starting at the final verdict of *Yargıtay* and ending with enactment by publication in the RG. In some circumstances, the dossier on capital punishment has been withdrawn by the Prime Ministry due to retrial, correction of judgment, or application of amnesty law. If such bills on capital punishment have already been submitted to the parliamentary agenda, their withdrawal was subject to

20 Article 83 of the By-law of the Senate of the Republic.

21 *Ibid.*

the decision of Parliament.²² If Parliament approves the withdrawal, the dossier will not be discussed in a parliamentary sitting nor appended to the parliamentary minutes. In these cases, the parliamentary minutes provide only limited information, such as the names of those condemned, the date of the verdict, or the date of the Ministry of Justice's resolution.

Furthermore, the Government may withdraw bills on capital punishment before they are placed on the parliamentary agenda, only provided Parliament is notified. This means that if legislative proposals or bills were withdrawn at the request of legal authorities before introduction to the parliamentary agenda, no information about them may be publicly available. Especially in cases of correction of judgment and retrial, if *Yargıtay* did not return those dossiers to Parliament, there is also no available data on them. This archival deficiency – withdrawn dossiers before being placed on the agenda and lack of *Yargıtay* to re-introduce them to Parliament – reveals a pattern in the operation of capital punishment in Turkey. It underestimates the archival value of former death-row prisoners, who often waited indefinitely in prison without knowledge of whether they would be executed, even their names remain unknown.

22 Article 68 of the Parliamentary by-law dated on May 2, 1927; Article 76 of the Parliamentary by-law dated on March 5, 1973.

Appendix B The Source Language Version of Translated Quotations

CHAPTER 1

Footnote 2 – Bu işlerden canı yanan birisi olarak söylüyorum. Bu cezalar, özellikle orman konusundaki cezalar artırılmalıdır. İdam cezası Türkiye’de çok tartışılıyor. Ama idamın da kendine ait bir caydırıcılık süreci söz konusudur. Evet ağıza hoş gelmiyor, çok sıcak gelmiyor ama başka bir şey var. Bu kadar sorumsuzluğun da kendi adına güçlü bir cezası olması gerekiyor.

3 – İdam cezası tartışmalarını çok yararlı görüyorum ve bir kanun teklifi gelirse destekleyeceğimi söylüyorum. Tasavvur edilen idam cezasının kadın cinayetlerini, tecavüz, ve terör suçlarını da kapsayacak şekilde olmasını hassaten bekliyor ve ümit ediyorum. Bu çerçevede üzerimize ne düşüyorsa yerine getirmeye de hazır olduğumuzu açıklıyorum.

44 – Yalnız şunu da söyleyeyim, bendeniz o kadar kanuncu değilim.

63 – Komisyonunda resmî zabıt tutulmadığından ilerde komisyon raporunun hazırlanmasına esas olmak üzere hususi mahiyette kendi el yazımıyla not tutuyordum.

122 – İdam cezalarının Meclise gelmesinin sebebi nedir? Anayasacılar bunun için ciltlerle kitap yazmışlar, hukukçular da buraya çıksalar senelerce konuşabilirler. Bu benim haddim değil, benim işim de değil. Herkes kendi sahasına.... Şimdi bunun altında Ahmetoğlu Mehmet, Hasanoğlu Hüseyin, Fadime’den doğma diye daha beş altı idam var. Yarın bunlara tıkr tıkr kollar kalkacak, gidecek onlar. Orada yok bir gürültü. Niye yok? Çünkü orada politika yok. Siyaset... siyaset şimdi burada.

CHAPTER 2

Footnote 65 – Bu vaziyette kalan her baba evlâdını mı öldürür? Hepimiz baba, hepimiz ciğerparelerimiz için yaşıyoruz.

CHAPTER 3

Footnote 11 – Çeşitli yargısal kararlarda da vurgulandığı üzere, sırf öldürmüş olmak için öldürmek, ölenin acı çekmesinden zevk duymak için öldürmek,

silahı denemek maksadıyla öldürmek gibi hâller sadist bir duygu ve düşünce-
nin eyleme egemen olması bakımından “canavarca his ile” öldürmeye örnek
oluştururlar. Benzer biçimde belli toplumsal sınıflara ya da farklı inanç veya
mezhep gruplarına duyduğu hınç nedeniyle öldürme, canavarca his sevki ile
öldürme suçunu oluşturur.

15 – Canavarca bir hisle fiilin işlenmesine de tamamen kanaat getirilemez. Zira
Halim’in şahadetine göre ikinci darbeyi vurduktan sonra Osman’ın başından
kan fışkırması üzerine katil gevşemiştir. Üç darbe ile kafanın parçalanması in-
san ruhunu müteesir edecek bir vakadır. Fakat her öldürme vakası aynı tesiri
bırakacak hallerdendir. Katilin vahşice ve haz ile bunu yaptığını iddiaya da
imkân mutasavver değildir.

16 – İkinci, üçüncü tokmağı vurdu ve ... kafasını ezdi. Bu arada beyin ve kan
parçaları ortaya yayıldı ve kanlar beyin parçalarını götürüyordu.... Bunun
üzerine ... sükûnetle eli arkasında fırının içine giriyor.

17 – Burada olduğu gibi tokmakla bir insan bir insanı öldüremez mi, bu yalnız
canavarlarda mı olur? Başka ... katiller daha başka türlü mü olur? Maktul ya-
tırılır tekbir ile tehlil ile aman acıtmasın diye bıçağı ona göre mi kullanır, bı-
çağın keskinini mi bulur?

20 – İnsan, insan olarak elbette ki merhametlidir... onun için insanoğlunun,
kendisine yakışmayacak bir suç işlediği görülürse, buna cemiyetimizde söyle-
nen söz “canavarlık”tır. Yani, insanlığa yakışmayan, insan sözü ile, insan var-
lığı ile kabili telif olmayan bir suçun sanığına “canavar” denir.

21 – Ben doktorem. Bize hocalarımız okuttular ve dediler ki,... caniler ve ka-
tiller hiçbir zaman millî, hamasî, merhamet ve şefkat gibi insan hisleriyle mü-
tehalli değildirler.

33 – Bir babanın, ne kadar yoksul olursa olsun, yalnız yoksulluğunu sebep gös-
termek suretiyle evlâdını öldürmesi, başını taştan taşa çarpması, kuyuya at-
ması gibi bir hareketi herhalde normal insanların düşüneceği ve yapacağı bir
kâr değildir.

34 – Bu nasıl olur? Bu vaziyette kalan her baba evlâdını mı öldürür?... bunu
aklı başında bir adam, bir insan yapar mı hiç? Bunu insan değil canavar bile
yapmaz. Binaenaleyh benim şahsi kanaatim; korkunç, aklını işletemeyen,
müthiş bir delinin karşısındayız. Amma tabip raporu böyle demiş, falan böyle

demiş, efendim, millî şuur, derinliklere röntgen gibi girerek işin hakikati esasiyesini görebilecek kudrettedir!

36 – öldürülenin evlât, öldürenin baba olduğuna göre cezayı teşdit mi yoksa tahfif mi etmek icabeder? Eğer ölüm cezasından daha ağır bir ceza varsa onu vermek lâzımdır. Sonra besleme külfetinden kurtulmak için bunu yaptığı anlaşıyor. Bu da en fena bir şeydir. Bir baba beslemek külfetinden kurtulmak için evlâdını öldürmez, evvelâ kendisi intihar eder. Esas itibariyle bir baba çalışır, uğraşır ve çocuklarını besler. Esasen Türkiye’de aç yoktur. Böyle bir zamanda herkes kendi ekmeğinin yarısını keser ve onlara verir.

37 – Meselede geçim külfeti, yani bir katil suçunun ikamı müstelzim bir geçim darlığı yoktur. Bu aile sadece geniş geçimden mahrumdur, iaşesini tamamıyla temin ediliyor. Fakat dar bir şekilde.

44 – Usul ve fûru hakkındaki idam, aile rabıtasını düşünmekten mütevellittir. Nameşru bir çocuk için böyle bir rabıta mutasavver olamaz, bunun içindir ki cezayı teşdit eden bir hal yoktur, doğrudan doğruya katil yapan kimsenin cezası verilsin. Yani 15 seneden 18 seneye kadar bir ceza verilsin, fakat baba ve ana öldürmüş kimse gibi idam edilmesin. Meselâ, bir adam sabahleyin kalkmış, akşama kadar işinle meşgul olmuş, akşam üzeri evine geldiği zaman hemşiresinin veya kızının nameşru bir çocuk doğurduğunu 7, 8 saat sonra görmüş. Bir piç viyak viyak ağlıyor....Bacağından tutmuş, ahlâksız kadının başına vurmuş, çocuk ölmüş. Haysiyet ve namusunu kurtarmak için bunu yapan bir adamı idam edeceğiz. İtalyan ceza kanunun 256. maddesine göre meşru usul ve fûruunu öldüren kimse müebbet hapse mahkûm oluyor ki bizdeki idam cezasının mukabilidir. İtalyan ahlâkının ne olduğu hakkında bir şey arz etmeyeceğim, fakat namus kaygısı Türk camiasında her halde Garp Devletleri camiasından daha yüksek telâkki edilmiştir. Garpta her halde namus için katil ika edecek insanlar çok azdır. Fakat bizde sayılamayacak kadar çoktur (*Bravo sesleri*).

52 – maktule iyi bakamamış olacaklar ki

53 – Le parallélisme fils-sujet/père-souverain,... fait ressortir la figure sacrée, la place abstraite de l'autorité comme telle. Idée banale, mais technique superbe!

55 – alors qu'en Occident, le meurtre du père constitue l'essence du parricide, le modèle du crime contre nature ... en Chine, le meurtre du père n'est rien

en lui-même: soit c'est un régicide, l'assassinat d'un souverain qui se trouve être aussi un père ; soit le père se trouve confondu avec bien d'autres parents dans la définition du crime de parricide, de sorte que son assassinat n'est pas plus grave que celui d'un aïeul de la lignée maternelle.... Plus déroutant encore, l'autorité qui nous semble unilatéralement paternelle et, partant, masculine, semble en Chine combiner le paternel et le maternel, le masculin et le féminin.

73 – çok sevdiği şahsın hunharca, başı ezilerek öldürülmesinden mütevellit duyduğu elemin tesiriyle intikam almayı göz önünde tutması acaba bu genç için kan gütme midir, yoksa taammüden adam öldürmek midir?

74 – İki buçuk ay evvel dayısı öldürülmüş, bu da dayısının katilini öldürmüş, hâdisе sıcağı sıcağına işlenmiş. Bu vaziyet karşısında işi taammüden adam öldürmek şeklinde mütalâa etmeye mecburiyet hissettik. Taammüden adam öldürmenin cezası da idamdır. Fakat, kan gütmeyi kabul etmediğimiz takdirde ... idamına karar verilen şahsın mağdur tarafından dayısının öldürülmüş olması karşısında, mahkeme taammüden öldürme kararını vermeliydi. Suç taammüden işlendiği, mahkeme taammüden öldürmeyi kabul ettiği takdirde de idam cezasında 5ncu maddeyi tatbik ederek bunu 30 yıla indirmesi icabederdi.

80 – Cezalar ve suçlar, şahsın olduğu kadar cemiyetin de malıdır.

81 – Bu kan gütme hâdisesi, Garpta yok da neden Şarkta vardır? Çünkü Şarkta otorite teessüs etmemiştir, katil serbest geziyor. Bizim memleketimizde iki seneden beri bir katili takip edip hapse tıkamamışlar. Bunu içeri tıkın veyahut da biz de onlardan birisini öldüreceğiz diyorlar. Hakikat bu. Böyle otorite noksanlığından mütevellit kan gütme suçlarında idam gibi şiddetli bir ceza koymak kârı akıl değildir.

82 – Misal olarak bir Karadeniz çocuğunun geçimini temin etmek için sabah-tan akşama, akşamdan sabaha kadar Karadeniz'in sert ve keskin dalgaları arasında ekmeğini kazanmak suretiyle idame-i hayat etmesinin asabi haleti ve ruh haleti üzerinde bıraktığı tesiri mütalâa etmemeye imkân ve ihtimal yoktur.

83 – oğlunun katilini öldüreni, idam ile mahkûm etmek doğru değildir. Onun için bendenizce asıl fıkranın gayesi – bilhassa Karadenizli arkadaşlarımın dikkatle dinlemelerini rica ederim – katilin akrabası aleyhine yapılan fiillerdir.

84 – Bir aileyi reissiz, bir kadını kocasız, 3 yavruyu henüz “baba” diyemeden veya baba demeye doyamadan babasız bırakan fiili ile maktul müthiş bir kusur işlemiştir.

87 – Diyorlar ki, Fethi Oğuz’un dayısını ... ağır bir şekilde yaralamış ve başını taşla ezmek suretiyle öldürmüşlerdir. Şimdi Fethi Oğuz’un işlediği suç; daha insani bir hareket midir? Mahkeme koridorunda devletin cezalandırma himayesi altında olan bir şahsı, devletin himayesinde ve âmmenin vicdan teminatı altında olan bir şahsı, kelepçeli, mahkeme koridorunda oturan bir kimseye karşı suçun işleniş tarzı evvelkine nazaran daha mı az ağırlıktadır? Bu vaziyette Fethi Oğuz’un suçu daha ağır olması iktiza eder.

88 – Şimdi bu, nevama talebenin hocasını yaralaması, öldürmesi gibi bir hâdisedir. Çünkü artık cemiyetin murakabesi altında olan bir kimseyi birisi hariçten gelerek öldürürse bunda esbabı muhaffıfci takdiriye aramak ve merhamet hissi ile hareket etmek katiyen caiz olmasa gerektir.

100 – Arkadaşlar, memlekette hemen hemen yaş küçüklüğü dolayısıyla birçok evlenmeler gayriresmî şekilde vuku bulmaktadır. İki aile hüsnüniyetle, çocuklarının mürüvvetlerini görmek, işlerine yardımcı bulmak maksadıyla çocuklarını evlendirmeye karar verir, fakat kızın yaşı 15 ten küçüktür, yaşını düzeltmek de çok vakit güç telâkki edilebilir. Bu sebeplerle çocuklarını köy düğünü yaparak evlendirirlerse bu maddeye göre 7,5 seneye mahkûm edilmeleri icabeder. Bunun yanında masum bir yavruyu yakalayıp ırzına geçen vahşi hayduda da aynı ceza verilecektir ki, bu doğru değildir. Bir önerge veriyorum. Bunda bir kimsenin evlenmek maksadıyla ırzına geçilmiş ise ceza beş seneden değil, bir seneden başlar diyorum.

103 – Hâdiseyi, cinayeti tasvir ederken bu hâdisenin ceza kanununda taallûk ettiği maddeyi de tasrih etmelerini, kanun hükmü ile hâdisi arasındaki münasebeti tespit etmelerini rica edeceğim. Hiç olmazsa hükmümüzü verirken vazı kanun namına kanunun hangi hükmüne istinaden hüküm verildiğine muttali olalım.

109 – Şahısların işlediği suçlarda da bir ayırım, sosyal ve siyasal fayda açısından bir ayırım yapacağım, bu imkânın bana tanınması lazım... Şu Kanunda o kadar tutarsız idam cezaları var ki; bir 439ncu madde var. Şimdi, bir delikanlı köyde çok sevdiği bir kızı arabasına atıp kaçırsa, kızı zorla kaçırsa, arkasına attı, arabanın kapılarını kapattı zorla kaçırıldı, kendisi direksiyonda gidiyor.

Karşıdan gelen bir aracın (Yüzde yüz kusur da karşıdan gelende) kazasıyla çarpıştılar ve kız öldü. Bu şoför, bu çocuk idam cezasına mahkûm oluyor arkadaşlar. Türk Ceza Kanununun 439ncu maddesi; bunu vicdanınız kabul ediyor mu? Veya kızın kardeşleri, kız kardeşlerini kurtarmak için arabaya ateş ettiler, ateş neticesi kız öldü; kaçırın çocuk idam cezasına mahkûm oluyor.... Bu nedenle, tabî ki, bu söylediğim ölüm cezası türüyle, kahvehaneye girip masum insanları yüzükoyun yatırıp, hunharca tarayıp, 5 – 6 insanı öldüren kişiye verilen ölüm cezasıyla aynı tutamayız.

119 – Sanık bütün safhalarda suçunu samimiyetle itiraf ederek, maktuleyi öteden beri sevmekte olduğunu ve evlenmek maksadıyla evine götürmek istediğini ve mümanaatı karşısında kızarak bu suçu işlediğini bildirmiş.

121 – Bu çok feci bir durumdur. Kızınızı istiyor, vermiyorsunuz. Adam ırzına geçiyor, sonra da öldürüyor.

124 – fundalığa götürüp kızlığını bozmak üzere taarruzda bulunmuş ise de bunu kendisi icra ve itmam edemeyince çomakla tasavvur ve kastettiği fili ika ettiği sübut bularak.

136 – “Sizin hepinizi temizleyeceğim!”

147 – yörede homoseksüel olarak tanınan kişileri sorguya çekmiş ve neticede, homoseksüelliği ile tanınan Ednan Kavaklı’nın sorgusu sonunda olayı aydınlatmıştır.

154 – Muhterem arkadaşlarım bu zat bir pastanende... (“O, zat değil” sesleri), isterseniz hain de diyebiliriz.

CHAPTER 4

Footnote 24 – Parlâmento ... infaza karar vermek mecburiyetindedir. Kanaatimiz şudur ki, Parlâmento, bu konuda sadece bir tasdik müessesesidir. Eğer Anayasa, Parlâmentonun (bu konuda bir tasdik müessesesi halinde yetkisini kullanmasını arzu etmemiş olsaydı ... “Yasama organları, ölüm cezalarının yerine getirilip getirilmemesi hususunda karar verme yetkisine sahiptir.” şeklinde daha açık bir hüküm tesis ederdi.

25 – Mahkemelerin hiç bir kararı geriye dönmez, neye karar vermişlerse, idam da olsa buraya gelir, ölsün deriz. O halde biz bir nevi cellad mıyız?

28 – Arkadaşlar, o halde B.M. Meclisi çocuk oyuncağı mıdır ki Adliye encümeninden geçip önüne gelen bir mazbatayı hemen eliyle tasdik etsin. B.M.

Meclisi gibi kudreti âliyi haiz olan bir teşekkül, önüne sürülen bir kâğıdı bir makine gibi kabul veya reddedecek bir vaziyette bir heyet telâkki edenler, her şeyden evvel akıldan iflâs etmiş olanların düşünecekleri bir şeydir.

31- bu hâdisede, bendeniz failin, faili hakikî olduğuna bir türlü kanaati vicdaniye hâsıl edememişimdir.

32- hariçten yaptığım tetkikatta da bu katlin faili Hüseyin değil, Sırrı olduğunu anladım.... bu adamı haksız olarak asacağız. Mehmet bu fiilin faili değildir.

34- Beni bu kürsüye sevk eden garip bir tecellidir, bir (Superstition) dur.... Ben tesadüfen bu adam için alâka duydum.

