

'Galatasaray Has Been a Common Tombstone for Us': Politics of Truth Seeking and Saturday Mothers Phenomenon of Turkey

By

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Abstract

This thesis seeks to address the relationship between truth and justice. Especially in the societies marked by divisive societal conflicts, truth is regarded as part of attainment of justice. However the question as to how justice can be attained with the revelation of truth and why truth is assumed to be/argued to be an irrevocable component of justice. In order to answer these questions, this thesis focuses on further connotations which “truth” bears beyond its meaning as factual truth. Moreover, political significance of truth and politics of truth-seeking is widely discussed. Finally, this thesis interprets attempts for transitional justice in Turkey and the implications of truth seeking by the Saturday Mothers, a group of women who have been holding vigils in pursuit of truth for 20 years now, in the light of the theoretical investigations discussed.

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INTRODUCTION

“Galatasaray has been a common tombstone for us”. This is what Hanım Tosun, one of the Saturday Mothers, said to a journalist on November 2012. (Adali, 2012). She has neither seen nor heard from her husband, Fehmi Tosun, since October 19, 1995, when he was kidnapped by undercover police officers in front of her eyes. The last thing she heard from her husband was “they will kill me”. (Adali, 2012) Since then she has been participating in Saturday Mothers of Turkey in Galatasaray Square to seek truth, not only for herself, but also for the others whose relatives have been disappeared. As reported by Adali (2012) Hanım Tosun comes not only to demand the truth but also because Galatasaray Square has become a tombstone for the lost body of her husband. In the interview, she continues, “Every Saturday, when we (she and her five children) go there [Galatasaray Square], we feel like we are visiting his grave”.

All the Saturday Mothers -the mothers, sisters, wives of disappeared Kurdish political activists - have similar stories. They have not heard from their loved ones, and have no idea of their whereabouts. They ask the state to reveal what happened. They demand the remains of their relatives have proper graves for them. However, throughout the last 20 years, the Turkish state has not responded their demands; it has denied, neglected, tried to silence them by way of violence, but none of this has been able to dissuade the Saturday Mothers from their struggle. They keep telling to the state and to everyone else that “if there were democracy in Turkey, we would not be sitting here”. (Adali, 2012)

The Republic of Turkey has never been known for its transparency and accountability. This situation worsened after the 1980 coup d’etat. Its political and institutional legacy was “militarism and military tutelage” protected by a new constitution, oppression of democratic opposition and even more consolidation of Turkish nationalism by the state. (Goral, Isik &Kaya, 2013, p. 15) The coup d’etat affected the Kurds dramatically and this further centralization of the state power has had worse repercussions. But the drastic escalation of the

Kurdish question started after the Kurdistan Workers' Party (PKK hereafter) began its armed struggle in 1984, which led to an open war between the armed organization of Kurdish movement and the Turkish Armed Forces for more than 30 years.

The 1980 coup d'état and subsequent years are marked by "struggle against terror" waged against the Kurdish movement. The Turkish state implemented various measures including martial law in the Kurdish region and irregular warfare. However, war against the Kurds has not been limited to the war against the PKK. Civilian political activists - both Kurdish and Turkish - supporting the democratic rights of the Kurds were stigmatized. (Goral, et.al., 2013, p. 19) These systematic human rights abuses have yielded different forms of resistance, including the Saturday Mothers, a group of women gathered together and demanding truth *and* justice about the forced disappearances since May 27, 1995.

This thesis seeks to address the relationship between truth and justice. Especially in the societies marked by divisive societal conflicts, transitional justice is accompanied by the revelation of truth. In the transitional justice literature, truth revelation stands as one of the building blocks of justice. (Teitel, 2004, p. 69) Without discovering the truth about what happened, confronting the past remains incomplete.

In the literature of transitional justice, the truth has numerous functions. Basically, it serves the purposes of acknowledgement and reconciliation. It helps ending denial (Cohen, 2001 p. 1); it names the names of the victims and the perpetrators (Smyth, 2007, p. 7); it challenges the alleged superiority of the perpetrators and aims at recovering the moral status of the victims (Dyzenhaus, 2000, p.471) Furthermore, it assumes a reconciliatory potential between conflicting parties by providing access to the discourse of the "others"; (Smyth, 2007, p.7) by playing an educational role for the future generations. (Dyzenhaus, 2000, p.484) However the essential these roles and functions may be, they do not explain to what extent these roles and functions attain justice in the society.

Hence, the question as to nature of the relationship between truth and justice remains unanswered. I will argue that we cannot assume an unmediated relation between truth and justice. We need to ask further questions as to how justice can be attained with the revelation of truth and why truth is assumed to be/argued to be an irrevocable component of justice. In order to answer these questions, I intend to focus on the further connotations which “truth” bears beyond its meaning as factual truth. With the interpretative turn, truth is perceived and operationalized as a social construct. Especially Michel Foucault elaborated on the problem of how truth operates in society and he triggered many questions concerning the nature of truth. For Foucault, truth cannot be seen as *the* truth which is infallible and absolute. It is to be understood as a system of ordered procedures for the production, regulation, distribution and operation of statements. (Foucault, 1980, p.133) These procedures are attained through power relations in a society without which the meaning of truth does not exist.

