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Yildiz, Yesim Yaprak. 2016. Forced Confession as a Ritual of Sovereignty: The Case of Diyarbakır Military Prison in Turkey. *Asia-Pacific Journal on Human Rights and the Law*, 17(2), pp. 185-198. ISSN 1388-1906 [Article]

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Forced Confession as a Ritual of Sovereignty: The Case of Diyarbakır Military Prison in Turkey¹

Yesim Yaprak YILDIZ

Keywords: forced confession – Diyarbakır Military Prison – Foucault – torture – truth – Turkey

Abstract

Torture and confession are like ‘the dark twins’ as Foucault argued. Definitions of torture from the 3rd century to the 21st century indicate confession as its primary motive. Systematic use of torture and confession has also characterised the Turkish state’s policy in Diyarbakır Military Prison against the Kurdish prisoners in the early 1980s. The detainees and the prisoners were routinely forced to repent and confess regardless of their organisational links or the crimes attributed to them. Wide, systematic and routine use of forced confessions in the prison showed that the significance of confession policy in Diyarbakır prison does not arise from their truth status or their effectiveness in intelligence gathering, but from their truth-effects. Although intelligence gathering was one of the objectives of the regime, the policy of confession was used primarily to establish dominance over the accused and to discipline and control the prisoners and the Kurdish population. Drawing upon Foucault, I will further argue that forced production of confession functioned as a ritual of truth-production and subjectification binding the prisoner to the dominant regime of power and truth and transforming him into a docile and obedient subject.

Introduction

‘Hamit is a communist, he will never repent’. Hamit Kankılıç kept repeating this sentence for months after going through a mental health disorder in Diyarbakır Military Prison where he was imprisoned between 1980 and 1988 for being a member of Kurdistan Workers Party (Partiya Karkerên Kurdistan - PKK). Kankılıç was forced to repent for and confess his political activities and was subjected to extreme acts of torture, which led to his mental breakdown. He describes his situation as one of complete loss of trust in others, constant suspicion and self imposed isolation.² This sentence, which he kept repeating for months before regaining his health in 1985, encapsulated his strong will to resist the systematic repentance and confession policy in Diyarbakır prison.

Constructed shortly before the 1980 *coup d’etat* and transferred from the Ministry of Justice to Martial Law Command after the coup, Diyarbakır prison was used to detain and imprison Kurdish political opponents, particularly the members and the supporters of the newly found PKK.³ Thousands of prisoners, men and women⁴, were

¹ I would like to thank Dr Cynthia Banham, Dr Nick Cheesman, the participants of the ‘Torture after 9.11’ workshop at the ANU and two anonymous reviewers for their comments on the earlier drafts of this article.

² Hamit Kankılıç and Fırat Aydınkaya, ‘Ölüm Koridoru: Diyarbakır Cezaevi’nden Notlar’ (Avesta Yayınları, 2011) 141

³ Emerging as a movement in mid 1970s, the PKK was formed as a party in 1978.

subjected to brutal physical, psychological and sexual acts of torture by military officials armed with extraordinary powers and free of any kind of accountability. Systematic torture and forced confession policy, which intensified with the appointment of infamous prison administrator Captain Esat Oktay Yıldırım⁵ in 1981, encountered strong resistance by the prisoners resulting in several hunger strikes, death fasts and other acts of resistance in the form of self-immolation and suicide. While the continued resistance of the prisoners led to a relative relaxation in the prison conditions as the systematic torture began to be seen as ‘counter-productive’ by the authorities, more than 35 prisoners died during this period and many more were left with lifelong scars. Recently a parliamentary investigation was opened into torture in Diyarbakır prison,⁶ but no official has yet been brought into account.