34- Bir sual, bu tokmak demir midir, ağaç mıdır? - Ağaçtır. - Kilo yahut gram itibariyle ağırlığı nedir? - Ağırlığı yazmıyor, kilosu yoktur. Fakat kutru on, uzunluğu 21 santimdir. - Hangi ağaçtan mamuldür? Şimşirden mi, başka ağaçtan mı? - Vasfı yoktur. - Bir defa vurmak suretiyle öldürüp öldürmediğini mahkeme araştırmış mıdır?

38 - Verilen idam cezasının yerinde olduğunu söyleyen arkadaşlarımdan rica ederim; Ali Kınalı'nın onbaşıyı öldürdüğünde hangi kastı taşıdığını ... gelip izah etsinler ve bu kastın mevcudiyetini delilleri ile gösterebilirler.... Muhterem arkadaşlar; bâzı arkadaşlar, burası mahkeme değil, diyorlar.... Bu şartlar içinde ... bu idam cezasının infazı hukuk kaidelerini rencide etmez mi?... Bunun takdiri mahkemeye aittir, diyorlar. Doğrudur, mahkeme bunu yapmıyorsa ne olacaktır?

39 - Mahkemelere iftira ediyorsun, efendi...

40 - Mazbata üzerinde konuşuyorsunuz. Temyizdeki karar üzerinde konuşamazsınız.

41 - Bunlar Meclise gelir ne olur efendim? Niçin gelir, mânası nedir? Neden zahmet ederler de daktilo yaparlar, tezkere okunur, Adliye encümenine gider, mazbata gelir, arkadaşımızın dediği gibi, niçin, ne olacaktır? Vallahi bunu anlayamıyorum. (Tasdik için sesleri)... mademki tasdik için buraya geliyor,... onun üzerinde müsbet, menfi bir kanaate vâsıl olmak demektir.... Nasıl ki, mahkeme hâkimin mülkü değilse, dosya da hâkimin malı değildir ve üzerinde bir hak iddia edecek bir mevzu değildir. Hâkim kararını verir, ellerini yıkar. Yukarı heyete gider, o da hükmünü verir, ellerini yıkar. Şimdi hükmün infazı bizim üzerimizdedir. Temyiz Heyetinin üzerinde değildir.

Komisyonunda oy verme durumunda olan bir üye “Ben infaz doğrultusunda oy vereyim, takılacakla Meclis kanatlarında takılsın” diyememelidir.... Bunun gibi Hâkim, “Yargıtay idama hükmetmiş, ben onların kararlarının doğruluğuna güvenerek infaz oyu kullanırım, hata varsa günahını Hâkimler çeksin” de diyemez.

45 – hâkimlerin istinat ettikleri delilleri tenkid ve yeni baştan tetkik ederek, idam cezasına mahal var mıdır, yok mudur meselesi değildir... yani idam etmekle hatayı adliye kurban olmamasını temin içindir.

59 – Deminden beri vaziyet şudur : İki tarafın avukatları çıkmış, biri katili biri avukatları müdafaa ediyor ... Bir taraf şu katil asılsın, bir taraf asılmasını diyor. Şimdi biz katili affediyoruz. Güzel. Yarın maktulün avukatını çağıralım veresinin hakkını da o müdafaa etsin. Burası mahkeme mi?

60 – Mahkemeye Fatma, Ayşe, Memet gelir dinlenir, ifadeleri kâğıda geçer. Fakat mahkemenin bir de atmosferi vardır. Havası vardır. O hava kâğıda nakledilemez.

61 – Bu, Temyizden daha az aklımızın erdiği için değil, onun vesaitine malik olmadığımızdandır. Çünkü şahısla temas edemeyiz.

65 – Encümeninden gelen kâğıda itimadınız yok mu? – Adliye encümeni azayı kiramına pek büyük emniyetimiz olabilir. Fakat bir hususta encümen de hata edebilir. Encümenlerin mazbatalarını ... geri çevirdiğimiz olmuştur. Eğer encümen hata yapmaz diye her dediğini dinleyecek olursak bu Heyeti Celileye lüzum kalmaz. – Temyizden de geçmiştir. – Temyizden geçen her kararın ifası lâzım gelseydi gene bu Heyeti Celileye ihtiyaç kalmazdı.

67 – Gün geçtikçe ölüm cezasını yavaş yavaş içtimai hayatımızdan silmeye doğru çalışıyoruz. Fakat bu günkü kanun hükümleri baki kaldıkça bunun hilafında teşebbüse ve takdire girmek mümkün değildir.

70 – Burada affederken, öldürülen adamın ailesini, onun muhitini ve bütün memleketi düşünmek lâzımdır. Senede ancak 20 – 30 kişi idam ediliyor. Bunu çok mu görüyorsunuz? Çok görüyorsanız idamı kanundan çıkarırsınız.

74 – Bu kişilerin kim olduklarını özellikle öğrenmemek istedim. Kim olduklarını bilmiyorum Ne yaptıklarını da özellikle bilmemeye özen gösterdim.

75 – bizi ikna edecek derecede kelime kullanmalıdırlar. Yoksa dört kelime yazmakla maksat hâsıl olmaz.

76 – Biz burada tavuk mu kesiyoruz? Bu bir insanın hayatına son verecektir. Komisyon bize deliller hakkında neden bir bilgi vermiyor?

81 – Kâfi derecede aydınlandık efendim.

83 – Arkadaşlar, kâfi kâfi diye bağırıyorsunuz, Burada ölen bir vatandaş var, ölmesini bekleyen bir vatandaş var, onların çocukları var, anası var, babası var. Kendinizi bunlardan birisi veya katil yerine korsanız ne düşünürsünüz?

101 – Şimdi bizim en küçük bir itirazımız Meclise gidecektir. Bir sürü merasim. Bu, bence lüzumsuzdur.

102 – Kanun teklifinin tümü üzerinde görüşmeler başlayacağı sırada ... karşı oy yazılan okunmadı. Yüksek Genel Kurul böyle ... karar aldı... görüşmeler yeterlik önergesinin kabul edilmesi suretiyle bir yerde bitirilmiş oldu. Ondan sonra, kanun teklif ve tasarılarının iki kere görüşülmesi olduğu halde yeterlik önergesi verildi, o da oylanarak kabul olundu. Şimdi maddeler üzerindeki görüşmelerin ... sınırlanması on dakika olarak tespit edilmesine dair önerge verilmiş bulunuyor. – Hâkim miyiz efendim biz, verilmiş bir kararı, tatbik edilsin mi, edilmesin mi diye konuşuyoruz.

105 – Birinci görüşme başladıktan,... sonra ivedilik kararı verilmesi ikinci görüşme yolunu ansızın kapatır ve bir bölüm Yasama Meclisi üyelerini bir oldu bitti ile karşılaştırır.

107 – 5 dakikada satırbaşlarını okuruz, konuşamayız, öyleyse...

110 – “İktidarlar adam öldürürse yaşamaz” şeklinde çok feci bir beyanda bulundular. Rica ederim arkadaşlar ... huzurunuzda Hükümet adam öldürmek için bir kanun getirmemiştir.... Hükümet sadece mahkeme kararını sevk organı olarak, Meclise sevk etmiş ve takdirinize sunmuştur.

136 – geçmiş Meclislerin tamamıyla sorumsuzluk duygusunun en belirgin örneği

144 – Millet Meclisinin bu döneminin açılışından bu yana böyle bir tasarı ilk defa görüşülüyor.... Kıymetli arkadaşlarım, ne siz, ne ben Kâmil Akman'ı ne tanırız, ne biliriz. Biz burada Kâmil Akmanlar için konuşuyoruz. Bu, Yüce Meclisin tasdikinden geçtikten sonra, öbür dosyalar için konuşmak gereksizdir. Çünkü, Kâmil Akman için verilecek rey, diğerleri için de aynı olacaktır. Tabanda yatan sosyal ve ekonomik sebeplerle suç işlemiş, cinayete gitmiş olan bir şahsın idamı, Yüce Mecliste derinliğe inilmeden reylerinizle gelip geçecek. Ancak, şunu bilin ki, yeniden Kâmil Akmanlar gelecektir.... Toplumun ufacak

bir kusuru varsa, toplum o ferdi ihmal etmiş ... ise, kadere boyun eğerek bir cinayet işlemiş ise sadece ve sadece o şahsı mesul görmek yetmez. Toplum, biraz da kusuru kendinde aramalı. Onu idama götüren sebepleri tabanda aramak lâzımdır.

147 – suçluları, hep bozuk ve adaletsiz bu düzenin kurbanı olmuşlardır. Onları hayatlarıyla ödedikleri suça iten etkenler yoksullukları, cehaletleri, gerçek adaletin sağlanamayacağı inancı, bu çağda kadın probleminin çözilemeyeşi, çağdışı kan gütmengin eğitim olanakları sağlanarak önlenememesidir.

149 – Meclise birçok gruptan, bu arada bizim grubumuzdan bâzı arkadaşlarımız, idam cezalarının kaldırılması yolunda teklifler yapmaktadırlar.

152 – Ahmet Mehmet Uluğbay (Ulubay)’ın ölüm cezasının yerine getirilmesine dair Başbakanlık tezkeresi ve Adalet Komisyonu raporu. Sayın Komisyon? – Buradayım, ama bu nereden çıktı Sayın Başkan? (Gülüşmeler) – Gündemden efendim.

164 – Hak etmiş de olsa bir hükümlüye, görevi yerine getirmemek suretiyle yıllarca her gün idamı yaşatmak Devletin hakkı değildir.

166 – Arkadaşlar, ölüm fezasını hücrelerinde bekleyen hükümlünün kapısı tık tık çalınıp, içeri girilip “Buyur gelir misin?” denmiyor. İnfazda bulunan arkadaşlarımız vardır aramızda, bunlar iyi bilirler; sabahın kör karanlığında uykudayken kapı açılır ve mahkûm kıpırdamaya fırsat verilmeden yakalanır; çünkü onun tutulması, zapt edilmesi zor oluyor. Bu duygularla aylarca bekletilmiş bu insan... Bunu bir defada asacağız; ama bunu bu halde senelerce bekleten insanlara ne demek lazım?

189 – Meclis infaz kararı vermezse, idam mahkûmu idam mahkûmu olarak kalacak. İdam mahkûmları kararı hücrede beklediklerine göre, infaz sistemi öyle, tecrit ediliyor; gazeteden şundan bundan mahrum. Bu idam mahkumu olarak kalan kimse bu şekilde mi kalacaktır? İnfaz şekli böyle mi olacaktır? Yoksa müebbet hapis gibi mi olacaktır, fark var mıdır? – Sayın arkadaşlarım, bendenizin cevabım gayet açık ve kesin. Ölüm cezası hükümlüsü Yüce Meclisçe ölüm cezasının yerine getirilmemesine karar verilmiş olması halinde müebbet, ağır hapis hükümlüsü değildir; muvakkat ağır hapis ve hapis hükümlüsü de asla sayılamaz. Binaenaleyh tereddüte bence lüzum yoktur. – Öyleyse infazdan daha fena.

191 – asgari insani yaşama haklarına sahip kılmak zorunda olduğumuz bu gibi kimselerin Meclislerde değişecek teamüllere göre, her hangi bir tadil teklifiyle veyahut kanun ilgasıyla tekrar hayatlarına son verilebilecek midir, verilmeyecek midir?

193 – eğer ölümü durdurma ise, yeni bir kanun gelecek. O kanun yine idamı yaptırabilir, o kanun müebbetle çevirir veya idam ettirir; ama bugün bizim yaptığımız ne müebbetle çevirmektir, ne af etmektir.

199 – ömürlerinin sonuna kadar affedilmeden içerde kalacaklar, sanmıyorum ki, ille de ille şimdi idam edilsinler diyebilirsiniz... O halde mesele nedir? “Bir gün affedilecekler” diyorsunuz. Arkadaşlar, eğer Türkiye’nin Yüce Meclisi bir gün onları afetine noktasına gelecekse, siz geleceğe ipotek koyma hakkını nereden alırsınız? Gelecekteki Yüce Meclislerin yetkilerine karışmayınız. Onlar ömür boyunca bırakırlar isterlerse ve yine onlar isterlerse infaza da giderler. Ama, bırakınız onlar yapsınlar.

203 – insan hayatıyla oynamak elbette ki hoş bir şey değil; ama yargının özerkliği üzerinde de oynamak hoş bir şey değildir.

210 – Sanıkların ve müdafilerinin Türkiye’nin bugünkü ortama gelmesinin ve olayların gerçek müsebbiplerinin politik iktidar ve emrindeki militanlar oldukları, bunlara karşı çıkanların meşru müdafaa halinde bulundukları yolundaki beyanları bu hadisede ... haksız tahrik müessesesindeki hukukî unsurlardan mahrum bulun doğrudan hukukî yönleri itibariyle kabule şayan görülememiş, bu detaylı eleştiri ve iddialar hakkında mahkememiz kişisel görüşlerini mahfuz tutmuş, müessese olarak bunların üzerinde hüküm vermeyi kamu vicdanına, tarihe ve Türkiye Büyük Millet Meclisinin takdir yetkisine bırakmayı uygun görmüştür.

CHAPTER 5

Footnote 1 – Fertlerin hayat hakkı vardır, kabul. Nasıl fertlerin hayat hakkı varsa tıpkı bunun gibi milletlerin de hayat hakkı vardır.

2 – Buradaki olay üç kişinin idamı mevzuu değildir. Burada Türk Devletinin, Türk Milletinin bekası ve rejimin yaşaması bahis mevzuudur.... Bugün cemiyetimizin bir meşru müdafaa hali vardır.

3 – Öldürmüştür.... Ama bunu son derece mukaddes tanınan mevzulara tecaşüz sebebiyle öldürmüştür...İdam edilmelidir, ama mukaddes bir varlık

uğruna bunu tehevvrle yapmıştır. Türk bayrağının, hakaret görmesi karşısında, kendini tutamamıştır. Öyleyse biz bunu tatalım atıfeten müebbet hapse çevirelim diyebiliriz.

34 – Her suçun bir mağduru da vardır; Devlet aleyhime işlenen suçlarda, suçun mağduru Devlettir; adı suçlarda suçun mağduru, şahıslardır. Şimdi, adı suçların mağdurları (biz yalnız adı suçları af kapsamına alır, Devlet aleyhine işlenmiş suçları affın dışında bıraktığımızda) karşımıza çıkarsak, “Siz Devlete, kendinize karşı işlenmiş suçları affa dahil etmezken, mağduru ben olduğum suçları nasıl laf edersin ?” diye sorduklarında ne cevap vereceğimizi sormak isterim.

39 – Mesele şudur: Bir psikoloji hatası var. Meşhur terbiyeci Zazman ... bir kitap yazdı, kitabın adı yengeç ... Bu kitabın üzerinde bir baba yengeç var, üç de küçük yengeç var. Malumunuz yengeçler doğru gitmezler, yampiri giderler ... Altında da şöyle yazıyor: “Babacığım senin yaptığını görürsem, ben de yaparım.” ... Harbiye talebelerini fakültelere tasdik ettik... Şimdi temenni edelim ki; bundan sonra önde giden yengeçler ... iyi olsun,... aklı başında adamlar olsun. Binaenaleyh, demek oluyor ki; bir hata var Türkiye’de, yalnız Harbiye’de değil. Bir hata var. Baba yengeçte kabahat. (Gülüşmeler)

41 – yalnızca, aktörlerle üçüncü derecede suçlularla çıkılmış bulunmaktadır. (Ortadan gürültüler) Muhterem, arkadaşlarım, gözüken ihtilâlciler ekseriya piyonlardan farksızdırlar.

42 – Suçların yegâne kaynağı serbest irade değildir; suçlu yaratılmış olmak değildir. Muhitin ciddi ve önemli tesirleri vardır. ... bu potansiyelin suçluluk sandalyesine ittiği şahıslara hâdisenin tek müsebbibi olarak idam sehparına götürmek meselenin halli olmaz ve olmamalıdır.

44 – Mütecasirler, Allah göstermesin çocuklarından birisini öldürselerdi, bu siyasî cürümdür idam edilmesinler derler miydi? Katiyen. O halde, çocuklarını öldürenlerin idamlarını isterler de neden memleketi tüm öldürmek isteyenlerin idamlarına karşıdırlar?... bir noktayı da belirtmeyi bir vicdan borcu saymaktayım, idamları istenen talebeler bidayette masum gençlerdi. Bu talebeleri, sosyal adalet, gelir dengesiz iği ve ilerililik propagandası ile anarşist yapan sapık ve satılmış profesör, doçent ve asistanlar ile gözleri iktidar hırsı ile dönmüş politikacılar mesul değiller mi?

52 – Chapter 4, footnote 210.

53 – bu çocuklar tabii birdenbire büyüğü vermedi... Beyinleri yıkandı üniversitelerde... Türkiye'nin dahilinde bir partiler arası mücadele değil, bir rejim mücadelesi meselesi değil; aslında var olup yok olma meselesidir, bir beka meselesidir bu mesele... Cumhuriyet Halk Partisi Genel Başkanının sola vermiş olduğu bu tâviz, zannediyorum ki solda bulunanların biraz daha öteye kaymalarına imkân ve fırsat vermiştir.

54 – “12 Marta muhalefet kanadında olan yüzünden gelindiğini” söyledi.... Yalnız bir şey söylemek istiyorum. Eğer 12 Marta bu yüzden geldiysek, 12 Marta düşen Hükümetin adı niçin Adalet Partisi Hükümeti idi? Ve eğer yine bu yüzden geldiyse, hâlâ çoğunluktasınız; Parlamenter düzen var. Niçin Hükümette değilsiniz?

55 – Gel beraber götürelim asalım. Neden bunda bizimle birlikte olmuyorsun.

56 – Siz bir Hükümettiniz; Hükümet olarak icraat yaptınız.... Biz iktidarı alsaydık,... bu memleketi anarşik duruma getirmeden yönetmeyeceğimizi ne biliyorsunuz?

57 – Koalisyon ortakları ve bu Hükümete rey verenler, bu Hükümetle beraber bunun mesuliyetini paylaşmak durumundadırlar. Burada koalisyon ortaklarının birbirleri ile çekişmesini tarih önünde, Meclis zabıtları önünde ibretle müşahade ettik ve dinledik.... Yılanın yavrusunun büyümesine müsaade edenler, yılan kendilerini soktuğu zaman şikâyetçi olmak hakkına sahip değillerdir.

59 – Hani, bu gençleri sürükleyerek darağaçlarının önüne bırakıp, kaçıp kaybolan profesörler, yazarlar, parlamenterler ve kızıl aydınlar nerede? Gelsin bu gençleri kurtarsınlar, bu gençler ölüme giderken ... saklanmasınlar.... Sayın senatörler, bu gençler elbette ki suçludur ; fakat asıl suçlular, asıl katiller ortada yok.... yargı organı, Türk Devleti'nin nefis müdafaası olarak, ona saldıranları ölümle cezalandırmıştır. Hakkıdır ve doğrudur. Devletimiz için bir tek kişi değerlidir, bir tek kişinin noksanlığı kayıptır; fakat, Devletimizin yaşaması için binlerce kişiyi kurban etmek farzdır arkadaşlar.

60 – Gençler Türkiye'deki genel gidişi kötü buluyordu ve düzeltici hiç bir umutla karşılaşamıyordu.... 12 Mart öncesi iktidarı mensupları ... karşımızdaki suçlular bir bakıma bizim günahımızın da kurbanlarıdır diyebilen, bir vicdan burkulması duymalıdır bu arkadaşlar. Ben A.P.li olsam (A. P. sıralarından “Allah korusun...” sesleri) suçluların durumu konuşulurken, en azından ... bir vebalin ağırlığını duyarım. Eski iktidar olaylarda tarafsız bir hakem

değil ... ortamın oluşumunda bir taraftı.... Birkaç çocuk Türk Devletini yıka-
cakmış?... Meşru yollardan iktidara gelenlerin her türlü meşruluk dışı yollara
başvurmaları,... ve iktidardan gitmemek için Devletin temel niteliklerini, la-
iklik ve devrimcilik niteliklerini yıllarca çiğnemeleri bağışlanabiliyor; ama bü-
yük ölçüde toplumun da günahının kurbanlarına hiç olmazsa ömür boyu zin-
dan bile çok görülüyor.... 12 Mart öncesinin suçunu, sapık da olsa, çocuk da
olsa, kandırılrsa da, birkaç çocuğa yükleme çabaları da boşunadır.

68 – Chapter 5, footnote 2.

69 – gerekli reformları yapamadığınız için gelir dağılımındaki adalet gittikçe
alt gelir tabakaları aleyhine gelişecek; ... 1965'ten sonra iş başına gelen iktidar
bu reformları yapmamak için direndiği kanaati toplumda uyanmıştır ... Dev-
let kuruluşları Hükümete karşı yürüyecek ... Yürüyen Yargıtay üyeleri, yürü-
yen Danıştay üyeleri, yürüyen üniversite profesörleri kendiliklerinden mi so-
kağa çıktılar? Dünyanın neresinde görülmüştür? Ama onları sokağa dökecek
kadar, olayları o hale getirdiniz ki, niçin kendinizde aramıyorsunuz?

70 – Soruyorum, bugün vereceğimiz ... idam kararını “iktidarın emniyetini
sağlayacağız” diye mi vereceğiz? Bu bir rejim meselesi mi, yoksa Türklüğün
bekası meselesi midir?... Malûm olduğu üzere siyasi suç, mevcut rejimi beğen-
memek, onun yerine bir başka rejimi getirmek demektir. Bunların yapmak is-
tedikleri bu mudur, yoksa Türk Milletini,... Türk Devletini yok etme kara-
rında mıdır? Eğer, bunlar sadece bir rejim değişikliği istiyor idiyse, o
zaman affetmek mümkün olabilirdi. Ancak, onlar bir milleti öldürmek kas-
tıyla hareket etmektedirler.

71 – Ağca, 12 Eylül 1982 Harekâtından önce birçok anarşik olaylara karışarak
dışarıda kalabilmiş ve otorite boşluğu dolayısıyla fiillerinin cezasız kalacağına
inanmış binlerce anarşistten biridir.

75 – Bu Anayasa nizamını cebren değiştireceklerin, onu muhafaza eden güç-
lere yaklaşık bir güce sahip olmaları gerekir. Türkiye Cumhuriyeti Anayasa
nizamı beş, on kişilik, iki üç silâhlı çete tarafından banka soygunları ve adam
kaçırmalarla ihlâl edilebilecek ... devlet... değildir.

78 – Biz ne anarşistleri savunuyoruz, ne komünistleri savunuyoruz. Akılsızlığı
yüzünden komünizmi geçerli kılmak isteyenlerin ayıplarını sayıyoruz.

79 – Şu olmasa idi, cemiyet böyle olmasa idi, Parlamento şu hatayı işlemese
idi, ki kendileri de Parlamentonun içindeler, Parlamentaoya dayalı hükümetler

şu reformları yapsa veya bunu yapmasa idi, bu çocuklar bu suçları işlemeyecekti... Bu, kendi kendini inkâr değildir de nedir muhterem arkadaşlar? Parlamentoda olacaksınız, bu Parlamentaoya dayalı bir Hükümetin murakıbbı olacaksınız ... yapmış olduğunuz kanunlara göre suç işleyen insanların burada müdafiliğini yapacaksınız.

92 – ülkücü görüş sahibi olduğu anlaşılan ... görüş ayrılığı nedeniyle

99 – kahveleri taratması, gençleri silahlı eyleme teşvik etmesi

100 – sol görüşlü olarak tanınan, gençlere sol görüşü aşıl原因an, Dev-Sol örgütüne ait davalara parasız girip destek sağılayan, silah, para yardımını yaptığı şeklinde hakkında bilgi edildiğı

110 – İlk idam kararı geldi önümüze, ve dedik ki sağıcı solcu yok. Mümkünse bir sağıcı bir solcu, iki sağıcı iki solcu, neyse, kaç tane çıkmışsa, ikisini beraber yapalım. Sonra demesinler ki bize, “bu gelen yönetim,” efendim, “sağı tutuyor, solu tutuyor” diye töhmet altında kalmayalım.

121 – Arkadaşlarım, haber çok üzücüdür. Hâdise vâki ise bunu yapan insanın bir Türk askeri olması ihtimalini aklımız ve havsalamız kabul etmemektedir. Bu adam Türklük iddiası ile ordumuz arasına girmiştir. Binaenaleyh gerekli ölüm cezası infaz edilmeden evvel bu adam Türklükten tecrid edilmeli ... Kore’de Korelilere karşı işlenmiş bir suç vardır. Türk olduğuna ilgilileri nasılsa inandırmış bu asker o ecnebi memlekette parasına tamah ederek bir insanı öldürmüştür... Bu suretle suçlu asıldığında dünya radyoları bir Türk askeri şu sebepten dolayı asılmıştır deme imkânını kolay kolay bulamayacaktır. Keşke bu mesele orada halledilmiş olsaydı.

141 – Arkadaşlar, ...öldürülen Muharrem, eski zenci kölelerinden, şerir, sabıkalı, etrafını yıldırılmış, bizdeki manasıyla tam bir yaman fellah,... izbandut, korkunç olan bu adam, civar köyden zorla bir kız kaçıır, kendisine karı eder. Çok fena muameleler ... ile canından usandırdığı kızcağız kaçar, boşanır, ... Mehmet ile evlenir. Mehmet ona hasım değildir. Fakat yalnız dış tarafı değil aynı zamanda kötü huylarla içi de kapkara olan bu zenci, biçare Mehmet’e mutallakasını aldığından dolayı koyu bir hasım olur... Ölümle tehdit eder ... Mehmet kendi köyünün heyetinden başka komşu köylere de bu şeririn elinden kurtarmaları için yalvarır. Son bir defa daha Mehmet’i dövmesi, ölümle korkutması ... üzerine hiddeti son dereceye gelen Mehmet bu zenciye öldürür... Arkadaşlar, şimdiye kadar karıncayı incitmeyen, hiçbir mahkûmiyeti

olmayan zavallı Mehmet durup dururken bu kara herifin kara kanına girer mi?

142 – Türklük şerefi ve haysiyetinin galeyanı ile

143 – Anadolu halkının eşsiz hissi selimiyle her şeye rağmen masuniyet ve masuniyetini takdir ettiği

144 – kendi halinde, çok iyi bir insan olan Türkoğlu Türk

145 – Bu adam yaşadığı kölelik hayatının acısını, masum Türk köylüsüne kötülük etmekle çıkarmaya çalışan alçak bir zencidir.

149 – Efendim, ben bu kadının ne yaptığını, ne olduğunu bilmiyorum, esbabı mucibesini bile okumadım. Yalnız benim ruhuma tesir eden bir kadının, memlekette büyük hizmetler yapmış kadınlara karşı, bir hürmet olarak kendisine verilen bu idam cezasının 30 sene hapse çevrilmesini istemekten ibarettir... Ben bu kadının şahsı üzerinde durmuyorum, fakat bir Erzurumlu kadın olması itibarıyla cezanın ağır cezaya tahvilini dilerim.

150 – Kadının yaşı bilmiyorum, belki geçen Birinci Cihan harbinin felâketzedelerindendir. (40 yaşında imiş sesleri) Şu halde o sıralarda yedi yaşında bir felâketzede imiş, sokaklarda kalmış, şurada, burada kalmış. Biz böylelerini çok gördük, birçok facialara şahit olduk, bizim muhitimizde hicret vâki oldu, bu muhaceret ahlâki tereddiler yarattı.

151 – mahkeme Azrail'e istinabe mi yazacaktır?

156 – “niçin beni takip ediyorsun, beni soyacak mısın, Kürt?”

162 – bu çocuklar ... birdenbire büyüğü vermedi... Beyinleri yıkandı üniversitelerde ... Türkiye'nin dahilinde bir partiler arası mücadele değil, bir rejim mücadelesi meselesi değil; aslında var olup yok olma meselesidir, bir beka meselesidir bu mesele... Türkiye'de, Anayasanın öngördüğü düzenin tam kurulamamış olmasının, komünizan faaliyetlerin vasıtası olduğunu kabul etmiyoruz.... Buradan hareket ettiğiniz zaman, aç olduğu için hırsızlık yapıyor, falan bunalım içinde olduğu için adam öldürüyor, filan olmadığı için rejimi yıkmak istiyor. Bu, suça gerekçe aramak, meşruiyet aramaktır ki, bu, bu memlekette anarşinin mayası olur arkadaşlar. (A.P. sıralarından “bravo” sesleri, alkışlar) ... Cumhuriyet neslini kötülemeye kimsenin hakkı yok arkadaşlar.

CHAPTER 6

Footnote 3 – Tek başına iktidarda olan sensin. Neden asmadın?... asacak kadar ip mi alamıyorsun? Haydi as!

23 – Özgür bir toplumda terörist şiddete karşı halkı korumanın karşılığında ödenen bedel.

57 – Perde açılmadan evvel tiyatrodaki seyircinin heyecanı... İzdiham, Cinayet Mahkemesi'nde hükmü, iştahlaştıran, şehvetlenen merakla bekliyordu. Çünkü bugün son duruşmaydı ve mahkeme, katil Benli Ahmet hakkındaki son sözünü bugün söyleyecekti.... Ve hakimler henüz bilmiyordu, fakat hakimlerin idam hükmü vereceğini izdiham biliyordu... Müddeiumumi muavini cinayeti senesiyle, ayıyla, çeyrek saatiyle maktulün uzandığı seccadenin milimiyeti ile anlattı; sonra suçun Ceza Kanunu'nun ... maddesine uyduğunu ve fiilde cezayı çoğaltacak sebepler bulunduğunu davudi sesle söyledi. Katil, cinayetini Müddeiumumi muavininin ağzından tanımadı. Cinayet güzelleşmiş, hutbe olmuş, edebiyat olmuştu; eserdi.

Appendix C Data on Individual Capital Punishment Cases Submitted to the Parliamentary Agenda

Table 1.1 Article of the criminal code and corresponding number of offenders.

Article No*	Number of Offenders**
450 (TCK)	619
146 (TCK)	67
56 (AsCK)	11
149 (TCK)***	4
125 (TCK)	3
418 (TCK)	1
Unspecified	2
Total	707

NOTES *It can be observed that, between approximately 1926 and 1941–42, parliamentary documents did not typically include a specific reference to the legal basis of crime. In files where the Article number was not specified in the documents, cases were classified according to the Article that corresponded to the legal definition of the offense.

Crimes against the state: Article 56 of the AsCK (treason against national defense/espionage), Article 125 of the TCK (crimes against the international personality of the state/attack on territorial integrity), Article 146 of the TCK (crimes against the forces of the state/attempts to overthrow the constitutional order and prevent Parliament from performing its duties), Article 149 of the TCK (crimes against the forces of the state/causing riots).

Crimes against persons: Article 418 of the TCK (crimes of capital murder derived from sexual assault and rape), Article 450 of the TCK (crimes of manslaughter/capital murder).

**Certain dossiers were counted multiple times due to being prepared more than once – for example, twice under the bicameral system during civilian or military regimes or after revisions by parliamentary commissions. On the other hand, the number of persons was counted only once, regardless of how many parliamentary sessions or assemblies their cases were discussed in. Dossiers of individuals granted general amnesty under laws from 1923, 1950, 1966, and 1974 are excluded from the count. Including those granted general amnesty and whose dossiers were repealed from Parliament, the total number of individuals whose dossiers reached Parliament was 813; however, these were not discussed individually and thus are not included in the 707 figure. Furthermore, these numbers represent only a portion of all dossiers submitted to Parliament, limited to those placed on the Parliamentary agenda.

***Although it is noted that one individual was tried under both Articles 149 and 450, since the decision to sentence to death was made pursuant to Article 450/4-5, the case has been categorized under that article.

Table 1.2 The capital murder crimes referred to throughout the Chapters.

Type of Capital Murder*	Number of the perpetrator
Capital murders derived from political animosity	15
Capital murders with a motive related to rape or attempted rape	52
Capital murders derived from abduction of a girl or woman	25
Capital murders for the intention to marry (but without involving rape and abduction)	19
Capital murders related to the illicit love affairs (but not “intention to marry”)**	17
Capital murders as filicide	2
Capital murders as matricide	5
Capital murders as patricide***	8
Capital murders derived from blood-feud	13

NOTES *As noted in the Introduction, the articles addressing capital crimes in the 1926 Turkish Penal Code have undergone several amendments. Additionally, there are cases where an offender may be associated with multiple crime definitions but is punished under only one article, or none is explicitly specified. This table is organized based on the definition of the crime rather than the official article number. Therefore, it would be inaccurate to treat crime definitions between 1926 and 1990 as uniform or monolithic data. This table should be regarded solely as a reference to the cases discussed in the chapters.

**I use the term “illicit love affair” to describe romantic and/or sexual relationships between individuals who are not legally married to each other. In this sense, the term includes, but is not limited to, adultery, which was a criminal offence under Article 440 of the TCK and could only be committed by married women.

*** Six of the perpetrators were responsible for the death of their fathers, and two for that of their grandfathers.

Table 1.3 Individual death penalty cases submitted to parliamentary agenda

The data presented here are limited to the period from the enactment of the 1926 Turkish Penal Code (TCK) until the most recent case considered in Parliament (1984). Data on files withdrawn from Parliament under the General Amnesty have not been included.

The definitions of crime or criminal motivation in this list have been reproduced as defined in the parliamentary records. These definitions may vary according to the main theme discussed in each chapter.

Throughout the dissertation, even if the law number is not mentioned in the sources, the applicable law has been determined based on the definition of the crime, and categorization has been made accordingly. However, the law numbers in this list have only been recorded if they are specified in the parliamentary minutes.

The list was prepared on an individual basis and organized according to the date of first discussion in Parliament. In cases where multiple prisoners are included in a single file, they have been listed under the same law or decree number.

The enumerated data includes the following categories:

Decree/Law Number; Official Gazette Publication Date; Defendant Name / Reputation; Offense Type / Motivation (if specified) / Related Offense / Victim Count (if applicable); Legal Basis / Applicable Law Reference; Final Decision of Legislation.

TBMM Legislative Session 2 (TCK dated March 1, 1926-26.06.1927)

237	9.05.1926	Bursa'nın Ayazma karyesinden Deli Mehmet oğlu şöhretli İdris oğlu Mehmet	Murder / Rape / (1 girl)
	N/A	Execution	

239	16.05.1926	Karacabey kazasının Tavşanlı mahallesinden Dervişoğlu Mehmet Çavuş	Murder / Abduction of girl / (1 woman)	N/A	Commutation to Penal Servitude for Life
283	6.12.1926	Isparta'nın Hacı Elifi mahallesinden Arapoğlu namı diğeri Acaroğlu ibrahim mahdumu Kâmil (Kerim)	Murder / Burglary / (1 woman, 1 boy)	N/A	Execution
284	6.12.1926	Kuşadası'nın Aziziye Köyünden Halil kızı Cevriye (Huriye?)	Mariticide / Illicit love affair (1 man)	N/A	Commutation of Sentence to Aggravated Life Imprisonment
336	28.05.1927	Menemenli İsmail oğlu İngiliz Memed	Murder	N/A	Execution
336	28.05.1927	and Hüseyinoğlu İsmail	"Murder	N/A	Execution
342	25.09.1927	Bursa'nın Muradiye Mahallesinden Kel Ahmet oğlu Mehmet	Murder / Robbery (1 man)	N/A	Execution
343	25.09.1927	Erbaa'nın Koşık Karyesinden Osman Bey oğullarından Yanık Mustafa	Murder / Personal animosity (1 man)	N/A	Execution
356	25.09.1927	Pederi Bârbaroğullarından Abuşi Katletmek Mad-desinden Müttehem Hasan	Patricide (1 man)	N/A	Execution
357	25.09.1927	Eski Eşme Köyünde Mukim Dellâ (Lal) oğlu Yusuf	Uxoricide / Intention to marry (1 woman)	N/A	Execution
370	25.09.1927	Haçık Veledi Kirkor	Murder / Robbery (1 man)	N/A	Execution

370 25.09.1927 and Boyabatlı Aziz Bin Hamit Murder / Rob-
bery (1 man) N/A Execution

TBMM Legislative Session 3 (01.11.1927 - 26.03.1931)

376 30.11.1927 İzmit'in Şefika köyünden Ahmet oğlu Mehmet
Murder (3 men) N/A Execution

377 30.11.1927 Şarki Karaağacın Afşar Çaltı köyünden Mehmet oğlu
Hüseyin Murder (1 man, 1 boy) N/A Execution

383 14.11.1927 Pazarcığın Kızkapamlı köyünden Mestçi Mustafa oğlu
Mehmet Murder (2 men) N/A Execution

392 17.01.1928 Düzce'nin Tahvi karyesi ahalisinden Abaza Hakkı bin
İsmail Offenses against the internal security of the Republic of
Turkey, including constitutional alteration and distortion, and the
attempted assassination of the President of the Republic N/A
Execution

392 17.01.1928 and Düzce'nin Nöfren karyesinden Abaza Mecit bin
bedel Yusuf Offenses against the internal security of the Re-
public of Turkey, including constitutional alteration and distor-
tion, and the attempted assassination of the President of the Re-
public N/A Execution

392 17.01.1928 and Sökeli Mecit bin Demir Offenses against the in-
ternal security of the Republic of Turkey, including constitutional
alteration and distortion, and the attempted assassination of the
President of the Republic N/A Execution

404 29.02.1928 Kanık Karyeli Recep oğullarından Hasan oğlu Sarı
Mustafa Murder / Robbery (1 man, 1 woman) N/A Execu-
tion