The significant role that Diyarbakır prison has played in the history of the Kurdish resistance is widely acknowledged. While the unprecedented level of torture in the prison⁷ contributed to that role, it was the resistance of the prisoners using their bodies as a weapon, which gave the period of 1980-84 its historical significance. Against the backdrop of full-scale oppression of the Kurdish opposition before and after the coup, the resistance in Diyarbakır prison formed the building blocks of the Kurdish resistance and provided role models for the PKK members motivating new recruits into the cause. The other unique aspect of Diyarbakır prison is the extensive and systematic use of forced confessions. The detainees and the prisoners were routinely forced to repent and confess regardless of their organisational links or the crimes attributed to them. One of the main justifications of torture, as argued by its perpetrators and supporters, is that it helps to elicit confessions from the detainees to secure convictions and to extract critical intelligence. However, wide, routine and systematic use of forced confessions in Diyarbakır prison showed that confession was not an external cause or motive for torture, but its integral component. As Scarry argues, ‘the idea that the need for information is the motive for the physical cruelty arises from the tone and form of the questioning rather than from its content: the questions, no matter how contemptuously irrelevant their content, are announced, delivered, as though they motivated the cruelty, as if the answers to them were crucial’. However, ‘while the content of the prisoner's answer is only sometimes important to the regime, the form of the answer, the fact of his answering, is always crucial’.⁸ This article seeks to answer why forced production of repentance and confession in Diyarbakır prison was crucial for the regime.

My discussion on the function of forced confession in Diyarbakır prison proceeds in three parts. Through an analysis of the political and the historical context of the prison

⁴ While the majority of the prisoners in Diyarbakır prison were male, there were more than a hundred of female prisoners.

⁵ Esat Oktay Yıldırım was killed on a public bus by a former prisoner in 1988.

⁶ Hülya Karabağlı, ‘TBMM’de dönemin işkenceleriyle ünlü Diyarbakır 5 No’lu Cezaevi ile ilgili alt komisyon kuruldu’, T24 (Istanbul, 17 December 2015) <<http://t24.com.tr/haber/tbmmde-donemin-iskenceleriyle-unlu-diyarbakir-5-nolu-cezaevi-ile-ilgili-alt-komisyon-kuruldu,320748>> accessed 27 February 2016.

⁷ Diyarbakır Military Prison is listed as the fourth among the top ten most notorious prisons in the world. See Nico Hines, ‘The ten most notorious jails in the world’, *The Times* (London, 28 April 2008)

⁸ Elaine Scarry, *The Body in Pain: Making and Unmaking of the World* (Oxford University Press, 1985) 28-29

and the testimonies of former prisoners⁹, I will argue that the significance of confession policy in Diyarbakır prison does not arise from the content and the truth status of the confessions or their effectiveness in intelligence gathering, but from their truth-effects. Although intelligence gathering was one of the objectives of the regime, confession policy was used primarily to establish dominance over the accused and to discipline and control the prisoners and the Kurdish population. Drawing upon Foucault's account of confession in penal system, I will further argue that forced production of repentance and confession functioned as a form of truth production and subjectification.¹⁰ Finally, I will conclude the article with brief remarks on the resistance of the prisoners, which showed the limits of power in establishing a totalising and penetrating control on the prisoners.

Torture and Forced Confession in Diyarbakır Military Prison

Torture and confession are like “the dark twins”, as Foucault argued.¹¹ The link between torture and confession can be traced back to Ancient Greece. DuBois argues in her ground-breaking work *Torture and Truth* that the Greek term *basanos*, which denotes torture, originally meant a touchstone used to test gold and later started to be used to designate a test to determine if something is genuine or real.¹² As the touchstone of the trials, torture was used to make the slaves confess and produce truth. Similarly, torture was regularly employed from medieval Europe to the Ottoman Empire¹³ to extract confession from the accused as a means to establish his guilt or innocence. The long and painful history of the use of torture and confession in judicial procedures has reinforced the idea that truth is something hidden or buried that needs to be unveiled or extracted, and that what is confessed under torture is the ‘truth’.¹⁴

The assumption that there is a causal and linear link between torture, confession and truth continues to fulfil an important role for modern states, that is, normalisation and justification of torture. The revived debate after the 9/11 attacks showed yet again that