404	29.02.1928	and Manastırın Prelpe kasabasından İbrahim oğlu Arnavut Recep	"Murder / Robbery (1 man, 1 woman)	N/A	Execution
410	28.03.1928	Ödemişin Meşrutiyet mahallesinden Mestan (Sinan) oğlu Hasan	Murder / Robbery (1 man)	N/A	Execution
416	2.05.1928	Samsun'un Sait Bey Mahallesinden Müezzinoğullarından Hasanoğlu Hamdi	Murder (2 men)	N/A	Execution
452	3.12.1928	Gedizin Kayıklar (Kayıplar) köyünden Mustafa oğlu Hasan	Murder / Robbery (2 men)	N/A	Execution
453	3.12.1928	Devreğim Yakacık köyünden Kadioğullarından korucu Ahmet oğlu Ahmed	Murder / Robbery (1 man)	N/A	Execution
451	3.12.1928	Niksarın Eskidir köyünden Koçoğullarından (Kocaoğullarından) Ömer oğlu Kâzım	Murder (1 woman, 1 man)	N/A	Execution
450	3.12.1928	Kırşehirin Ömer Kahya köyünden Musa oğlu Ömer	Murder (1 man, 1 woman, 3 boy, 1 girl)	N/A	Execution
450	3.12.1928	and Ali oğlu Hanefi (Hanif?)	Murder (1 man, 1 woman, 3 boy, 1 girl)	N/A	Execution
448	2.12.1928	Adananın Karaköce köyünden Hacı Kadiroğlu Süleyman	Murder / Abduction of girl (2 men)	N/A	Execution
461	20.12.1928	Durmuşoğlu İsmail	Murder (1 man)	N/A	Execution

- 462 20.12.1928 Konya'nın Hacı Yusuf Mescit Mahallesinden Akgöz
oğlu Şöhretli Osman mahdumu Süleyman Murder (2 man)
N/A Execution
- 472 19.01.1929 Tokat'ın Üvecik (Ovacık) Köyünden Peh-
livanoğullarından Mehmet oğlu Şaban Murder (1 man)
N/A Execution
- 492 7.04.1929 Aydın'ın Kozalaklı köyünden Bahri oğlu Memed
Murder / Mugging (3 men, 1 woman) N/A Execution
- 495 24.04.1929 Kilisin Karaca Viran köyünden Hüseyin Ali oğlu Me-
med Murder / Contract killer (1 man) N/A Execu-
tion
- 498 27.04.1929 Kastamonu'nun Akdoğan köyünden Sadıkoğlu Memet
Ali Murder / Abduction of girl (2 women) N/A Execu-
tion
- 513 8.06.1929 Kula kazasının Memet mahallesinden Seyitağaoğlu To-
pal Akif Murder / Personal animosity (2 women, 1 girl)
N/A Execution
- 513 8.06.1929 and Kızıl Kaya mahallesinden Mandal oğullarından
Süleymanoğlu Mustafa Murder / Personal animosity (2 women,
1 girl) N/A Execution
- 514 8.06.1929 Akşehir'in Eriköz (Eğrigöz) köyünden Ahmet Haşim
Murder / Personal animosity (2 men) N/A Execution
- 515 8.06.1929 Hasanoğlu İbişMurder / Illicit love affair (1 man)
N/A N/A
- 528 11.12.1929 Alaşehirin Dinarlı köyünden Hacı İsmail namı diğer
Ayaşlı oğullarından İbrahimoğlu Halim Murder / Personal ani-
mosity (1 man) N/A Execution

529	16.12.1929	Şişli oğullarından Yakupoğlu Ali	Murder / Rape	(1 woman) N/A	Execution
533	21.12.1929	Siverekli Hacı Eyüpoğullarından Eyüpoğlu Memet Suphi	Murder / Personal animosity (2 men)	N/A	Execution
537	22.12.1929	Safranbolu'nun Ovanın Tintin (Ovatintin) köyünden Tintinoğlu (Feyzioğlu) Kazım (Kara Hazim)	Murder (1 man)	N/A	Execution
537	22.12.1929	and Ceninoğlu (Eminoğlu) (Mustafaoğlu) Halil	Murder (1 man)	N/A	Execution
545	3.02.1930	İsmailoğlu Memedi öldüren Kozanın Hamam Köyünden Bekiroğlu Cafer	Murder (1 man)	N/A	Execution
549	19.02.1930	Alâiyenin Köprülü Nahiyesinin Orta köyünden Kölemen oğlu Ali	Murder (1 woman, 2 men)	N/A	Execution
550	19.02.1930	and kardeşi Memed	"Murder (1 woman, 2 men)	N/A	Execution
550	19.02.1930	Saimbeyli Kazasının Çanak köyünden Alioğlu Mustafa	Murder (1 man)	N/A	Execution
551	27.02.1930	Gedizin Küçükler (Gökler) köyünden Emin oğullarından Mustafa oğlu kömürcü Molla Mustafa	Murder / Intention to marry (1 man)	N/A	Execution
552	26.02.1930	İnegölün Genci köyünden Bekiroğlu İsmail	Murder (1 woman, 1 man)	N/A	Execution

- 554 30.03.1930 Arapsunun Ecik ağıl köyünden olup Mucurun Kabaca köyünde mukim Kâhya oğullarından Abbasoğlu İbrahim Murder / Robbery (1 man) N/A Execution
- 554 30.03.1930 and Köseoğullarından Memetoğlu Mustafa Murder / Robbery (1 man) N/A Execution
- 557 15.04.1930 Nevşehir'in Herekli mahallesinden Dervişoğlu Mustafa Murder (2 men) N/A Execution
- 558 15.04.1930 Ödemiş'in Umur Köyünden Hacı Yusuf oğullarından Sarı Gelinin Memetoğlu Memed Murder / Robbery (1 man) N/A Execution
- 559 15.04.1930 Tosyanın Deden köyünden Alioğlu Şevki Patricide (1 man) N/A Execution
- 560 15.04.1930 Uzunâim köyünden Musaoğlu Abdullah Murder (1 man) N/A Execution
- 564 26.05.1930 Erzurumun Kolhisar Köyünden Kadri oğullarından Memedoğlu Hüseyin Murder / Robbery (1 man, 2 women, 2 children) N/A Execution
- 564 26.05.1930 Atarı mahallesinden Abdurrahmanoğlu Muslu Murder / Robbery (1 man) N/A Execution
- 564 26.05.1930 Göstereli Oğullarından Hüseyinoğlu Pir Alî Murder / Blood feud (2 men) N/A Execution
- 564 26.05.1930 Kurkut Elili Bekçi Osmanoğlu Çakıcı Mustafa Murder / Robbery (1 woman, 1 man) N/A Execution
- 564 26.05.1930 Ayancığın Söke Çayırı köyünden Sapancı oğullarından Ahmetoğlu Şükrü Murder (2 women) N/A Execution
- 564 26.05.1930 Bartın'ın Kaman köyünden Hasanoğlu Haşim Murder / Burglary (1 woman) N/A Execution

564	26.05.1930	Sürücün Boztepe Köyünden Tahir ve oğlu Mehmedi öldüren Sürücün ziyaret Köyünde Şeyhoğlu Halil	Murder / Robbery (1 man, 1 child)	N/A	Execution
564	26.05.1930	Biganın Cihadiye Köyünden Sefimoğlu (Salimoğlu) İbrahim	Murder (1 man)	N/A	Execution
575	14.06.1930	Akçaabadın Ahende Köyünden Karacaoğullarından Bağdatoğlu Mıkdat (Mıktat) Hasan	Murder (1 man)	N/A	Execution
575	14.06.1930	Amasyanın Bağlıca Köyünden Bülbüloğullarından Alioğlu Arif	Murder / Rape (1 woman)	N/A	Execution
575	14.06.1930	Kuyucak nahiyesinden Musaoğlu Ahmed	Murder / Burglary (2 women)	N/A	Execution
575	14.06.1930	Sındırgının Rızaiye köyünden Ahmetoğlu İsmail	Murder / Rape (1 woman)	N/A	Execution
586	3.12.1930	Bartının Ahmetpaşa Köyünden Kınalıoğullarından Alioğlu Memed	Murder (2 men)	N/A	Execution
587	3.12.1930	Şükrüoğlu Deli İsmail	Murder / Robbery (1 man)	N/A	Execution
587	3.12.1930	and Ahmetoğlu Mahir	Murder / Robbery (1 man)	N/A	Execution
587	3.12.1930	and Alioğlu İzmiz (Emir) İsmail	Murder / Robbery (1 man)	N/A	Execution
587	3.12.1930	and Faikoğlu Tefik	"Murder / Robbery (1 man).	N/A	Execution
588	3.12.1930	Jandarma neferi Memetoğlu İbrahim	Murder / Rape (1 woman)	N/A	Execution

- 595 10.01.1931 Çıldır'ın Meredis köyünden Zilâl oğullarından Saf-
eroğlu Pehlivan Murder (4 man) /Robbery (6+) N/A
Execution
- 596 10.01.1931 Dört yolun Ocaklı köyünden Hacı Abdurrahmanoğlu
Kavlak Mustafa Murder / Intention to marry (1man) N/A
Execution
- 597 10.01.1931 Gerezenin (Gerze'nin) Sarıyar köyünden Tonkaloğul-
larından Şakiroğlu Rasim Murder / Personal animosity (1 man)
N/A Execution
- 598 10.01.1931 Şile'nin Maşar köyünden İmamoğullarından Kara
İbrahim oğlu Süleyman Patricide (1 man) N/A Execu-
tion
- 599 10.01.1931 Zilenin Şeyhkolü mahallesinden Abdür-
rauf oğullarından Nuri oğlu Süleyman Murder / Personal ani-
mosity (2 women) N/A Execution
- 604 29.01.1931 Bor kazasının Avşiviran köyünden Murtaza oğulların-
dan Musaoğlu Bekir Murder (1 man) N/A Execu-
tion
- 605 29.01.1931 Çorumlu Mustafaoğlu Ahmed Murder (2
women) N/A Execution
- 606 29.01.1931 Kozanın Onluk köyünden Solak Süleymanoğlu Hasan
Ali Murder (1 woman) N/A Execution
- 607 29.01.1931 Ordunun Gök köy nahiyesinin Aydoğan köyünden Bay-
ramoğlu Memet Murder (2 men) N/A Execution
- 607 29.01.1931 and Memetoğlu Mahmud Murder (2 men)
N/A Execution

- 611 3.02.1931 Manisadan kahveci ıraęı Mustafa To perpetrate
the Menemen Incident and attempt a forcible alteration of the
Constitution TCK 146 Execution
- 611 3.02.1931 Manisadan Topu Hseyin To perpetrate the Mene-
men Incident and attempt a forcible alteration of the Constitution
TCK 146 Execution
- 611 3.02.1931 Manisadan Tatlıcı Mustafa Hseyin To perpetrate
the Menemen Incident and attempt a forcible alteration of the
Constitution TCK 146 Execution
- 611 3.02.1931 Manisadan Eskici Hseyin Ali To perpetrate
the Menemen Incident and attempt a forcible alteration of the
Constitution TCK 146 Execution
- 611 3.02.1931 Manisadan Keeli kynden Himmetoęlu Sleyman
To perpetrate the Menemen Incident and attempt a forcible alter-
ation of the Constitution TCK 146 Execution
- 611 3.02.1931 Manisadan Emrullahoęlu Memet To perpetrate
the Menemen Incident and attempt a forcible alteration of the
Constitution. TCK 146 Execution
- 611 3.02.1931 Bozalandan Koca Mustafa To perpetrate the Mene-
men Incident and attempt a forcible alteration of the Constitution.
TCK 146 Execution
- 611 3.02.1931 Bozalandan Hacı İsmail To perpetrate the Mene-
men Incident and attempt a forcible alteration of the Constitution
TCK 146 Execution
- 611 3.02.1931 Bozalandan Hacı İsmailoęlu Hseyin To perpetrate
the Menemen Incident and attempt a forcible alteration of the
Constitution TCK 146 Execution

- 611 3.02.1931 Menemenden Cumai Balalı Ramiz To perpetrate the Menemen Incident and attempt a forcible alteration of the Constitution TCK 146 Execution
- 611 3.02.1931 Menemenden Citaklı Molla Süleyman To perpetrate the Menemen Incident and attempt a forcible alteration of the Constitution TCK 146 Execution
- 611 3.02.1931 Menemenden Yahyaoğlu Hüseyin To perpetrate the Menemen Incident and attempt a forcible alteration of the Constitution TCK 146 Execution
- 611 3.02.1931 Menemenden Çingene Memetoğlu Ali To perpetrate the Menemen Incident and attempt a forcible alteration of the Constitution TCK 146 Execution
- 611 3.02.1931 Menemenden Hayimoğlu Jozef To perpetrate the Menemen Incident and attempt a forcible alteration of the Constitution TCK 146 Execution
- 611 3.02.1931 Menemenden Şimbılh Ali Osmanoğlu Memet To perpetrate the Menemen Incident and attempt a forcible alteration of the Constitution TCK 146 Execution
- 611 3.02.1931 Menemenden Arnavut Yusuf oğlu Kâmil To perpetrate the Menemen Incident and attempt a forcible alteration of the Constitution TCK 146 Execution
- 611 3.02.1931 Menemenden Kerimoğlu İbrahim To perpetrate the Menemen Incident and attempt a forcible alteration of the Constitution TCK 146 Execution
- 611 3.02.1931 Menemenden Selimoğlu Boşnak Abbas To perpetrate the Menemen Incident and attempt a forcible alteration of the Constitution TCK 146 Execution

- 611 3.02.1931 Menemenden Şıyh Esadinoğlu Memet Ali To perpetrate the Menemen Incident and attempt a forcible alteration of the Constitution TCK 146 Execution
- 611 3.02.1931 Manisa Hastanesi imamlığından mütekait Lâz İbrahim To perpetrate the Menemen Incident and attempt a forcible alteration of the Constitution TCK 146 Execution
- 611 3.02.1931 Manisadan Mutfak Süleyman To perpetrate the Menemen Incident and attempt a forcible alteration of the Constitution TCK 146 Execution
- 611 3.02.1931 Manisadan Manifaturacı Osman To perpetrate the Menemen Incident and attempt a forcible alteration of the Constitution TCK 146 Execution
- 611 3.02.1931 Manisadan Hafız Cemal To perpetrate the Menemen Incident and attempt a forcible alteration of the Constitution TCK 146 Execution
- 611 3.02.1931 Manisadan Tabur İmamı İlyas Hoca To perpetrate the Menemen Incident and attempt a forcible alteration of the Constitution TCK 146 Execution
- 611 3.02.1931 Manisadan Ali paşaoğlu Rağıp To perpetrate the Menemen Incident and attempt a forcible alteration of the Constitution TCK 146 Execution
- 611 3.02.1931 Manisadan Şeyh Hafız Ahmet To perpetrate the Menemen Incident and attempt a forcible alteration of the Constitution TCK 146 Execution
- 611 3.02.1931 Alaşehirde Şeyh Ahmet Muhtar To perpetrate the Menemen Incident and attempt a forcible alteration of the Constitution TCK 146 Execution

611	3.02.1931	Manisadan Giritli İbrahimoglu İsmail	To per-
		petrate the Menemen Incident and attempt a forcible alteration of	
		the Constitution TCK 146	Execution
611	3.02.1931	Manisadan terzi Talat	To perpetrate the Menemen In-
		cident and attempt a forcible alteration of the Constitution	
		TCK 146	Commutation of sentence to two years' imprisonment
611	3.02.1931	Paşa köyünden kâhya Ahmetoglu İsmailin	To per-
		petrate the Menemen Incident and attempt a forcible alteration of	
		the Constitution TCK 146	Commutation of sentence to
		two years' imprisonment	
611	3.02.1931	Göreceli Abdülkerim	To perpetrate the Menemen In-
		cident and attempt a forcible alteration of the Constitution	
		TCK 146	No legal grounds for investigation
622	23.03.1931	Kütahyanın Ortagireği köyünden Ahmetoglu Hüseyin	
		Murder / Robbery (1 woman)	N/A
		Commutation of sen-	
		tence to fifteen years' aggravated imprisonment	

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634	7.06.1931	Giresun nahiyesinin Ağırılık mahallesinden Sürmene-	
		lioğullarından Mustafaoğlu Yusuf	Murder / Rape (1 girl ?, 1 man)
		N/A	Execution
635	7.06.1931	Ilgaz'ın (Ilgının) Karacaviran nahiyesinin Eskiahir	
		köyünden Ömeroğlu Himmet	Murder / Robbery (1 man) N/A
		Execution	
638	25.06.1931	Karsın Kiro mahallesinden İsmailoğlu Nevruz	
		Murder (1 man)	N/A
		Execution	

639	25.06.1931	Rizeli Memetoğlu Ali Rıza	Murder (1 man)	AsCK 20/2, TCK 450	Execution
639	25.06.1931	and Rasimoğlu Hamd (Hamdi)	Murder (1 man)	AsCK 20/2, TCK 450	Commutation of sentence to a fifteen-year' imprisonment
640	25.06.1931	Sivas'ın Üryani müslim mahallesinden Kerimoğlu Vey-sel	Murder / Robbery (2 men)	N/A	Execution
658	9.12.1931	Bergamanın Sabihlî köyünden Osmanoğlu Ahmet Re-fik	Murder / Revenge / Robbery (2 men)	N/A	Execution
659	9.12.1931	Adapazarının Serdivan köyünden Nımanoğlu Cemal-	Murder / Intention to marry (1 man)	N/A	Execution
660	9.12.1931	Uşak'ın Banaz nahiyesinin Alaba köyünden İbrahim-	Murder / Personal animosity (1 man)	N/A	Execution
660	9.12.1931	and kardeşi İsa	Murder / Personal animosity (1 man)	N/A	Execution
661	9.12.1931	Afyon Karahisar VilâyetiAzizîye kazasının Karacalar köyünden Molla memetoğullarından Memişoğlu çete ahmet Çavuş	Murder / Rape (2 women, 1 man)	N/A	Execu-tion
662	9.12.1931	Boyabadın Binelli köyünden Çakıloğullarından Me-metoğlu kürt Hüseyin	Murder / Robbery (1 man)	N/A	Execution
663	9.12.1931	Erzincan'ın büyük Küşünker köyünden Memetoğlu Yaşar	Murder / Revenge (1 woman, 2 girls, 2 boys)	N/A	Execution
663	9.12.1931	and Şakşakoğullarından İsmailoğlu Salih	Murder / Revenge (1 woman, 2 girls, 2 boys)	N/A	Execution

- 664 9.12.1931 Ilgaz'ın Demirciler köyünden Mustafaoğlu Salik
Murder / Robbery (1 man) N/A Execution
- 665 9.12.1931 Isparta'nın Cebel nahiyesinin Darıbüğü köyünden Ala
Hasanoğullarından Hüseyin kızı Fatma Contract killer (1
woman) N/A Execution
- 699 14.04.1932 Afyon Karahisarlı Hüseyinoğlu Memet çavuş Contract
killer (1 man) N/A Execution
- 701 14.04.1932 Mihalıççığın Doğan köyünden Mutışoğlu Malik namı
diğer Malik Murder / Robbery (1 man) N/A Execu-
tion
- 703 12.05.1932 Bodrumun Yahşi köyünden Vanlı Osmanoğlu Bekir
Murder / Robbery (2 men, 2 women) N/A Execution
- 704 12.05.1932 Eskişehirin Çifteler nahiyesinin Belpmar köyünden
Dobay Osman Murder / Robbery (1 man, 1 woman) N/A Ex-
ecution
- 710 13.06.1932 Ispartanın Sekirkent nahiyesinin İleköp köyünden
Hasanoğlu Baki Murder / Robbery (1 man) N/A Execu-
tion
- 711 13.06.1932 Artinoğlu Paronak namı diğer Paragon Murder /
Robbery (1 man, 1 woman) N/A Execution
- 711 13.06.1932 and Ohanisoğlu kuyucu Kimis Murder / Rob-
bery (1 man, 1 woman) N/A Execution
- 715 3.07.1932 Erzinin Karamustafalı mahallesinden Arıkoğulların-
dan Ömeroğlu Okkasın Murder / Personal animosity (2 men)
N/A Execution
- 725 12.07.1932 Susıgırlıklı İbrahimoğulu Mustafa Murder / Rob-
bery (1 man) N/A Execution