⁹ My analysis draws upon the accounts of former prisoners: Rızgari, *Diyarbakır Hapishane Raporu Cilt I* (Rızgari, 1988); Selim Çürükaya, *12 Eylül Karanlığından Diyarbakır Şafağı* (Ağrı Yayınları, 1990); Mehdi Zana, *Vahşetin Günlüğü* (Melsa Yayınları, 1992); Muzaffer Ayata, *Tarihe Ateşten Bir Sayfa: Diyarbakır Zindanı Cilt I & II* (Weşanen Serxwebun 92, 1999); Serbesti 14, Diyarbakır 5 No'lu Askeri Cezaevi (Serbesti Yayınları, 2003); Hasan Baraçkılıç, *İradenin Sınandığı Yer: Sorgu* (Avesta Yayınları, 2005); Selim Çürükaya, *O Türküyü Söyle* (Komal Yayınları, 2006); Bayram Bozyel, *Diyarbakır 5 No'lu* (Deng Yayınları, 2007, Fourth edition); Kankılıç and Aydınkaya (n1); Mehdi Zana, *Diyarbakır 5 No'lu* (Avesta Yayınları, 2012). For the interviews and newspaper articles: Neşe Düzel ‘Üç yılını ‘cehennem’de geçirdi’ (Radikal Newspaper, 23 June 2003)

<<http://www.radikal.com.tr/turkiye/uc-yilini-cehennemde-gecirdi-673856/>> accessed 29 February 2016; İrfın Aktan ‘Gültan Kışanak’ın gözüyle Sakine Cansız: Kürt hareketinin Rosa’sı’ (Express, no 132, 2013). Also see Çayan Demirel, *5 No'lu Cezaevi* <<http://www.imdb.com/title/tt4619916/>>

¹⁰ My analysis, which is largely shaped by a Foucauldian approach, benefits from a critical dialogue with Elaine Scarry's phenomenology of torture. However, rather than focusing on the subjective experience of torture, the article aims to investigate the historical and political conditions which shape that experience and the process of subjectification through techniques of torture and confession.

¹¹ Michel Foucault, *The History of Sexuality Volume 1: An Introduction* (Robert Hurley tr, Pantheon Books, 1978) 59.

¹² Page DuBois, *Torture and Truth* (Routledge, 1991) 9-11

¹³ Uriel Heyd, *Studies in Ottoman Criminal Law* (VL Menage ed, Oxford University Press, 1973); John Langbein, *Torture and the Law of Proof: Europe and England in the Ancien Regime*, (The University of Chicago Press, 1977)

¹⁴ DuBois (n13) 75

there is still a widespread belief in effectiveness of torture in extracting confession and information from the accused especially in cases when public safety and national security is at risk.¹⁵ On the other hand, there is vast literature arguing that in many cases detainees or prisoners cannot provide battle-shifting confessions or the information extracted can easily be obtained without the use of torture or through other means.¹⁶ Those under torture could also make false confessions to bring an, albeit temporary, end to their suffering. Yet, confession continues to be widely used by modern states. Forced production of confession has also been a defining aspect of the state policy in Diyarbakır prison.

The period characterized by gruesome torture in Diyarbakır prison is between 1980 and 1984, including but not limited to the three-year military rule (1980-1983). While the 1980 coup which marked the beginning of brutal repression of all political opposition, restrictions on fundamental rights and freedoms and a vast social and political engineering, partially explains the brutality of the military prisons of the time, it remains insufficient to explain the systematic torture and confession policy in Diyarbakır prison. Kurdish political opponents have been subjected to repression and criminalisation since the formation of the Turkish Republic. Hence Diyarbakır prison needs to be analysed within the larger context of Turkish state's policy against the Kurds, which has been one of denial, assimilation and repression¹⁷, taking a unique form during the 'state of exception' created by the coup. Under state of emergency conditions across the country, the military, endowed with extraordinary powers, exercised its sovereign power suspending the law, deciding who is dangerous, who is not and who has basic rights and who does not.¹⁸ Thousands of Kurdish people, deprived of their fundamental juridical rights, were detained indefinitely without any charge, or were held for an indefinite period despite the court's acquittal. Although the regime particularly targeted Kurdish political activists, a vast number of ordinary Kurds with no organisational links were also arbitrarily detained, imprisoned and tortured in Diyarbakır prison.