725	12.07.1932	and Kökçeören köyünden Hasanoğlu Kara Ahmed	Murder / Robbery (1 man)	N/A	Execution
739	27.12.1932	Van vilâyeti Muradiye kazasının Kânikevan köyünden Muhtar Abo namı diğer Abdullahoğlu Ahmed	Uxoricide / Murder / Intention to marry (2 men, 1 woman)	N/A	Execution
740	27.12.1932	Sivereğin Camii kebir mahallesinden Kirkoroğlu Karebet nam diğer mühtedi Mustafa	Murder / Rape (1 woman)	N/A	Execution
755	9.05.1933	Ilgazın karacaören nahiyesinin Köprülü köyünden Battaloğullarında Alioğlu Hatip Hasan Efendi	Murder / Personal animosity (1 man)	N/A	Commutation of sentence to a fifteen-years' aggravated imprisonment
759	25.05.1933	Piriştineli Ömeroğlu Recep	Murder / Robbery (1 man)	N/A	Execution
759	25.05.1933	and İbrahimoğlu Arnavut İsmail	Murder / Robbery (1 man)	N/A	Execution
760	25.05.1933	Kütahyanm Cebrail köyünden Memetoğlu Halil	Murder / Abduction of girl / Rape (1 woman)	N/A	Execution
761	25.05.1933	Asker kaçağı Çanak Ali	Murder / Deserter (1 man)	As.CK 20 / 2, TCK 450/7	Execution
771	10.06.1933	Sivasın Velittin köyünden Eminoğlu İsmail	Murder / Robbery (1 man, 1 woman)	N/A	Execution
789	7.12.1933	Bireciğin Meydan mahallesinden Kasımoğlu Ali	Murder (2 man)	N/A	Execution

790	12.12.1933	Mikdatoğlu Ömer	Murder / Illicit love affair (1 man)	N/A	Execution
800	31.03.1934	İzmir'in Kadriye mahallesinden Hüseyin	Kasapalıoğullarından Murder / Robbery (1 woman)	N/A	Execution
801	31.03.1934	Mersinin Rozön köyünden Deli Haliloğlu Mustafa	Murder (1 man)	N/A	Execution
802	31.03.1934	Yozgatın Köseoğlu mahallesinden Çuhadaroğullarından Ahmet Bekiroğlu Ali Hüseyin	Murder / Robbery (1 woman)	N/A	Execution
807	16.05.1934	Yozgadın Sorgun kazasının Karakız köyünden İsmailoğlu Yusuf	Murder (as a Contract killer) / Revenge (1 woman, 1 man)	N/A	Execution
807	16.05.1934	and Hüseyinoğlu Cin Ali	Murder (as a Contract killer) / Revenge (1 woman, 1 man)	N/A	Execution
812	13.06.1934	Kilisin Büyük Kütah mahallesinden Köşker Sabitoğlu Yusuf	Matricide / Burglary (1 woman)	N/A	Execution
813	13.06.1934	Ordunun Batamı köyünden Haliloğlu Aslan	Murder / Jealousy (1 man)	N/A	Execution
816	17.06.1934	Lüleburgazın Büyükkarıştıran köyünden Veli kızı Sad-berk	Matricide / Robbery / Illicit love affair (1 man)	N/A	Execution
818	23.06.1934	Akşehirin Tuzlukçu nahiyesinin Aşağı mahallesinden Osmanoğlu Mustafa	Murder / Revenge (1 man)	N/A	Execution
819	23.06.1934	Licenin Potyan köyünden Alioğlu Memet Ali	Murder / Robbery (4 men)	N/A	Execution

- 820 23.06.1934 Salihoğlu Dursun Murder / Robbery (1 man, 1 woman, 3+ persons) N/A Execution
- 824 7.07.1934 Aydın'ın Çine kazasının Bölüntü köyünden Evliyaogulları diğernamı Müdüroğulları şöhretli Memetoğlu Mustâfa Murder / Rape (1 boy) N/A Execution
- 825 7.07.1934 Boyabadın Düzkaraağaç köyünden Yusüfoğlu İbrahim Murder / Abduction of girl (1 woman, 1 man) N/A Execution
- 826 7.07.1934 Konya'nın mamuriye mahallesinden Mahmut Murder / Robbery (1 woman, 1 person) N/A Execution
- 826 7.07.1934 and Aksarayın Gelveri köyünden Yusuf oğlu Hasan çavuş Murder / Robbery (1 woman, 1 person) N/A Execution
- 827 7.07.1934 Malatyanın Komik köyünden Süleymanoğlu Memet Murder / Intention to marry / Revenge (1 man) N/A Execution
- 831 10.07.1934 Erdek kazasının Yukarıyapıcı köyünden Memetoğlu Kara Hasan Murder / Robbery (1 man) N/A Execution
- 832 10.07.1934 Konyanın Çumra kazasının Güvercinlik karaman kırı köyünden Çakır Yusuf oğlu Derviş Murder / Robbery (1 woman, 2 men) N/A Execution
- 832 10.07.1934 and Celiloğlu Memet Murder / Robbery (1 woman, 2 men) N/A Execution
- 832 10.07.1934 and Mollanın Ahmet oğlu Receb Murder / Robbery (1 woman, 2 men) N/A Execution

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- 850 17.04.1935 Beyşehirin Hüseyinler köyünden Dirhemoğullarından Memetoğlu Ahmed Murder / Personal animosity (2 men) N/A Execution
- 851 17.04.1935 Şebin Karahisarın Bülbül mahallesinden Topal, diğer adı Köleoğullarından Memetoğlu İbrahimim Murder / Robbery (1 woman) N/A Execution
- 852 17.04.1935 Urfanın Harran kazasında Derfiloğullarından İbrahimioğlu Ömer Murder / Intention to marry / Revenge (1 woman, 1 man) N/A Execution
- 853 17.04.1935 Ankaranın Aktaş mahallesinde mukim Üsküplü Alioğlu Ayet Murder (1 man) N/A Execution
- 854 17.04.1935 Ayvacık kazasının Kuzlu köyünden İsmailoğlu Memed Patricide / (1 man) N/A Execution
- 855 17.04.1935 Simavın Kırkkavak köyünden Molla Osmanoğullarından Alioğlu Hüseyin Murder / Intention to marry (1 man) N/A Execution
- 856 17.04.1935 Sinobun Başsöke köyünden Hacıoğullarından Memed Alioğlu Memed Murder / Personal animosity (1 man) N/A Execution
- 857 17.04.1935 Tokatın mesudiye kazası merkez karakol efradından Bursalı Ahmedoğlu Ramiz Murder / Personal animosity (1 man) As.CK 20/2 Execution
- 858 25.04.1935 Akziyaret nahiyesinin Yukarı Kürdük köyünden Çeçoğlu Abdurrahman Murder / Personal animosity (1 man) N/A Execution

- 859 25.04.1935 Manavgat'ın Karabük köyünden Hacı oğullarından Ahmedoğlu Memed Murder (1 man) / Robbery N/A Execution
- 860 25.04.1935 Halebin Abraç mahallesinden Abidinoğlu Hüseyin Fevzi Uxoricide (1 woman) N/A Execution
- 861 25.04.1935 Tirebolunun Arageriş köyünden Mehdiogullarından Haliloğlu Asım Murder / Personal animosity (1 man) N/A Execution
- 861 25.04.1935 and Kavgaogullarından Emiroğlu Hüseyin Murder / Personal animosity (1 man) N/A Execution
- 863 1.05.1935 Edirnenin Abalar köyü korucusu Neziroğlu Aziz Murder / Abduction of girl (1 man) N/A Execution
- 864 1.05.1935 Urfanın Horoz köyünden Sairoğlu Salih Murder / Revenge (1 man) N/A Execution
- 866 4.05.1935 Bayramiçin Küçüklü köyünden Haliloğlu Halil İbrahim Murder / Robbery (1 man) N/A Execution
- 888 26.05.1935 Sivereğin Teverek köyünden Haliloğlu Abdullah Murder (1 man) N/A Execution
- 890 10.06.1935 Çalın Dede köyünden Osmanoğlu Ömer Murder / Robbery (1 man, 2 women) N/A Execution
- 890 10.06.1935 and Kulanın Çamjikebir mahallesinden Memetoğlu Hakkı Murder / Robbery (1 man, 2 women) N/A Execution
- 890 10.06.1935 and Çalın Şeyhelvan köyünden Memetoğlu Veli Murder / Robbery (1 man, 2 women) N/A Execution
- 890 10.06.1935 and Kuruçayın Çorak köyünden Memetoğlu Cafer Murder / Robbery (1 man, 2 women) N/A Execution

- 891 10.06.1935 Salihlinin Gele köyünden İraşuvalı Memedoğlu arabacı Halil Murder / Robbery (2 women) N/A Commutation of sentence to a twenty-four-year' imprisonment
- 891 10.06.1935 and Maksudoğlu çapacı Sadri Murder / Robbery (2 women) N/A Commutation of sentence to a twenty-four-years' imprisonment
- 897 3.10.1935 Düzcenin Nüfren (Nuhviran) köyünden Mustafaoğlu Emin diğer namı Yemin Murder / Robbery (3 men) N/A Execution
- 897 3.10.1935 and Akyazı Beynevit köyünden Mustafaoğlu Zekeriya Murder / Robbery (3 men) N/A Execution
- 898 3.10.1935 Söke'nin Çeltikçi mahallesinden Yusufogullarından Hacı Şerifoğlu Cambaz Süleyman Çavuş Murder / Robbery (1 man) N/A Execution
- 898 3.10.1935 and Koçarlı nahiyesinin Tekeli köyünden kör Aliogullarından Alioğlu Hasan Murder / Robbery (1 man) N/A Execution
- 898 3.10.1935 and Aydının Üzümlü köyünden Ali Beyogullarından Süleymanoğlu Hüseyin Murder / Robbery (1 man) N/A Execution
- 912 17.12.1935 Amasyanın Derebaşalan köyünden Köylüogullarından Ali Osmanoğlu Süleyman Murder / Personal animosity (1 man) N/A Execution
- 912 17.12.1935 and Sarıogullarından Memetoğlu Nuri Murder / Personal animosity (1 man) N/A Execution
- 912 17.12.1935 and Çorukçuoğullarından Memetoğlu Süleyman Murder / Personal animosity (1 man) N/A Execution

- 912 17.12.1935 and Sarioğullarından Ahmetoğlu Halil İbrahim
Murder / Personal animosity (1 man) N/A Execution
- 916 26.12.1935 Pazar kazasının Pazar mahallesinden Naimoğlu arın-
dan Memedoğlu Hasan Murder / Intention to marry (1 woman)
N/A Execution
- 917 26.12.1935 Tarsusun Şamh mahallesinden Nuhoglu Süleyman
Patricide (1 man) N/A Execution
- 922 6.01.1936 Adapazarın Beşköprü köyünden Abdurrahmanoğlu
Hızır diğer adı Nazır (Nezir) Murder / Personal animosity (1
man) N/A Execution
- 925 1.02.1936 Rizenin Selimiye köyünden Piyadeogullannndan
İslamoğlu Mustafa Murder / Robbery / Revenge (3 men) N/A Ex-
ecution
- 925 1.02.1936 and Şatoğullarından Saferoflu Hüseyin Murder /
Robbery / Revenge (3 men) N/A Execution
- 925 1.02.1936 and Hasanoğlu Bekir Murder / Robbery / Revenge (3
men) N/A Execution
- 925 1.02.1936 and Demircioğullarından Abdioğlu Hakki diğer adı
Mustafa Murder / Robbery / Revenge (3 men)N/A Execu-
tion
- 926 4.02.1936 Muğla'nın Karakuyu köyünden Salih kızı Ümmühan
Mariticide / Illicit love affair (1 man) N/A Execution
- 939 13.05.1936 Muğla'nın Gazeller köyünden Ramazanoğlu Ali
Murder (1 man) N/A Execution
- 941 20.05.1936 Maraş'ın Yenikale nahiyesinin Yeni köyünden Süley-
man Kahyaoğlu Memed Murder / Personal animosity (1 man)
As.CK 20/2 Execution

- 973 9.02.1937 Giresun'un Bayrambey köyünden Haşımoğlu şöhretli Durmuşoğlu Kadir Uxoricide (1 woman) N/A Execution
- 974 10.02.1937 Bartın'ın Sarmaşık köyünden Mustafaoğlu Asım Murder / Personal animosity (1 man) N/A Execution
- 995 7.06.1937 Akşehirin Meydan mahallesinden Seyid Ahmedoglu Hüseyin Murder / Robbery (1 man) N/A Execution
- 996 7.06.1937 Babaeskinin Çengerli köyünden Mahmudoğlu Murad-Murder / Intention to marry (1 man) N/A Execution
- 997 7.06.1937 Bozkır'ın Kınık köyünden Ahmedoğlu Memed Ali-Murder / Abduction of girl (1 man) N/A Execution
- 998 7.06.1937 Kilisin Karaali mahallesinden Memedoğlu İsmailMurder / Burglary (1 man) N/A Execution
- 999 7.06.1937 Muradiyenin Aşağı Kortikan köyünden Hasan koy nüfus sicilinde mukayyed Davetioğlu Memed Murder / Robbery (1 woman) N/A Execution
- 1002 10.06.1937 Rizenin Haremtepe köyünden Eminoğullarından Selimoğlu Mustafa Murder / Illicit love affair (1 woman) N/A Execution
- 1003 10.06.1937 Somanın Kozanlı köyünden Saidoğullarından Memed Alioğlu Memed Murder / Personal animosity (1 man, 1 woman) N/A Execution
- 1005 15.06.1937 Ayancık'ın Haremşah köyünden Tütüncüoğullarından Şükrüoğlu Memed Murder / Abduction of girl (1 man) N/A Execution

1006	15.06.1937	Keskin'in Mahmatlıbaba köyünden Çavuşoğullarından Osmanoglu Ömer Murder / Personal animosity (1 man, 1 woman)	N/A	Execution
1007	15.06.1937	Yenişehir'in Kızıl köyünden Ahmedoğlu Hüseyin Uxoricide / Murder / Robbery (1 man, 2 woman)	N/A	Execution
1016	11.11.1937	Çine'nin Demirdere köyünden Salihoğlu Ahmet Murder / Robbery (1 man)	N/A	Execution
1016	11.11.1937	and Salihoğlu Osman "Murder / Robbery (1 man)	N/A	Execution
1017	11.11.1937	Erzincan'ın Silbis köyünden Mahmudoğlu Muhittin Murder / Intention to marry (1 man)	N/A	Execution
1018	11.11.1937	Kilisin Arab (Arzab) köyünden Mustafaoğlu Cırık Hasan Murder / Personal animosity (1 man)	N/A	Execution
1019	11.11.1937	Uşak'ın Hamidiye mahallesinden Mazakoğullarından Mustafaoğlu Memed Murder / Robbery (1 man)	N/A	Execution
1036	10.03.1938	Ükkaşoğlu Tahir asil adı Memed Zorarabacı Murder / Robbery (1 woman)	N/A	Execution
1037	11.03.1938	Mustafa Kargı Uxoricide / Murder / Personal animosity (1 man, 1 woman)	N/A	Execution
1039	15.03.1938	İbrahim Türk Murder / Abduction of girl (1 man)	N/A	Execution
1043	30.04.1938	Hacı Alkuş Murder / Contract killer (1 man)	N/A	Execution
1044	4.05.1938	Ali Osman Koç Murder / Personal animosity (1 man)	N/A	Execution

1046	4.05.1938	Osman Aktaş	Murder / Personal animosity (1 man)	N/A	Execution
1047	6.05.1938	Ayşe Gelget	Murder (1 woman, 1boy)	N/A	Execution
1049	12.05.1938	Osman Calkın	Murder / Robbery (3 men)	N/A	Execution
1049	12.05.1938	and Dinar'ın Yeregiren köyünden Karagözoğulları'ndan Hidayetoğlu Battal	Murder / Robbery (3 men)	N/A	Execution
1050	17.05.1938	Ahmed Turan	Murder / Contract killer (1 man)	N/A	Execution
1052	3.06.1938	Halebli Hacı Mehmed oğlu Abdo Devvare	Murder (1 boy)	N/A	Execution
1053	8.06.1938	Mehmet Karahavzan	Murder / Robbery / Rape (1 woman)	N/A	Execution
1054	10.06.1938	Bafra'nın Dededağı köyünden Mehmedoğlu Çete namile maruf Çolak Hasan Bayrak	Murder (2 men)	N/A	Execution
1056	23.06.1938	Garib Demir Kayaoğlu (Demirkay)	Murder / Illicit love affair (1 man)	N/A	Execution
1057	23.06.1938	Bostancı Osman Eflâtun	Murder / Personal animosity (2 men)	N/A	Execution
1058	1.07.1938	İnegöl'ün Osmaniye köyünden Arifoğlu Cevdet	Murder / Personal animosity (1 man)	N/A	Execution
1071	23.01.1939	Mustafa Baltacı	Murder / Robbery (1 man)	N/A	Execution

1072	25.01.1939	Memed Ersoy	Murder / Personal animosity (1 man)	N/A	Execution
1074	30.01.1939	Mehmed Ali Kara	Murder (1 man)	N/A	Execution
1075	30.01.1939	Satılmış Kaya	Murder / Personal animosity (1 man)	N/A	Execution
1076	30.01.1939	Hakkı Biçici	Murder / Rape / Abduction of woman (1 woman)	N/A	Execution
1077	30.01.1939	Halil Önder	Murder / Revenge (2 men, 1 woman)	N/A	Execution

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1088	13.05.1939	Lûtfi Tanrıver	Murder / Abduction of girl (1 man, 1 woman)	N/A	Execution
1089	16.05.1939	Didar Savaş	Mariticide (1 man)	N/A	Execution
1089	16.05.1939	and Adil Gürelin	"Murder (1 man)	N/A	Execution
1091	17.05.1939	Mustafa Akıncı	Murder (1 woman)	N/A	Execution
1094	22.05.1939	Eminoğlu Edib diğer adı Memed Gelen	Murder / Robbery (2 men)	N/A	Execution
1095	22.05.1939	Hasan Tari diğer adı Karahasan Tari	Murder / Robbery (1 man)	N/A	Execution

1096	23.05.1939	Köstanoğlu Ohanis diğer adı Celâl Karabulut	Murder / Personal animosity / Robbery (1 man, 1 woman, 4 children)	N/A	Execution
1096	23.05.1939	and İstepanoğlu Hampar Şan	"Murder / Personal animosity / Robbery (1 man, 1 woman, 4 children)	N/A	Execution
1097	23.05.1939	Memet Alkan	Murder / Robbery (1 man)	N/A	Execution
1099	9.06.1939	Hasan Ali Tonya	Murder (1 man)	N/A	Execution
1100	9.06.1939	Bayram Oktay	Murder / Personal animosity (1 man)	N/A	Execution
1101	9.06.1939	Abdullah Kırtıl	Murder / Revenge (2 men, 1 woman)	N/A	Execution
1102	12.06.1939	Ali Ürkmez	Murder / Abduction of girl / Rape (1 man)	N/A	Execution
1103	12.06.1939	Huriye Seneli	Murder / Robbery / Revenge (1 girl)	N/A	Execution
1104	12.06.1939	Cemal Sakar	Murder (1 man)	N/A	Execution
1105	14.06.1939	Hasan Çay	Uxoricide (1 woman)	N/A	Execution
1106	14.06.1939	Ali Afın	Murder / Robbery (1 man)	N/A	Execution
1107	14.06.1939	Ahmed Baktır	Murder / Rape (1 boy)	N/A	Execution

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1109	17.06.1939	Ali Çelik	Murder (4 men, 1 woman)	N/A	Execution
1110	17.06.1939	Osman Taşır	Murder / Personal animosity (1 man)	N/A	Execution
1111	17.06.1939	Said Yılmaz	Murder / Personal animosity (1 man, 1 woman)	N/A	Execution
1112	19.06.1939	Ziya Sönmez Yalçın	Murder / Robbery (1 woman)	N/A	Execution
1112	19.06.1939	and Şaban Kutluer	"Murder / Robbery (1 woman)	N/A	Execution
1113	19.06.1939	Halil Tufan	Uxoricide / Murder (3 women)	N/A	Execution
1114	19.06.1939	Kara Hasan Korkakoğlu	Murder / Revenge (4 men)	N/A	Execution
1116	23.06.1939	Fatma Satıl	Mariticide / Illicit love affair (1 man)	N/A	Execution
1117	23.06.1939	Yunanoğlu Beros diğer adı Yaşar Özdemir	Murder (1 woman)	N/A	Execution
1118	23.06.1939	Hasan Altmırmak	Murder / Personal animosity (1 man)	N/A	Execution
1118	23.06.1939	and Memedoğlu Receb Çimir	Murder / Personal animosity (1 man)	N/A	Execution
1119	23.06.1939	İlyas Katsakoç	Murder / Robbery (1 man)	N/A	Execution
1119	23.06.1939	and Bayram Karakuzu	Murder / Robbery (1 man)	N/A	Execution

1120	23.06.1939	Durmuşoğlu Kara Memed Yılan	Murder / Robbery (1 man)	N/A	Execution
1121	23.06.1939	Hilmi Sısık	Murder / Robbery (2 men)	N/A	Execution
1121	23.06.1939	and Dilâver Akış	Murder / Robbery (2 men)	N/A	Execution
1122	27.06.1939	Yusuf Deren	Uxoricide / Murder (2 men, 2 women)	N/A	Execution
1123	27.06.1939	Fatma Yıldırım	Mariticide / Illicit love affair (1 man)	N/A	Execution
1124	27.06.1939	Polos nahiyesinin Karakoç köyünden Rifatoglu Eyübtas	Murder / Contract killer (1 man)	N/A	Execution
1124	27.06.1939	and Musa Doğrukan	"Murder / Incitement (1 man)	N/A	Execution
1126	27.06.1939	Habib Kaçak	Murder / Robbery (1 man)	N/A	Execution
1127	27.06.1939	Bilâl Selin	Murder / Abduction of girl (2 men, 1 woman)	N/A	Execution
1128	27.06.1939	Memmed Emin Özçak	Murder / Robbery (1 man)	N/A	Execution
1130	30.06.1939	Ali Birca	Murder (1 man)	N/A	Execution
1131	30.06.1939	Bozan Ali Gürsoy	Attempting to seize part of Turkish territory from the government / Murder	N/A	Execution

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1140	12.07.1939	Remzi Uzun	Murder / Rape (1 woman)	N/A	Execution
1141	12.07.1939	Nuri Deniz	Murder / Rape (1 man)	N/A	Execution
1142	12.07.1939	Ragıp Seçer	Murder / Robbery (1 man)	N/A	Execution
1143	12.07.1939	Ali Ürkmer	Murder / Personal animosity (1 man, 1 woman)	N/A	Execution
1144	12.07.1939	Bayram Kaleli	Murder / Personal animosity (1 man)	N/A	Execution
1148	20.12.1939	Ebuzer Erdil	Murder / Personal animosity (1 man)	N/A	Execution
1148	20.12.1939	and küçük Ebuzer Erdil	"Murder / Personal animosity (1 man)	N/A	Execution
1149	20.12.1939	Bilâloğlu Ahmet diğer adı Ahmet Salih Tüzün	Murder / Personal animosity (2 men)	N/A	Execution
1150	26.12.1939	Memet Seyran	Murder / Personal animosity (2 boys, 1 girl)	N/A	Execution
1151	26.12.1939	Ali Bari	Murder / Rape (1 boy)	N/A	Execution
1159	28.12.1939	Celâl Kalpus	Murder / Revenge (1 man)	N/A	Execution
1160	28.12.1939	Osman Kal	Murder (1 man)	N/A	Execution
1161	29.12.1939	Mustafa Karabulut	Murder / Robbery (1 man)	N/A	Execution

1212	2.04.1941	Ali Çağlar	Murder / Robbery (1 man)	N/A	Execution
1213	4.04.1941	Veli Acar	Murder (1 man)	N/A	Execution
1214	4.04.1941	Namaz Koçak	Murder / Personal animosity (1 man, 1 woman)	N/A	Execution
1215	8.04.1941	Hasan Yılmaz	Murder (1 woman)	N/A	Execution
1216	8.04.1941	İsmail Dede	Murder / Rape (1 woman)	N/A	Execution
1217	9.04.1941	Mustafa Korkmaz	Murder / Personal animosity (1 woman)	N/A	Execution
1218	9.04.1941	Memet Gökgöz	Murder / Robbery (1 woman)	N/A	Execution
1219	11.04.1941	Altındış Mustafa Küçükaydınlı	Murder / Robbery (1 man)	N/A	Execution
1220	11.04.1941	Hacı İbrahimogullarından Zaim diğer adı Saimoğlu Naci Erdiker	Murder / Rape (1 boy)	N/A	Execution
1221	15.04.1941	Şükrü İlbasmış	Murder / Robbery (1 man)	N/A	Execution
1222	15.04.1941	Memed Salime	Murder / Personal animosity (2 men)	N/A	Execution
1224	17.04.1941	Kasım Afacan	Murder / Revenge (1 girl)	N/A.	Execution
1224	17.04.1941	and Kara Mustafa Özkula	Murder / Revenge (1 girl)	N/A	Execution

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1225	17.04.1941	Cemil Yurgan	Murder / Personal animosity (1 man)	N/A	Execution
1226	21.04.1941	Davut Turğud	Murder / Personal animosity (2 man)	N/A	Execution
1227	21.04.1941	Asım Gedik	Murder (1 man)	N/A	Execution
1228	21.04.1941	Hacı Osman Selçuk	Murder / Rape (1 girl)	N/A	Execution
1229	21.04.1941	Hasan Yılmaz	Murder / Robbery (1 man, 1 woman)	N/A	Execution
1230	24.04.1941	Ali Öztürk	Murder / Personal animosity (2 men)	N/A	Execution
1231	24.04.1941	Memet Bektaş	Murder / Revenge (1 man, 1 woman)	N/A	Execution
1232	29.04.1941	Bayram Pur	Murder / Revenge (1 boy)	N/A	Execution
1233	29.04.1941	Ali Rıza Çölgeçe	Murder / Intention to marry (1 woman)	N/A	Execution
1235	2.05.1941	Kadir Aygü	Murder (1 man) / Robbery	N/A	Execution
1236	2.05.1941	Memet Altmış	Murder (1 man) / Robbery	N/A	Execution
1237	5.05.1941	Memet Yaylalı	Murder (1 man, 1 woman) / Robbery	N/A	Execution
1247	23.06.1941	Süleyman Yılmaz	Murder (1 man, 1 woman) / Personal animosity	TCK 450/4,5	Execution

1248	23.06.1941	Mustafa Özdemir	Murder (1 man) / Robbery	N/A	Execution
1250	25.06.1941	Süleyman Akbulut	Murder (2 men) / Personal animosity	N/A	Execution
1251	25.06.1941	Davut Gürler	Murder (3 women) / Robbery	N/A	Execution
1251	25.06.1941	Ali Kaplan	"Murder (3 women) / Robbery	N/A	Execution
1252	1.07.1941	Bahattin Aksun	Murder (1 man) / Illicit love affair TCK 450?/ 3,9		Execution
1278	25.03.1942	Terfik Alpekin	Murder (1 man) / Personal animosity	TCK 450/4	Commutation of sentence to a twenty-year' imprisonment
1257	19.09.1941	Sait Yener	Murder (1 woman) / Personal animosity	N/A	Execution
1259	22.09.1941	Ahmed Cingöz	Murder (1 woman) / Robbery	TCK 450/4,7	Execution
1263	18.12.1941	Ali Özateş	Murder (1 man)	N/A	Execution
1263	18.12.1941	and Fettah Özateş	Murder (1 man)	N/A	Execution
1264	27.12.1941	Hüsmen Haylaz	Murder (1 man) / Robbery	TCK 450 / 7	Execution
1265	5.01.1942	Hüseyin Gümüş	Murder (1 man, 1 woman) / Rape	TCK 450 /5, 7	Execution

BEHIND THE GALLOWS

1269	20.01.1942	Memed Diri	Murder (1 man)	As.CK 91 / 4	Execution
1269	20.01.1942	and Memed Sital	Murder (1 man)	As.CK 91 / 4	Execution
1280	6.05.1942	Mustafa Karabaş	Murder (2 women) / Personal animosity	TCK 450 / 5	Execution
1281	6.05.1942	Gülsüm Kotanak	Mariticide (1 man)	TCK 450 / 4	Execution
1282	16.05.1942	Ali Derebek (Diğer adı Kuzdağoglu)	Murder (1 man, 2 women) / Robbery / Rape	TCK 450 / 9	Execution
1283	16.05.1942	Salih Sürpük	Murder (1 man) / Robbery	TCK 450 / 8	Execution
1283	16.05.1942	and Osman Güneri	Murder (1 man) / Robbery	TCK 450 / 8	Execution
1285	25.05.1942	Adem Geldi	Murder (1 man) / Intention to marry / Robbery	N/A	Execution
1286	25.05.1942	Muzafferoğlu Ali	Military espionage	As.CK 56 / 1a	Execution
1286	25.05.1942	and Memedoğlu Yusuf	Military espionage	As.CK 56 / 1a	Execution
1286	25.05.1942	and Memedoğlu Yunus	Military espionage	As.CK 56 / 1a	Execution
1287	28.05.1942	Satı Özdağ	Murder (1 woman) / Revenge	TCK 450 / 4	Execution
1288	28.05.1942	Nâzım Yolal	Murder (1 man) / Robbery	TCK 450 / 9	Execution

1292	8.06.1942	Ali Kılıçdemir	Murder (1 man) / Robbery	N/A	Execution
1292	8.06.1942	and Abdurrahman Çığ	Murder (1 man) / Robbery	N/A	Execution
1293	8.06.1942	Osman Uçar	Murder (1 woman) / Robbery	N/A	Execution
1294	8.06.1942	Talhaoğlu Sadi (Diğer adı Sadullah Kalkan)	Attempting to seize part of Turkish territory from the government / Murder	TCK 125	Execution
1295	8.06.1942	Küçük Alioğlu Memet Sar	Murder (1 man) / Robbery	TCK 450 / 7	Execution
1296	12.06.1942	Ömer Yengi	Murder (1 man) / Personal animosity	TCK 450 / 4	Execution
1297	12.06.1942	Zülâli Acar	Murder (1 man) / Robbery	TCK 450 / 8	Execution
1297	12.06.1942	and Şehbender Kobuk"	Murder (1 man) / Robbery	TCK 450 / 8	Execution
1298	12.06.1942	Memet Çatlı	Murder (1 man)	N/A	Execution
1299	12.06.1942	Abdi Bayhan	Murder (1 woman) / Robbery	TCK 450 / 4,7	Execution
1300	15.06.1942	Ömer Şentürk	Murder (1 man) / Illicit love affair	N/A	Execution
1301	15.06.1942	Recep Bilik	Murder (2 men) / Robbery	TCK 450 / 4,7	Execution

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1304	18.06.1942	Mustafa Çelik	Murder (1 man)	N/A	Execution
1305	20.06.1942	Hüseyin Kâhya	Murder (3 men) / Personal animosity	TCK 450 / 4,5	Execution
1306	20.06.1942	Hüsnü Kayar	Murder (1 man) / Contract killer	TCK 450 / 4	Execution
1306	20.06.1942	and Aziz Aldun	"Incitement	TCK 64; 450 / 4	Execution
1307	20.06.1942	Necati Yoldaş	Murder (1 man)	TCK 450 / 4	Execution
1308	23.06.1942	Ahmed Savaş	Murder (1 man) / Contract killer	N/A	Execution
1308	23.06.1942	and Memet Ali Sarıdoğan	Incitement	N/A	Execution
1311	13.08.1942	Bacı Ayhane	Mariticide (1 man) / Intention to marry	TCK 450 / 4	Execution

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1332	26.04.1943	Raşit Demir	Murder (2 women)	TCK 450 / 5	Execution
1333	17.05.1943	Hüseyin Özkaragöz	Murder (1 man, 1 woman, 1 girl, 1 boy) / Robbery	TCK 450 / 4,5,9	Execution
1334	18.05.1943	Ziyaettin Atalay	Murder (1 man, 2 women) / Robbery	TCK 450 / 3, 4, 5, 8, 9	Execution

- 1334 18.05.1943 ile Musa Kâzım Akıncı Murder (1 man, 2 women) / Robbery TCK 450 / 3, 4, 5, 8, 9 Execution
- 1335 22.05.1943 Hüseyin Acar Murder (2 men) / Personal animosity TCK 450 / 4, 5 Execution
- 1336 22.05.1943 İsmail Deveci Murder (1 man) / Robbery TCK 450 / 7 Execution
- 1337 22.05.1943 Mustafa Erdoğan Murder (1 man) / Contract killer TCK 450 Execution
- 1338 22.05.1943 İbrahimioğlu Halil İbrahim diğer adı Ali İlbil Filicide (1 boy) N/A Commutation of sentence to the aggravated life imprisonment
- 1339 28.05.1943 Dalya Ömer Ögüt Murder (1 man, 1 woman) / Robbery TCK 450 / 4 Execution
- 1339 28.05.1943 and Kör Memed Gül Murder TCK 450 / 4 Execution
- 1340 28.05.1943 İbrahimioğlu Kulu Attempted espionage As.CK 56 / 1a Execution
- 1343 3.06.1943 Hamza Pekmez Murder (1 man) / Abduction of girl TCK 450 / 7 Execution
- 1344 3.06.1943 Mustafa Eğriboyun Murder (1 man, 1 woman) / Abduction of women TCK 450 / 5 Execution
- 1345 4.06.1943 Mustafa Aydın Murder (1 man) / Robbery TCK 450 / 9 Execution
- 1436 16.12.1944 Talip Çelik Murder (1 man) / Robbery TCK 450 / 7 Execution

1357	29.11.1943	Abdüssamet Seme	Murder (1 man) / Robbery	TCK 450 / 7	Execution
1359	16.12.1943	İbrahimoğlu İsmail diğer adı Seyid Ali Harmankaya	Murder (1 man, 1 woman) / Abduction of girl	TCK 450 / 5, 6	Execution
1360	16.12.1943	Mahmut Uyanık	Murder (1 man) / Personal animosity	TCK 450 / 4	Execution
1361	22.12.1943	Çocuk Mehmet Polat	Murder (1 man) / Personal animosity	TCK 450 / 4	Execution
1362	22.12.1943	Kıracaoğlu şöhretli Asafoğlu Keyfo Bulut	Murder (1 man) / Robbery	TCK 450 / 7	Execution
1363	24.12.1943	Küçük Halil Karadağ	Murder (2 men) / Revenge	N/A	Execution
1364	24.12.1943	Hasan Ceylân Sarıkaya	Murder (1 man)	TCK 450 / 4	Execution
1366	27.12.1943	Ahmet Özen diğer adı Koca	Murder (2 men) / Robbery	TCK 450 / 5	Execution
1378	27.03.1944	Süleyman Ürgüt	Murder (1 man) / Personal animosity	TCK 450 / 4	Execution
1379	27.03.1944	Terzioğullarından Mustafaoğlu Mustafa diğer adı Çavuş Terzioğlu	Murder (1 man) / Robbery	TCK 450 / 4, 7	Execution
1379	Death	and Mustafaş Tuncay "	Murder (1 man) / Robbery	TCK 450 / 4, 7	Death before execution
1380	27.03.1944	Ağıt Baran	Murder (1 man) / Intention to marry	TCK 450 / 4	Execution

- 1381 27.03.1944 Memet Karan Murder (1 woman) / Robbery
TCK 450 / 4, 7 Execution
- 1382 27.03.1944 Mustafa kızı Emine diğer adı Hanım Kuzu Mariti-
cide (1 man) / Intention to marry TCK 450 / 4 Execution
- 1383 1.04.1944 Bilâl Aydın Murder (1 man, 1 woman) / Robbery
TCK 64, 450 / 5 , 9 Execution
- 1383 1.04.1944 and Mehmet Yıldız Murder (1 man, 1 woman) /
Robbery TCK 64, 450 / 5 , 9 Execution
- 1383 1.04.1944 and Mehmet Aslan Murder (1 man, 1 woman) /
Robbery TCK 64, 450 / 5 , 9 Execution
- 1383 1.04.1944 and Mevlût Taş, diğer adı Adıgüzel Murder (1 man, 1
woman) / Robbery TCK 64, 450 / 5 , 9 Execution
- 1384 1.04.1944 Cafer Argun Murder (1 man) / Illicit love affair
TCK 450 / 4 Execution
- 1385 5.05.1944 Emin Aktaş Murder (1 woman) / Abduction of
women TCK 450 / 7 Execution
- 1386 5.05.1944 Eyüp Bilgic Murder (1 man) / Illicit love affair TCK
450 / 4 Execution
- 1392 8.05.1944 Ali Işıklı Murder (2 men) / Personal animosity
TCK 450 / 5 Execution
- 1393 8.05.1944 İbrahim Aktaş Murder (1 man) / Personal animosity
TCK 450 / 4 Execution
- 1394 8.05.1944 Mehmet İsa Ölmez Murder (1 man) / Personal ani-
mosity TCK 450 / 4 Commutation of sentence to a fifteen-
years' imprisonment