An attempt to describe practices of torture in Diyarbakır prison would remain a highly difficult task as everything surrounding the prisoner -wards, cells, doors, windows, walls, beds, toilets, light, heating, food, water, sleep, noise and their very bodies- was converted into an agent of pain. In addition to common torture techniques such as electro-torture, falaka, positional tortures and deprivation of food and water, prisoners' daily routine was dominated by a range of military rules, lectures and exhaustion exercises, which included marching, running, crawling, memorising dozens of national anthems and texts, saluting military officials as "Commander" and reciting prayers at meals. Exercises would continue all day long accompanied with other forms of torture and humiliation. The prison administrator Esat Oktay would refer to Diyarbakır prison as a 'military school' and the prisoners as 'students'. While the declared aim was to Turkify, assimilate and discipline the prisoners through 'military

¹⁵ For example see Michael Ignatieff, "If Torture Works..." in Prospect (April 2006)

<<http://www.prospectmagazine.co.uk/features/iftortureworks>> accessed 29 February 2016

¹⁶ For a comparative historical study see Darius Rejali, *Torture and Democracy*, (Princeton University Press, 2007)

¹⁷ See Marlies Casier and Joost Jongerden, eds. *Nationalisms and politics in Turkey: political Islam, Kemalism and the Kurdish issue* (Routledge, 2010); Zeynep Gambetti and Joost Jongerden, *The Kurdish Issue in Turkey: a spatial perspective*. (Routledge, 2015).

¹⁸ Judith Butler, *Prekarious Life: Powers of Mourning and Violence* (Verso, 2004)

training’, it was rather ‘to harness discipline to cause pain, with few marks, and with the semi-voluntary participation of the victim’.¹⁹ Torture including military training was not mobilised to Turkify the prisoners, but rather to forcibly inscribe into their memories the consequences of their political, ideological and ethnic claims. The aim was not to assimilate the prisoners into Turkishness, but rather to destroy their Kurdishness.

Diyarbakır prison was particularly notorious with humiliating and sexualized torture techniques including rape, forcing the prisoners to rape each other, inserting objects into the rectum, tying or lifting the prisoners by genitals, choking in prison sewers, forced eating of excretion, mucus, detergent, mice and so on. The prisoner’s entire day was filled with a cycle of torture, ‘military training’ and ‘lectures’. Any interaction with fellow prisoners, talking, coughing or making any noise outside the control of the prison guards was banned. Speaking in Kurdish was strictly forbidden including during the prison visits²⁰ of the families who only spoke Kurdish. The visitors and the lawyers of the prisoners were also subjected to judicial and physical harassment and violence. The bodies of the prisoners in Diyarbakır prison were turned into mnemonic devices reminding them and the wider Kurdish population that the power of life and death lay with the state.²¹

However, as Scarry notes, great physical pain inflicted on the prisoner’s body alone would never accomplish the torturer’s goal. ‘For the torturer, it is not enough that the prisoner experience pain. Its reality, although already incontestable to the sufferer, must be made equally incontestable to those outside the sufferer. Pain is therefore made visible in the multiple and elaborate processes that evolve in producing it’.²² The intense pain inflicted on the bodies of the prisoners was objectified through the verbal acts of repentance and confession. Forced confessions in the prison reached its peak between mid 1981 and 1984 along with the intensification of torture and increased isolation of the prisoners through daylong “military training” and a ban on prisoners talking to each other. This period also corresponds to the beginning of the prisoners’ trials. Although the prison authorities initially targeted the prisoners who could provide useful intelligence on the organisational structure and the activities of the Kurdish political groups, by the end of 1981 confession policy started to be implemented on a mass scale for every single detainee and prisoner, particularly those accused of being a member of or supporting the PKK.²³ Many of the prisoners were detained or imprisoned arbitrarily with no evidence against them or for non-violent/legal activities. Hence, the interrogations aimed at forcing them to admit the crimes attributed to them and to sign testimonies prepared by the prison authorities including accusations against other prisoners. Every possible means including varying

¹⁹ Rejali (n17) 342

²⁰ The prison visits would last between 40 seconds and 2 minutes, which would be violently interrupted if anyone spoke Kurdish.