- 1395 25.05.1944 Çeşme'nin Ovacık köyünde Vecahet diğer adı Emine Altın Mariticide (1 man) / Intention to marry
TCK 450 / 4 Execution
- 1396 25.05.1944 Hüseyin Ali Akuş Murder (1 man) / Robbery
TCK 450 / 7, 9 Execution
- 1398 27.05.1944 Ronetto Dodiria Espionage As.CK 56 / 1a Execution
- 1399 27.05.1944 Osman Ünal Murder (1 man) / Robbery
TCK 450 / 4, 7 Execution
- 1400 27.05.1944 Ömer Özmen Murder (2 men) / Robbery
TCK 450 / 4, 5, 7 Execution
- 1405 23.06.1944 İsmail Alçay Murder (1 man) / Robbery TCK 12, 450 / 3, 4, 7, 9), AsCK 20 / 2 Execution
- 1409 10.07.1944 Haliloğlu Mehmet diğer adı Hüseyin Birincier Murder (1 man) / Robbery TCK 450 Execution
- 1410 10.07.1944 Hasan Fehmi Siper Patricide (1 man) / Robbery
TCK 450 / 1, 4 Execution
- 1411 10.07.1944 Salih Sönmez Murder (1 man) / Robbery
TCK 450 / 7 Execution
- 1412 10.07.1944 Yusuf Kalyon Murder (1 man) / Robbery
TCK 450 / 7, 9 Execution
- 1413 15.07.1944 Halit Salur Murder (2 men) / Robbery.
TCK 450 / 5, 7 Execution
- 1414 15.07.1944 Muharrem Baban Murder (1 man, 1 woman)
TCK 450 / 4, 9 Execution

- 1417 15.07.1944 Ahmet Işık Murder (1 man) / Illicit love affair
TCK 450 / 4 Execution
- 1418 15.07.1944 Durmuş Çamur Sarıoğlu Murder (1 woman) /
Robbery TCK 450 / 9 Execution
- 1419 15.07.1944 Sadık Karandi Murder (1 woman) / Revenge
TCK 450 / 3 Execution
- 1420 15.07.1944 Ali Gönüllü Filicide (1 girl) / Rape TCK 450 / 1 Exe-
cution
- 1422 19.07.1944 Cuma Gelener Murder (1 girl) / Rape TCK 450 / 9 Ex-
ecution
- 1423 19.07.1944 Mustafa Güney Murder (1 man) / Robbery TCK
450 / 7 Execution
- 1425 22.07.1944 Sabri Öztürk Murder (1 man) TCK 450 / 9 Ex-
ecution
- 1426 22.07.1944 Halil İbrahimoglu İnce Murder (1 man) / Per-
sonal animosity TCK 450 / 4 Execution
- 1427 27.07.1944 Kamet Ergene Murder (1 man) / Personal animosity
TCK 450 / 4 Execution
- 1428 27.07.1944 Kemal Güney Murder (1 man) / Personal animosity
TCK 450 / 4 Execution
- 1429 27.07.1944 Adıgüzel Ayan Murder (1 man) / Robbery.
TCK 450 / 4 Execution
- 1437 16.12.1944 Ahmet Albayrak Murder (2 men) / Revenge
TCK 450 Execution
- 1437 16.12.1944 ve İzzetoğlu Celil diğer adı Abdülcelil Venedikoğlu
Murder (2 men) / Revenge TCK 450 Execution

- 1438 20.12.1944 Reşit Cıryan diğer adı Reşit Kaptan Murder (1 man) / Robbery TCK 450 / 4 Execution
- 1439 20.12.1944 Hulusi Sürenkök Murder (1 man) / Robbery TCK 450 / 7, 9 Execution
- 1440 20.12.1944 İsmail Karakaya Murder (2 men, 1 woman) / Jealousy TCK 450 / 1, 5, 9 Execution
- 1457 9.04.1945 Ahmet Uygun Murder (1 man) TCK 450 / 3, 4 Execution
- 1457 9.04.1945 and Mustafa Çetinkaya Murder (1 man) TCK 450 / 3, 4 Execution
- 1458 9.04.1945 Mustafa Aytekin Murder (1 man) / Contract killer TCK 450 / 4 Execution
- 1471 25.06.1945 Mahmut Baştuğ Murder (14 men, 1 woman) / Rape TCK 450 / 5 Execution
- 1471 25.06.1945 and Adem Yılmaz "Murder (14 men, 1 woman) TCK 450 / 5 Execution
- 1472 27.06.1945 Mehmet Erdoğan Murder (1 man) / Robbery TCK 450 / 3, 4, 7, 8 Execution
- 1473 27.06.1945 Hilmi Çiftçi Murder (1 man) / Personal animosity TCK 450 / 4 Execution
- 1474 7.07.1945 Mustafa Gaffar Hatun Murder (1 girl) / Rape / Robbery TCK 450 / 9 Execution
- Ahmet Özer This perpetrator died before the decision for the execution of the death sentence.
- 1492 27.04.1946 Durmuş Çelikel Murder (1 boy) / Rape TCK 450 / 9 Execution

1494 6.05.1946 Mustafa Tahir Murder (1 man, 1 woman) / Personal animosity TCK 450 / 5 Execution

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1514 13.01.1947 Mehmet Demiröz Murder (2 women, 1 boy) / Robbery TCK 450 / 7 Execution

1515 17.01.1947 Hulusi Arslan Murder (1 man) / Robbery TCK 450 / 7 Execution

1516 21.01.1947 Ömer Arslan Murder (1 man) / Smuggling TCK 450 / 9 Execution

1518 21.01.1947 Misak Kasarcan Murder (1 man) / Robbery TCK 450 / 7 Execution

1519 25.01.1947 Şevket Ateşgöz Murder (1 man) AsCK 91 Execution

1526 16.05.1947 Halil Ünal Murder (1 man) TCK 450 / 4 Execution

1527 16.05.1947 Kemal Bedir Murder (1 man) TCK 450 / 3, 4 Commutation of sentence to a eighteen-years' aggravated imprisonment

1528 16.05.1947 Grigori Nieso Espionage AsCK 56 / 1a Execution

1528 16.05.1947 and Mustafa Sağır Espionage AsCK 56 / 1a Execution

1529 17.05.1947 Abdulhamit Takmak diğer adı Hamdi Mollasor Murder (1 man) / Robbery TCK 80, 450 / 9, 463, 497 Execution

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1530	17.05.1947	Hakkı Şahin	Murder (2 men, 1 woman)		
		TCK 450 / 4, 5	Execution		
1531	22.05.1947	Hüseyin Kazan	Murder (1 man) / Robbery		
		TCK 450 / 7	Execution		
1532	22.05.1947	Yusuf Gürbüz	Murder (1 man)	TCK 450 / 4	
			Execution		
1546	9.06.1947	Halil Üneş	Murder (1 man) / Robbery		
		TCK 450 / 7	Execution		
1547	9.06.1947	Mehmet Aygün	Murder (1 woman)		
		TCK 450 / 4	Execution		
1562	17.06.1947	Vahit Kahraman	Murder (1 man)		
		TCK 450 / 5, 9	Execution		
1569	1.12.1947	Ahmet Yıldız	Murder (1 man) / Robbery		
		TCK 450 / 9	Execution		
1570	27.12.1947	Ahmet Sevi	Espionage	AsCK 56 / a, d	Execution
1571	27.12.1947	Mustafa Metlek	Uxoricide / Murder (2 women, 1 man)	TCK 450 / 5	Execution
1585	23.01.1948	Ali Çelik	Murder (3 men)	TCK 450 / 5	
			Execution		
1588	3.02.1948	Salih Baştürk	Murder (1 man)	TCK 450 / 4.	
			Execution		
1602	7.05.1948	Ali Özdemir	Murder (1 man) / Robbery		
		TCK 450 / 7	Execution		
1603	7.05.1948	Süleyman Karakay	Murder (1 man) / Abduction		
		TCK 450 / 7	Execution		

1608	15.06.1948	Mehmet Akbulut	Murder (1 man) / Robbery TCK 450 / 7 Execution
1608	15.06.1948	and Yusuf Bahadır	Murder (1 man) / Robbery TCK 450 / 7 Execution
1613	22.06.1948	Sadık Kutan	Murder (1 man, 2 women) / Abduction of girl TCK 450 / 5 Execution
1615	26.06.1948	Şahande Sakmak	Murder (1 woman) / Robbery TCK 450 / 7 Commutation of sentence to a thirty-years' ag- gravated imprisonment
1633	19.01.1949	Nezir Toplu	Murder (1 man) / Robbery TCK 450 / 7 Execution
1635	9.02.1949	Mehmet Sökeli	Murder (1 man, 1 woman) TCK 450 / 5 Execution
1644	26.04.1949	Ali Kaya	Murder (1 man) TCK 450 / 8, 9 Execution
1656	1.12.1949	Abdülaziz Karayıl	Murder (1 man) / Rape TCK 450 / 9 Execution
1656	1.12.1949	and Şevket Ödekimiş	"Murder (1 man) / Rape TCK 450 / 9 Execution
Withdrawal	The file was returned to the Court		Hadra Güngör Murder (1 man) / Revenge / Robbery TCK 450 / 4, 7
1657	1.12.1949	Ahmet Gür	Murder (1 woman) / Robbery TCK 450 / 4 Execution
1678	31.12.1949	Mahmut Küçük Kurt	Murder (1 woman) / Robbery TCK 450 / 7 Execution

1682	12.01.1950	Ali Diri	Murder (1 man)	TCK 450 / 4
		Execution		
1683	12.01.1950	Mehmet Özdekim	Murder (1 man)	
		AsCK 91 / 4	Execution	

TBMM Legislative Session 9 (22.05.1950 - 12.03.1954)

Withdrawal	Murat Özdemir	Murder (1 man) / Robbery	N/A
	N/A		
Withdrawal	and Mustafaoğlu Ahmet Seri	Murder (1 man) / Robbery	
	N/A N/A		
1737	26.07.1951	Hacı Şen	Murder (1 man)
	Execution		AsCK 91 / 4
1825	17.02.1953	Ali Kemal Uygur	Murder (1 man)
	Commutation of sentence to a thirty-years' aggravated imprisonment		N/A

TBMM Legislative Session 10 (14.05.1954 - 11.09.1957)

1846	30.06.1954	Emirza Ergün	Murder (1 boy) / Rape	TCK 450 / 9 Execution
1856	18.12.1954	Babahan Taşdemir	Murder (1 man, 1 woman, 1 boy) / Robbery	TCK 450 / 5, 9 Execution
1858	18.12.1954	Rahim, diğer adı İbrahim Kırtoklu	Murder (1 woman) / Robbery	TCK 450 / 4, 9 Execution
1858	18.12.1954	and Halil Eroğlu	"Murder (1 woman) / Robbery	TCK 450 / 4, 9 Execution

1920	16.02.1955	Dursun Levent	Murder (1 man) / Robbery	TCK 450 / 7	Execution
1936	19.02.1955	İvane Adamid	Treason against the national defense	AsCK 56 / a, d	Execution
1936	19.02.1955	and Nikolay Antonof	Treason against the national defense	AsCK 56 / a, d	Execution
1939	9.04.1955	Ahmet Sütçü	Murder (1 man) / Intention to marry	TCK 64, 450 / 4	Execution
1940	11.04.1955	Hayati Karaşahin	Espionage	TCK 133; AsCK 56 / a,d	Execution
1941	15.04.1955	Abdullah İbiş	Murder (2 men)	TCK 450 / 5	Execution
1969	21.06.1956	Şahin Doğan	Murder (1 boy) / Robbery	TCK 450 / 4, 7	Execution without parliamentary approval
2017	13.07.1956	İsrafil Karadağ diğer adı İsmail Karada	Murder (1 man) / Robbery	TCK 450 / 7	Execution
2018	13.07.1956	Hasan Yılmaz	Uxoricide / Murder (4 women, 1 man)	TCK 450 / 4, 5	Execution
2019	13.07.1956	Osman Tekin	Murder (2 women)	TCK 450 / 4, 5	Execution
2020	13.07.1956	İzzet Çamlıdere	Murder (1 man, 1 woman) / Abduction	TCK 450 / 5	Execution
2021	13.07.1956	Adem Güler	Murder (1 man) / Robbery	TCK 450 / 7, 9	Execution
2022	13.07.1956	Ahmet Nazlı	Murder (1 man) / Robbery	TCK 450 / 9	Execution

2032	18.12.1956	Mehmet Karataş	Murder (1 man) / Personal animosity / Contract killer	N/A	Execution
2033	18.12.1956	İsmail Akkaya	Murder (1 man) / Robbery	TCK 450 / 4	Execution
2034	19.12.1956	Hüseyin Tıkız	Murder (1 girl) / Rape	TCK 450 / 9	Execution
2035	19.12.1956	Himmet Sarıkan	Murder (2 women, 1 man) / Revenge	TCK 450 / 4	Execution
2036	14.01.1957	Kasım Atlan	Murder (1 man) / Robbery	TCK 450 / 7	Execution
2037	14.01.1957	Suriye'nin Kamışlı kazasının Kürkend köyünün 61/15 numaralı hanesinde kayıtlı Mehmetoğlu 1908 doğumlu Bişar	Murder (1 man) / Blood feud	TCK 450 / 4, 10	Execution
2065	21.02.1957	Bayram Ali Yeşil	Murder (1 man) / Robbery	TCK 450 / 7	Execution
2067	29.03.1957	Ali Kınalı	Murder (1 man)	AsCK 91 / 4	Execution
2070	11.05.1957	Hasan Koyuncu (diğer soyadı Kuyumcu)	Murder (1 man) / Robbery	TCK 64, 450 / 4, 7	Execution
2072	11.05.1957	Hayri Uymaz	Murder (1 girl) / Rape	TCK 450 / 9	Execution
2098	4.02.1958	Fethi Oğuz	Murder (1 man) / Blood feud	TCK 450 / 4, 10	Commutation of sentence to the aggravated life imprisonment
2073	11.05.1957	İsmail Güngör	Murder (1 man) / Robbery	TCK 450 / 4	Execution

TBMM Legislative Session 11 (01.11.1957 - 25.05.1960)

2094	23.01.1958	Duranoğlu Ali Çobanlar	Murder (2 men) / Blood feud	TCK 450 / 4, 5, 10	Execution
2095	23.01.1958	Abdülkadir Göğüş	Matricide / Murder (3 women, 1 girl) / Personal animosity	TCK 450 / 1, 4, 5	Execution
2096	25.01.1958	Ahmedoğlu Bayram Çelik	Murder (1 man) / Robbery	TCK 450 / 7	Execution
2097	25.01.1958	Yusufoğlu Halil İbrahim Üzümcü	Murder (1 man) / Contract killer	TCK 450 / 4	Execution
2102	30.05.1958	Süleyman Arslanargun	Murder (1 woman) / Rape / Robbery	TCK 450 / 7, 9	Execution
2103	12.06.1958	İbrahim Ersoylu	Murder (1 man) / Contract killer	TCK 450 / 4	Execution
2104	12.06.1958	Baranoğlu M. Reşit Biçer (Bican)	Murder (1 man) / Blood feud	TCK 450 / 4, 10	Execution
2110	12.01.1959	Ziya Şimşek	Murder (1 woman) / Robbery	TCK 450 / 7	Execution
2112	14.01.1959	Bedirhanoğlu İlidir Çaça	Murder (1 man) / Robbery	TCK 450 / 7	Execution
2113	21.01.1959	Tahsinoğlu Ahmet Yaltı	Murder (1 man) / Robbery	TCK 450 / 7	Execution
2215	22.05.1959	Mehmet Selek	Murder (1 man) / Robbery	TCK 450 / 7	Execution
2216	22.05.1959	Rıza Özden	Murder (1 man, 2 women) / Robbery	TCK 65/3, 31, 33, 450 / 5	Execution

2216	22.05.1959	and Refet Demirci	Murder (1 man, 2 women) / Robbery	TCK 65/3, 31, 33, 450 / 5	Execution
2230	24.12.1959	Mehmet Özkaya	Murder (2 men)	TCK 450 / 4, 5	Execution
2231	24.12.1959	Ahmet Potçu	Murder (1 man) / Robbery	TCK 450 / 7	Execution
2235	14.01.1960	Mehmet Salih Fiğan Çelik (Fiğan Çiçek, Fiyan Çiçek, or Fidan Çiçek)	Murder (1 man)	TCK 64/1, 2, 450 / 4	Execution
2237	23.01.1960	Ramazan Başbüyük	Murder (1 man, 1 woman, 2 boys) / Robbery	TCK 450 / 4, 5, 7	Execution
2238	23.01.1960	Kâmil Yumak	Murder (1 man) / Robbery	TCK 450 / 7	Execution
2239	28.01.1960	Hasan Seyhan	Murder (1 man) / Robbery	TCK 450 / 7	Execution
2240	28.01.1960	Rasim Dik	Murder (1 man, 1 woman, 1 person) / Robbery	TCK 64/1, 450 / 4, 5, 9	Execution
2241	30.01.1960	Mehmet Arı	Murder (1 man) / Personal animosity	TCK 450 / 4	Execution

MBK (27.05.1960 -25.10.1961)

22	21.12.1960	Osman Nuri Poran	Matricide / Murder (3 women)	N/A	Execution
23	21.12.1960	Bayram Çiçek	Murder (1 man) / Robbery	N/A	Execution

23	21.12.1960	and Mehmet Çekiç	"Murder (1 man) / Robbery N/A Execution
24	21.12.1960	Mehmet Polat	Murder (1 man) N/A Execu- tion
25	21.12.1960	Mustafa Çelik	Murder (2 women) N/A Execu- tion
26	21.12.1960	Alioğlu Yaşar Yuvarlak	Murder (1 man) N/A Execution
27	21.12.1960	Halidoğlu Cemil (Cevdet) Turan	Murder (1 man) / Blood feud N/A Execution
28	21.12.1960	Şakiroğlu Ali Ünver	Murder (2 men) / Robbery N/A Execution
29	21.12.1960	Mehmet oğlu Şirin Tenik	Murder (2 women) N/A Execution
30	21.12.1960	Durdu Araş (Sarıkaya)	Murder (1 man) N/A Execution
31	21.12.1960	and Hüseyin Sarıkaya	"Murder (1 man) N/A Execution
31	21.12.1960	Hasanoğlu Bilâl Kutluca	Murder (1 man, 1 woman, 2 boys) / Robbery N/A Execution
32	21.12.1960	Yakup Gökmen	Murder (1 woman) / Robbery N/A Execution

Kurucu Meclis / MBK+Temsilciler Meclisi (06.01.1961 - 04.09.1961)

43	7.04.1961	Kâzım Emekoğlu	Murder (1 girl) / Rape	TCK 450 / 9	Execution
44	7.04.1961	Ahmet Bulut namı diğeri Kaz Ahmet	Murder (1 man) / Robbery	TCK 450 / 4, 7	Execution
45	7.04.1961	Osman Aslan	Murder (1 woman) / Rape	TCK 450 / 8	Execution
46	7.04.1961	Yakup Gökşen	Murder (4 women, 1 man)	TCK 450 / 5	Execution
47	7.04.1961	Recep Güler	Murder (1 man, 1 woman, 1 boy) / Rape	TCK 450 / 5, 7, 8	Execution
48	7.04.1961	Hasan Doğruyol	Murder (1 man, 1 woman, 1 girl, 2 boys) / Personal animosity	N/A	Execution
63	5.08.1961	Necmi Karataş	Murder (1 man)	TCK 450 / 4	Execution
64	5.08.1961	Necati Şenol (Şenel)	Murder (1 woman) / Rape	TCK 450 / 8	Execution
65	5.08.1961	Mehmet Ak	Murder (1 man) / Robbery	TCK 450 / 4, 7	Execution
75	16.09.1961	Celâl Bayar	Offenses against the constitutional order	TCK 146	Commutation of sentence to the aggravated life imprisonment
75	16.09.1961	Adnan Menderes	Offenses against the constitutional order	TCK 146	Execution
75	16.09.1961	Fatin Rüştü Zorlu	Offenses against the constitutional order	TCK 146	Execution