²¹ Marnia Lazreg, *Torture and the Twilight of Empire: From Algiers to Baghdad*, (Princeton University Press, 2008) 53

²² Scarry (n8) 51-52

²³ Confession policy particularly targeted the PKK. While this is partially because of the state’s fear of rising influence of the organisation amongst the Kurds, it is also because of the PKK’s continued resistance in the prison, while most other political groups were pacified and repressed.

degrees of torture, threats to their families and assurances such as amnesty or reduction in their sentences were used to force the prisoners into confession.²⁴

Successful extraction of repentance or a piece of information from the prisoner would not necessarily signify the end of torture. Torture would continue in order to recruit the ‘repentant’ or ‘confessant’ prisoners as informants. There were two kinds of informants in the prison. The prisoners who accepted to become an informant actively collaborating with the state intelligence units were called *itirafçı*²⁵ and they were held in a separate ward. There were also the prisoners who were reporting violations of the rules in the wards to the prison guards. This category was called *ispiyoncu* (snitch). By intensifying torture, the prison authorities managed to increase the number of snitches in most wards with the exception of the women’s ward and a number of men’s wards. The informants would also be used to obtain information about the weaknesses of other prisoners to force them into confession.²⁶ Torture and interrogation, in a sense, functioned as a screening and psychological intelligence gathering tool for the prison authorities enabling them to classify the prisoners according to their possibility of confessing or becoming an informant or a snitch.

Repentance and confession was not limited to the crimes attributed to the accused or his political convictions but targeted his ethnic identity as well. One of the first questions directed at the detainees was ‘Are you a Turk or not?’. Failure to say, ‘I am a Turk’ would result in harsher torture and continued isolation in the cells.²⁷ Disavowal of one’s ethnicity and political convictions was the first step into obedience. Ayata, a former prisoner and current member of PKK’s Executive Council states that, ‘When you said “I am a Turk” that was the end of it. You do not only change(!) your ethnicity under torture but you also accept to obey the rules and sanctions – and that’s the main aim’.²⁸

Confession was also used as an everyday surveillance tool in the prison. Through an endless cycle of torture and military training, the guards constantly watching the prisoners through the bars and random raids into the wards, the conditions for constant surveillance were already created in the prison. Recruitment of informants and snitches aimed at totalising surveillance by creating suspicion and breaking solidarity amongst the prisoners. Furthermore, the prisoners were forced to confess if they or other prisoners violated the prison rules either in their wards or during the court hearings. The example that Gültan Kışanak, a former prisoner and current mayor of Diyarbakır, gives is an illustrative one: ‘The prison guards once heard someone singing a Kurdish song in our ward. In the morning they took us to the courtyard and tortured us for hours. They tortured us one by one asking who had sung

²⁴ The Law of Provisions to be Applied to the Offenders of Some Crimes, known as Law on Repentance, offering amnesty or reduction in sentences for the prisoners who would repent, confess and provide information on the activities of the organisation, was introduced in 1985, but it was already put into practice in the early 1980s. See, ‘The Law of Provisions to be Applied to the Offenders of Some Crimes Law No: 3216’ (5 June 1985)

<https://www.tbmm.gov.tr/tutanaklar/KANUNLAR_KARARLAR/kanuntbmmc068/kanuntbmmc068/kanuntbmmc06803216.pdf> accessed 25 August 2016.

²⁵ *İtirafçı* in Turkish literally means confessant, however the term came to be used for the former members of the armed political groups who became informants working with the intelligence units.

²⁶ Bozyel (n9) 155

²⁷ Ayata (n9) 33; Çürükkaya (n9) 223; Zana (2012) 31, (1992) 78.

²⁸ Ayata (n9) 108

the song. Not a single woman said a word. (...) Actually the soldiers knew who sang the song. But they wanted us to confess”.²⁹ The aim was to turn confession from a form of external surveillance to self-surveillance.

The complicity of the state institutions and the media contributed to the totalisation of torture and confession policy in Diyarbakır prison. The list of the perpetrators prepared by the Truth and Justice Commission for Diyarbakır Prison, which includes generals, judges, prosecutors, prison administrators and doctors, is indicative of this complicity.³⁰ Whilst dozens of prisoners died of torture with no judicial consequences, the cases of death by torture were carefully recorded as death caused by accidents, suicide or natural causes. Torture in the prison was not documented by neither medical nor judicial officials despite the revelations of the prisoners at the risk of further torture. While the indictments would be predominantly based on the confessions extracted during the police interrogations, the prisoners would be subjected to further torture in the prison to confirm these confessions in the court. The prison officials’ full knowledge of the case files and other information that could be used against the prisoners to force them into confession also demonstrate the level of complicity.

Furthermore, while torture in Diyarbakır prison and ideological testimonies of the prisoners in the court remained largely hidden from the public eye, the confessions of the informants were widely publicized both in the prison and in the mainstream media. Hence, the message to the wider public was successful pacification and rehabilitation of the Kurdish political dissidents, which was further supported with carefully scripted images in the media showing the prisoners conducting military training, singing the national anthem and attending lectures. On the other hand, news on torture and forced confessions in the prison spread fast among the Kurdish population through the prison visits of the families, released prisoners and lawyers of the prisoners. For the Kurds, confession was rather the expression of intense levels of torture, state brutality and repression of Kurdish identity and dissent.

Wide, systematic and routine implementation of confession policy in Diyarbakır prison showed that what mattered to the regime was not the content or the truth status of confessions, but the very act of confession itself. Extracting a piece of information regardless of its content -whether it is who laughed in the ward, who moved during his sleep or who is the head of a particular branch of a political group– served as justification for further violence. Regarded as betrayal amongst political groups, confession turned the prisoner into an agent of self-betrayal and self-destruction. A former prisoner states that, ‘confessing and becoming an informant was the most disgraceful act in Diyarbakır prison’.³¹ By forcing the prisoners to repent for their ethnic identity and political convictions, confess the crimes attributed to them and inform on their fellow prisoners, the regime aimed at destroying their ethnic and political identity, breaking their will and solidarity and discrediting the Kurdish political groups inside and outside the prison. Esat Oktay’s famous words quoted in a number of testimonies clearly demonstrate the dehumanising aspect of the policy: ‘I

²⁹ Aktan (n9)

³⁰ Diyarbakır Cezaevi’ndeki işkencelerle suçlananların listesi savcılık yolunda!(t24.com.tr, 21 April 2011) <http://t24.com.tr/haber/diyarbakir-cezaevindeki-iskencelerle-suclananlarin-listesi-savcilik-yolunda.140311> accessed 27 April 2016

³¹ Serbesti (n9) 156

will turn you into someone that you will not even want to leave this prison'.³² Through its effects reaching far beyond the prison, the confession policy did not only aim to repress the prisoners but also to discipline and control the Kurdish population.

Forced Confession as a form of Truth Production and Subjectification

As Foucault argues in *Wrong-doing, Truth-telling*, avowal or confession is a ritual of discourse or a drama. In order to have its desired effect and to fulfil the judicial dramaturgy, it needs to be performed in a certain way.³³ It is not sufficient for the prisoner to admit the crime attributed to him, but he needs to perform the act of confession voluntarily and according to the rules set by the regime. Although the military officials in Diyarbakır prison made no effort to hide the signs of torture on the prisoners, revealing torture in the court was completely forbidden and any attempt to do so would be severely punished. In a way that is not different from the middle ages, the prisoners were forced to repeat their confessions extracted under torture during the court hearings. Both in medieval Europe and the Ottoman Empire, confessions extracted under torture would be valid if ratified and repeated by the accused in front of the authorities.³⁴ Regardless of its being extracted by force or not, repetition of confession validates and authenticates the initial confession fulfilling the judicial dramaturgy. It gives authority to the statement “as if it were testimony that had been given by the individual about himself”.³⁵

In addition to being a ritual or a performance, confession is also a performative act of truth-production and subjectification. Although Foucault extensively discusses the function of confession in producing the truth of the regime and turning the accused into an obedient subject, he does not refer to it as a performative act. Based on Butler’s interpretation of Austin’s theory of performativity, I argue that confession constitutes a performative act transforming the prisoner into an agent of power and his subjective truth into sovereign truth.³⁶ Forced production of confession is a disciplinary method of producing the truth of the regime.³⁷ According to Foucault, the dominant regime of power and truth operates through the participation of the individual in his own subjection. When the prisoner complies with the instruction to repent and confess, he conforms to a truth regime that constitutes himself as a guilty subject.³⁸ It does not matter whether the content of his confession is true or not or whether he believes in it or not, he is required to explicitly affirm his guilt. Confession in a way confirms guilt, which was already presumed by the fact of