75	16.09.1961	Hasan Polatkan	Offenses against the constitutional order	TCK 146	Execution
75	16.09.1961	Refik Koraltan	Offenses against the constitutional order	TCK 146	Commutation of sentence to the aggravated life imprisonment
75	16.09.1961	Agâh Erozan	Offenses against the constitutional order	TCK 146	Commutation of sentence to the aggravated life imprisonment
75	16.09.1961	İbrahim Kirazoğlu	Offenses against the constitutional order	TCK 146	Commutation of sentence to the aggravated life imprisonment
75	16.09.1961	Ahmet Hamdi Sancar	Offenses against the constitutional order	TCK 146	Commutation of sentence to the aggravated life imprisonment
75	16.09.1961	Nusret Kirişcioğlu	Offenses against the constitutional order	TCK 146	Commutation of sentence to the aggravated life imprisonment
75	16.09.1961	Bahadır Dülger	Offenses against the constitutional order	TCK 146	Commutation of sentence to the aggravated life imprisonment
75	16.09.1961	Emin Kalafat	Offenses against the constitutional order	TCK 146	Commutation of sentence to the aggravated life imprisonment
75	16.09.1961	Baha Akşit	Offenses against the constitutional order	TCK 146	Commutation of sentence to the aggravated life imprisonment

75	16.09.1961	Osman Kavrakoglu	Offenses against the constitutional order	TCK 146	Commutation of sentence to the aggravated life imprisonment
75	16.09.1961	Zeki Erataman	Offenses against the constitutional order	TCK 146	Commutation of sentence to the aggravated life imprisonment
75	16.09.1961	Rüştü Erdelhün	Offenses against the constitutional order	TCK 146	Commutation of sentence to the aggravated life imprisonment

Millet Meclisi 1st Term / Cumhuriyet Senatosu + TBMM
(25.10.1961 - 10.10.1965)

126	7.12.1962	Kandemir İspahipala	Murder (2 women, 1 girl, 1 boy) / Rape	TCK 450 / 5, 6, 7, 9	Execution
160	1.02.1963	Mustafa Karasu	Murder (1 woman) / Forcible abduction	TCK 450 / 7	Execution
161	1.02.1963	Şükrü Uzunca	No additional file	TCK 450 / 5	Execution
311	4.09.1963	Abdülcebbar Yıldırım	Murder (2 men) / Robbery	TCK 450 / 3, 5, 7, 9	Execution
311	4.09.1963	and Mehmet Çimen	Murder (2 men) / Robbery	TCK 450 / 3, 5, 7, 9	Execution
311	4.09.1963	and Mehmet Çetin (Mehmet Sıddık Çetin)	Murder (2 men) / Robbery	TCK 450 / 3, 5, 7, 9	Execution
312	4.09.1963	Hamza Gülmez	Murder (1 boy) / Rape	TCK 450 / 8, 9	Execution

- 313 4.09.1963 Osman Taşdemir Murder (1 girl) / Rape
TCK 450 / 7 Execution
- 314 4.09.1963 Bahittin Yazıcı (Bahattin Yazıcı) Murder (1 man)
/ Robbery TCK 67; 450 / 1, 4 Execution
- 315 4.09.1963 Bekir Yılmaz Murder (3 men) TCK 450 / 5
Execution
- 316 4.09.1963 Mehmet Ali Yılmaz Murder (3 men) / Blood feud
TCK 450 / 5, 10 Execution
- 317 4.09.1963 Ali Kocatürk Murder (1 man) / Robbery
TCK 450 / 7 Execution
- 318 4.09.1963 Kemal Taşkesen Murder (1 man) TCK 450
/ 7 Execution
- 319 4.09.1963 Ummehan Bebek (Ümmühan Bebek) Matri-
cide (1 woman) TCK 450 / 1 Execution
- 320 4.09.1963 Mustafa Cemal Kanca Matricide (1 woman) / Robbery
TCK 450 / 1, 8 Execution
- 321 4.09.1963 Hüseyin Akca (Akça) Murder (1 man) / Robbery
TCK 450 / 7 Execution
- 322 4.09.1963 Halil Ölmez Murder (1 man, 3 women) TCK 450
/ 5 Execution
- 323 4.09.1963 Adem Akçay (2 men, 1 woman) / Burglary / Forcible
abduction TCK 450 / 5, 8 Execution
- 324 4.09.1963 Cemal Zambaklı Murder (1 man, 1 woman, 1 boy)
/ Robbery TCK 450 / 5, 7 Execution
- 324 4.09.1963 and Ahmet Durer (Dar) Murder (1 man, 1
woman, 1 boy) / Robbery TCK 450 / 5, 7 Execution

339	10.10.1963	Reşit Siyah	Murder (1 man, 1 woman) / Robbery	
		TCK 450 / 3, 4, 7, 64/1	Execution	
340	10.10.1963	Mustafa Dilek	Murder (1 man) / Personal animosity	
		TCK 450 / 4	Execution	
351	2.11.1963	Hasan Kâhyaoğlu	Murder (1 man) / Robbery	
		TCK 450 / 9	Execution	
352	2.11.1963	Ömer Aslan	Murder (1 man) / Blood feud	
		TCK 450 / 4, 10	Execution	
368	16.01.1964	Mehmet (Mustafa) Yeğenoğlu	Murder (2 men)	
		TCK 450 / 4, 5	Execution	
373	16.01.1964	Durmuş Çetinkaya	Murder (5 women, 1 man)	
		TCK 450 / 5	Execution	
374	16.01.1964	İzzet Sivaslı	Murder (1 man) / Robbery	TCK 450
		/ 7	Execution	
374	16.01.1964	and Ali Ilgaz	"Murder (1 man) / Robbery	TCK 450
		/ 7	Execution	
445	16.04.1964	Cafer Güler	Murder (1 man, 1 woman) / Robbery /	
		Rape	TCK 450 / 7	Execution
445	16.04.1964	and Zeki Özalp	"Murder (1 man, 1 woman) /	
		Robbery / Rape	TCK 450 / 7, 9	Execution
446	22.04.1964	Kadir Ceylan	Murder (2 men, 1 woman)	TCK 450
		/ 5	Execution	
448	11.05.1964	Süleyman Ağırbaş	Murder (1 man)	TCK 450
		/ 4	Execution	
449	11.05.1964	Hasan Şeker	Murder (1 man) / Robbery	TCK 450
		/ 8	Execution	

- 450 11.05.1964 Bedih Kılıç Murder (1 man) / Attack upon a military commander AsCK 91/4 Execution
- 453 11.05.1964 Ali Karahan Murder (1 woman) TCK 450 / 8, 9 Execution
- 454 11.05.1964 Bayram Kalpaklı Murder (1 man) / Abduction of girl TCK 450 / 7, 8 Execution
- 455 11.05.1964 Mehmet Kül (Gül) Murder (1 woman) / Rape TCK 450 / 8 Execution
- 456 11.05.1964 Bayram Albayrak Murder (2 men) TCK 450 / 5 Execution
- 457 11.05.1964 Recep Güngör Tanış Murder (1 boy) / Rape TCK 450 / 9 Execution
- 458 11.05.1964 Hasan Şentürk Murder (1 man) TCK 450 / 4 Execution
- 459 11.05.1964 Kerim Özkan Murder (1 man) / Contract killer TCK 450 / 4 Execution
- 459 11.05.1964 and Hasan Güney (Günay) Patricide (1 man) / Incitement TCK 64/2, 450 / 4 Execution
- 460 11.05.1964 Süleyman Bozkurt Murder (1 girl) / Rape TCK 450 / 7, 9 Execution
- 480 26.06.1964 Talât Aydemir Attempting to forcibly alter the Constitution and dissolve the TBMM TCK 146 Execution
- 480 26.06.1964 Fethi Gürcan Attempting to forcibly alter the Constitution and dissolve the TBMM TCK 146 Execution
- 480 26.06.1964 Osman Deniz Attempting to forcibly alter the Constitution and dissolve the TBMM TCK 146 Not to execute

480 26.06.1964 Erol Dinçer Attempting to forcibly alter the Consti-
tution and dissolve the TBMM TCK 146 Not to execute

Millet Meclisi 3rd Term / Cumhuriyet Senatosu + TBMM
(13.10.1969 - 14.10.1973)

1426 17.07.1971 Kâmil Akman Murder (1 man) / Robbery
TCK 450 / 4, 7 Execution

1427 17.07.1971 Kemal Ulköylü Murder (1 man) TCK 450
/ 4 Execution

1428 17.07.1971 Nurettin Kahraman Murder (1 woman) / Rape
TCK 450 / 8 Execution

1429 17.07.1971 Mahmut Yel Murder (1 girl) / Rape TCK 450 / 9 Ex-
ecution

- The file was returned to the National Assembly Hüseyin Sesli
Murder (2 man) TCK 450 / 5 N/A

1430 17.07.1971 Kadriye Partici Murder (1 woman) / Robbery
TCK 64, 450 / 7 Execution

1430 17.07.1971 and Faik Vartekli Murder (1 woman) / Robbery
TCK 64; 450 / 7 Execution

1431 17.07.1971 Hacı Ahmet Tonya Murder (1 girl) / Rape TCK 450
/ 9 Execution

1432 17.07.1971 Hüseyin Bulut Murder (2 men) TCK 450 / 4, 5
Execution

1433 17.07.1971 Mevlût Balcı Murder (1 woman) / Robbery TCK 64,
450 / 9 Execution

1433	17.07.1971	Zekeriya Balcı Murder (1 woman) / Robbery	TCK 64, 450 / 9	Execution
1434	17.07.1971	Ahmet Balıkçı Murder (2 men, 1 woman)	TCK 450 / 4, 5	Execution
1435	17.07.1971	Cemil Yıldız Murder (2 men) / Robbery	TCK 450 / 5, 7, 8 (According to proposal 450/4)	Execution
1436	17.07.1971	Nail Kır Murder (1 man)	TCK 450 / 4	Execution
1437	17.07.1971	Mehmet Karabaş (Karataş) Murder (1 woman) / Rape	TCK 418/1	Execution
1576 / 1586	25.03.1972 / 5.05.1972	Deniz Gezmiş Attempting to forcibly alter the Constitution and dissolve the TBMM	TCK 146 / 1	Execution
1576 / 1586	25.03.1972 / 5.05.1972	Yusuf Arslan Attempting to forcibly alter the Constitution and dissolve the TBMM	TCK 146 / 1	Execution
1576 / 1586	25.03.1972 / 5.05.1972	Hüseyin İnönü Attempting to forcibly alter the Constitution and dissolve the TBMM	TCK 146 / 1	Execution

MGK (12.09.1980 - 23.10.1981)

2308	7.10.1980	İsa Armağan Inciting violence among the Turkish population, forming and joining armed gangs, and resisting officials with weapons	TCK 149 / 2	Fugitive/Execution
2308	7.10.1980	and Mustafa Pehlivanoglu Inciting violence among the Turkish population, forming and joining armed gangs, and resisting officials with weapons	TCK 149 / 2	Execution

2309	7.10.1980	Necdet Adalı	Massacre and aiding and abetting this crime	TCK 149 / 2	Execution
2309	7.10.1980	and Kemal Ergin	Massacre and aiding and abetting this crime	TCK 149 / 2	Fugitive/Execution
2322	25.10.1980	Serdar Soyergin	Murder (1 man) / Political animosity	TCK 450 / 4	Execution
2360	12.12.1980	Erdal Eren	Murder (1 man) / Political animosity	TCK 450 / 9	Execution
2465	2.06.1981	Cevdet Karakaş	Murder (2 man) / Political animosity	TCK 450 / 4	Execution
2466	2.06.1981	Recep Sariaslan	Murder (2 man) / Political animosity	TCK 450 / 4	Fugitive/Execution
2473	9.06.1981	Veysel Güney	Murder (1 man) / Political animosity	TCK 450 / 9	Execution
2476	24.06.1981	Ahmet Saner	Attempting to forcibly alter the Constitution and dissolve the TBMM	TCK 146 / 1	Execution
2476	24.06.1981	and Kadir Tandoğan	Attempting to forcibly alter the Constitution and dissolve the TBMM	TCK 146 / 1	Execution
2505	19.08.1981	Mustafa Özenç	Murder (4 men) / Political animosity	TCK 450 / 5, 9	Execution
2506	19.08.1981	İsmet Şahin	Murder (3 men) / Robbery	TCK 450 / 9	Execution

DM + MGK (23.10.1981 - 06.12.1983)

- 2630 12.03.1982 Mehmet Ali Ağca Murder (1 man) / Political animosity TCK 450 / 4 Fugitive/Execution
- 2631 12.03.1982 Seyit Konuk, Murder (2 men) / Attempting to forcibly alter the Constitution and dissolve the TBMM TCK 146 / 1 Execution
- 2631 12.03.1982 and İbrahim Ethem Coşkun Murder (2 men) / Attempting to forcibly alter the Constitution and dissolve the TBMM TCK 146 / 1 Execution
- 2631 12.03.1982 and Necati Vardar Murder (2 men) / Attempting to forcibly alter the Constitution and dissolve the TBMM TCK 146 / 1 Execution
- 2643 26.03.1982 Fikri Arıkan Murder (2 men) / Political animosity TCK 450 / 3, 5 Execution
- 2643 26.03.1982 and Kemal Özdemir Murder (2 men) / Political animosity TCK 450 / 3, 5 Fugitive/Execution
- 2660 22.04.1982 Sabri Altay Uxoricide (1 woman) / Intention to marry TCK 450 / 3, 4 Execution
- 2664 28.04.1982 Cengiz Baktemur Murder (1 man) / Political animosity TCK 450 / 4 Execution
- 2676 11.06.1982 Sahabettin Ovalı Murder (1 man) / Blood feud TCK 450 / 4, 10 Execution
- 2679 18.06.1982 Ednan (Adnan) Kavaklı Murder (1 boy) / Rape TCK 450 / 9 Execution
- 2694 11.08.1982 Ali Bülent Orkan Murder / Political animosity TCK 149, 450 / 4, 5 Execution
- 2695 11.08.1982 Veli Acar Murder (1 man) / Intention to marry TCK 450 / 4 Execution

2702	17.08.1982	Eşref Özcan	Murder (1 man) / Contract killer	TCK 450 / 4	Execution
2763	28.12.1982	Kâzım Ergün	Murder (2 men, 1 woman) / Blood feud	TCK 450 / 4, 10, 59, 70	Execution
2764	28.12.1982	Muzaffer Öner	Uxoricide / Murder (1 woman, 1 man)	TCK 450 / 4, 5	Execution
2765	28.12.1982	Halil (Fevzi) Uyguntürk	Murder (3 women) / Abduction of girl	TCK 450/8, 74, 75	Execution
2774	12.01.1983	Adem Özkan	Patricide (1 man)	TCK 450/ 1, 4	Execution
2775	12.01.1983	Osman Demiroğlu	Murder (1 girl) / Rape	TCK 450/ 9	Execution
2776	12.01.1983	Hüseyin Çaylı	Murder (1 boy) / Rape	TCK 450/ 9	Execution
2784	21.01.1983	Ahmet Mehmet Uluğbay	Murder (2 men) / Robbery	TCK 450/7	Execution
2785	21.01.1983	Ali (Ahmet?) Aktaş (Ağtaş)	Murder (1 man) / Political animosity	TCK 450 / 4	Execution
2786	21.01.1983	Duran Bircan	Matricide / Murder (2 women)	TCK 450 / 1, 5	Execution
2792	28.01.1983	Ramazan Yukarıgöz	Forming an armed gang and attempting to forcibly abolish the constitutional order	TCK 146 / 1	Execution
2792	28.01.1983	Ömer Yazgan	Forming an armed gang and attempting to forcibly abolish the constitutional order	TCK 146 / 1	Execution

- 2792 28.01.1983 Erdoğan Yazgan Forming an armed gang and attempting to forcibly abolish the constitutional order
TCK 146 / 1 Execution
- 2792 28.01.1983 Mehmet Kambur Forming an armed gang and attempting to forcibly abolish the constitutional order
TCK 146 / 1 Execution
- 2793 28.01.1983 Ahmet Kerse Murder (1 man) / Political animosity
TCK 450 / 4 Execution
- 2794 28.01.1983 Levon Ekmekjiyan (Ekmekçiyan) Attempting to separate a portion of the Republic of Turkey's territory
TCK 125 Execution
- 2796 4.02.1983 Rıdvan Karaköse Murder (1 man, 1 woman) / Blood feud TCK 64; 39; 70; 74; 75 / 2; 450 / 4, 10 Execution
- 2796 4.02.1983 and Cavit Karaköse Murder (1 man, 1 woman) / Blood feud TCK 64; 39; 70; 74; 75 / 2; 450 / 4, 10 Execution
- 2796 4.02.1983 and Süleyman Karaköse, Murder (1 man, 1 woman) / Blood feud TCK 64; 39; 70; 74; 75 / 2; 450 / 4, 10 Execution
- 2798 22.02.1983 Fatih Laçingil Murder (1 man) / Robbery
TCK 450 / 9 Execution
- 2799 22.02.1983 Fayık Güngörmez Murder (1 woman)
TCK 450 / 4 Execution
- 2806 28.03.1983 Mustafa Başaran Murder (2 men) / Contract killer TCK 450 / 4, 9 Execution

2807	28.03.1983	Hüseyin Üye	Murder (2 women, 3 boys) / Blood feud	TCK 450 / 4, 5, 10	Execution
2815	18.04.1983	Şener Yiğit	Murder	TCK 450 / 9	Execution
2816	18.04.1983	Cafer (Aksu) Altuntaş	Murder (1 man, 1 woman) / Blood feud	TCK 450 / 10	Execution
2826	24.05.1983	Abdülaziz Kılıç	Murder (1 man) / Robbery, Personal animosity	TCK 450 / 8	Execution
2834	3.06.1983	Selçuk Duracık	Murder (4 men) / Political animosity	TCK 450 / 4, 5	Execution
2834	3.06.1983	and Halil Esendal	Murder (4 men) / Political animosity	TCK 450 / 4, 5	Execution
N/A	Dudu Gül	Murder (1 man, 1 woman) / Robbery	TCK 450 / 7, 8, 59, 73	N/A	
N/A	Şevkiye Erşen	Murder (1 girl) / Revenge	TCK 64, 450/ 7, 4	N/A	

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3049	19.10.1984	Hıdır Aslan	Attempting to forcibly change the constitutional order	TCK 146 / 1	Execution
3052	5.10.1984	İlyas Has	Attempting to forcibly change the constitutional order	TCK 146 / 1	Execution



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