³² Ayata (n9) 30, Kankılıç (n9) 104

³³ Michel Foucault, *Wrong-Doing and Truth-telling: The Function of Avowal in Justice*, (Ed. Fabienne Brion and Bernard E. Harcourt, tr. Stephen W. Sawyer, The University of Chicago Press, 2014) 215

³⁴ Peter Brooks, *Troubling Confessions* (University of Chicago Press, 2000) 155, Langbein (n12) 16; Rudolph Peters, *Crime and Punishment in Islamic Law: Theory and Practice from the Sixteenth to the Twenty-first Century*, (Cambridge University Press, 2005) 9

³⁵ Foucault, *Wrong-Doing and Truth-telling* (n 33) 205

³⁶ JL Austin, *How To Do Things With Words* (Harvard University Press, 1975)

³⁷ Chloe Taylor, *The Culture of Confession from Augustine to Foucault: A Genealogy of the ‘Confessing Animal* (Routledge, 2009)

³⁸ 'Judith Butler. Wrong-Doing, Truth-Telling. 2014' (YouTube, 2016)

<<https://www.youtube.com/watch?v=nmoguMXPxCI>> accessed 28 February 2016

detention and act of torture.³⁹ The Kurds who were imprisoned in Diyarbakır prison were already considered guilty for simply speaking Kurdish, being Kurds, communists, or political opponents of the regime. The confession policy sought to force them not only to disavow their Kurdish identity, but also to avow or to confirm their guilt, which was already presumed by the regime. In confessing the crime attributed to them, the prisoners would not only constitute themselves as guilty subjects by adopting the perspective of the authorities and the regime of truth that define them as guilty, but also recognise the validity of the punishment and the sovereignty of the law and the court that punishes them.⁴⁰

Confession turns the prisoner into a mnemonic device by making him affirm and validate the truth as established by the regime. It is, in a sense, embracing or relearning the language of the state.⁴¹ In Diyarbakır prison, this had both literal and symbolic meanings. The prisoners, the vast majority of whom were Kurdish and only spoke Kurdish, were forced to enunciate that they are Turks and to speak Turkish. The confessions, dictated by the military officials, were nothing more than the repetition of state ideology. Confession of Şahin Dönmez, a former PKK member who became a leading informant, is an excellent example of it. In his court testimony, he states, ‘In the first period of our imprisonment, we were conditioned by our previous ideologies (...) In time thanks to the efforts of our administrators, we got rid of our links with the anarchist and separatist PKK. We now accept that socialism has failed in both theory and practice and it is imaginary. We think that all citizens living within the borders of Turkey have created a strong Turkish nation unified under common national values’.⁴² Dönmez’s confession exemplifies the crucial aspect of confession in modern legal practices, which according to Foucault, is not confession at the level of the act, nor at the level of the justification and the foundation of jurisdiction, but at the level of the very being of criminal subjectivity. It is not sufficient for the subject to confess his guilt as it was before but he also needs to explain himself. His confession must include an explanation about his psychological being, his motives and his intentions.⁴³ Thus, in addition to its disciplining and controlling function, forced production of repentance and confession in Diyarbakır prison was used as a form of truth-production and subjectification binding the prisoner to the dominant regime of power and truth and transforming him into a docile and obedient subject.

³⁹ Michel Foucault, *Discipline and Punish: The Birth of the Prison*, (First published 1978, Translated by Alan Sheridan, Vintage Books, 1995) 41-42; Michael Humphrey, *The Politics of Atrocity and Reconciliation: From terror to trauma* (Routledge, 2002) 37

⁴⁰ Foucault, *Wrong-Doing and Truth-telling* (n33) 208; Butler (n39)

⁴¹ Foucault, *Wrong-Doing and Truth-telling* (n33) 18

⁴² Serxwebun, ‘12 Eylül Faşist Rejiminin Sola Yönelik Tasfiyeci Çabaları ve Devrimci Direniş Hareketinin Görevleri’ (December 1985) 20

<<http://www.serxwebun.org/arsiv/48/files/assets/downloads/page0018.pdf>> accessed 28 February 2016

⁴³ Foucault (n34) 209-212; Also see Michel Foucault, “About the Concept of the “Dangerous Individual” in Nineteenth-century Legal Psychiatry” in James D Fabuion (eds) *Power: Essential Works of Foucault 1954 – 1984, vol. 3* (Robert Hurley and others tr. New Press, 2000) 177

Resistance to Forced Confessions

Torture in Diyarbakır prison needs to be grasped in its totality, not only in terms of bodily harm or psychological torment, but as a political practice.⁴⁴ Diyarbakır prison was not a classic example of the modern prison aiming at disciplinary domination of the individuals through panoptic surveillance, normalization and rehabilitation. It was rather a punitive institution bringing together brutal and corporeal, individualising and surveilling, regulating and policing techniques of power in mutually reinforcing and interpenetrating ways.⁴⁵ Forced extraction of repentance and confession accompanied torture as its dark shadow fulfilling the political aims of the state in destroying the Kurdish identity, eliminating the Kurdish political opposition and creating obedient subjects.

However, the resistance of the prisoners using their lives as a weapon showed that confession policy in the prison was by no means a totalising and penetrating one foreclosing possibilities of resistance.⁴⁶ The prisoners engaged in various forms of counter-conduct and desubjectification against the disciplinary subjectification through extraction of repentance and confession.⁴⁷ In addition to their acts of disobedience by refusing to repent, confess and obey the rules, their counter-conduct took the form of ‘necroresistance’, which Bargu defines as ‘an emergent repertoire of action that is based on the appropriation of the power of life and death into the hands of those who resist’.⁴⁸ Against repressive, disciplining and controlling mechanisms of power in Diyarbakır prison, the prisoners weaponised their lives through four death fasts in March 1981, July 1982, September 1983 and January 1984, suicides and self-immolation. The courtrooms were also transformed from places where the prisoners were expected to repent and confess into places of resistance. Senior members of the PKK answered the prosecution’s questions by giving an account of the organisation’s ideology and aims. Resistance and solidarity of the prisoners against torture and forced confession policy resulted in many prisoners who confessed under torture to withdraw their confessions in the court.⁴⁹ Although torture did not completely end in the prison, systematic torture and confession policy came to an end by the end of 1984.

Confession, while being indispensable to the functioning of the penal machine, is at the same time in excess.⁵⁰ As the prevalence of torture reveals the very basis of the system that the modern state is established upon, prisoners who refuse to confess and disrupt the system with their counter-conduct pose a threat to the functioning of the regime. While torture and confession in Diyarbakır prison aimed at reducing the

⁴⁴ Lazreg (n22) 6

⁴⁵ Banu Bargu, *Starve and Immolate: The Politics of Human Weapons* (Columbia University Press, 2014) 51. For Foucault’s discussion on coexistence of different forms of power, see Michel Foucault, *Security, Territory, Population: Lectures at the Collège de France, 1977–1978* (ed Michel Senellart, tr Graham Burchell, Palgrave Macmillan, 2007).

⁴⁶ Resistance in Diyarbakır prison, which took manifold forms from small acts of disobedience to forms of necroresistance, deserves a much deeper discussion, which I am not able to do in this article due to the word limit.

⁴⁷ Foucault, ‘About the Concept of the “Dangerous Individual” in Nineteenth-century Legal Psychiatry’ (n43) 184-185

⁴⁸ Bargu (n46) 272

⁴⁹ Ayata (n9) 328

⁵⁰ Foucault, *Wrong-Doing and Truth-telling* (n33) 200

prisoners to pure materiality, monopolise their voice and make them speak the words of the authorities⁵¹, the prisoners used their very bodies as their voices. The case of Kankılıç, quoted in the beginning, is a striking example showing how even the loss of speech and sense of reality caused by torture could not prevent resistance. Countering the regime's strategy to turn their bodies into mnemonic devices embodying the official truth, they used their bodies as the embodiment of resistance and an alternative subjectivity.

⁵¹ Scarry (n8) 54