Truth, in this respect, needs to be seen as a meta-narrative, as an *ethos*, as “shared information among the societal actors”. (Dyzenhaus, 2000, p.484) This character of truth as a meta-narrative is achieved through what Foucault (1980, p.131) calls “truth regime”, that is, “the types of discourse which it [society] accepts and makes function as true”. A regime of truth, according to Foucault, is central to the functioning of the society. It is essential because through a truth regime one is enabled “to distinguish true and false statements, the means by which each is sanctioned; the techniques and procedures accorded value in the acquisition of truth; the status of those who are charged with saying what counts as true”. (Foucault, 1984, p.73) Therefore, the collective memory is informed by the truth regime. However, Foucault reminds us that truth as well as collective memory is never free from the power relations through which it is constructed and reproduced.

However, in transitional societies, i.e., in societies which have undergone a divisive conflict either as a result of civil strife or repressive regimes, truth loses its character as meta-narrative.

It becomes shattered and divided into parts to be upheld by the conflicting groups. Once the “epistemic consensus” (Teitel, 2000, p.71) that a truth regime sustains is disintegrated, shared notions of collective memory and truth go missing and the functioning of society is precluded. In such a framework, societies need to “go about constructing their pasts in a way that collectively understood as ‘shared and true’”. (Teitel, 2000, p.71) In this respect, truth revelation plays all the more important role: challenging, subverting, transforming and democratizing the truth regime and the power relations operating behind it. This role, I argue, can be achieved through what I call politics of truth-seeking which exceeds the boundaries of institutional politics and extends to activism. Especially in the repressive regime where truth is monopolized by the political authority, where truth is suppressed or distorted, truth-seeking becomes a subversive and transformative practice. It challenges not only the truth made true and functioning by the repressive regime but also repressive power relations which produce, disseminate and sustain the truth regime both in the political arena and at the societal level. The Saturday Mothers, with their persevering struggle for the revelation of truth stand as a distinct example of politics of truth-seeking. Moreover, being part of the Kurdish population, the Saturday Mothers seek to transform the ethnic and societal relations in Turkey.

This thesis seeks to evaluate the transformative potential of truth through the politics of truth-seeking in a transitional context with reference to the case of Saturday Mothers of Turkey. The first chapter gives a detailed backdrop of the Kurdish question in Turkey, and outlines the legal, political and discursive structure of the Turkish state. The second chapter delves into the phenomenon of forced disappearances at the conceptual and legal level. It will offer a detailed survey of forced disappearances in Turkey and the Saturday Mother. The third chapter explores the theoretical investigations regarding truth and truth seeking. Firstly, the meaning and roles of truth seeking in the transitional justice literature will be outlined. Secondly, the transformative potential of truth in transitional societies will be explored with reference to

Foucault's analysis of truth. Finally, I will elaborate on the politics of truth-seeking as a subversive practice. The final chapter interprets attempts for transitional justice in Turkey and the implications of truth seeking by the Saturday Mothers in the light of the theoretical investigations discussed in the third chapter.

1. HISTORICAL AND POLITICAL BACKDROP OF THE KURDISH MOVEMENT IN THE TURKISH CONTEXT

1.1. How the tension between Turkish state and Kurdish population started?

Explicit or covert, the Kurdish question has always been a part of Turkish politics, having evolved through different stages. The more Turkish state has grounded its policy on the denial of the existence of Kurdish identity, the more the Kurds have asserted their identity. This struggle accelerated after the 1970s, when Kurdish nationalism and identity construction came to the foreground and state repression of the Kurds intensified. From the late 1970s to the late 1990s, Turkish politics was marked by the violent armed conflict between the PKK and Turkish security forces.

The ethnic, religious and linguistic plurality of society during the Ottoman Empire has been suppressed by the Republic. All diversity was reduced, politically as well as judicially, to a unitary understanding of “Turkishness” and minorities were either discriminated or assimilated. (Kirisci, 2010, p.58; Lowe & Stansfield, 2010, p.1; Klein, 2010, p.81; Gunter, 1988, p.389) This, in turn, resulted in many problems.

New republican leaders of the Turkish Republic, led by Mustafa Kemal, adopted legal, political as well as military measures to render Turkishness political force of the Republic. (Klein, 2010, p.81) This nation-building process, as argued by Lowe and Stansfield (2010, p.1), was so dominated by the Turkish nationalism that “the Kurds and the other minority groups were ignored by the state or were identified as sources of domestic instability or even as internal enemies.” On the other hand, this Turkish nationalism was covered by an emphasis on the “civic citizenship”.

Reference to “civic citizenship” points to the adoption of the French model: universalist, rationalist, assimilationist and state-centered. (Yegen, 2010, p.55) As in the French model, citizenship in Turkey, by definition, is a territorial one. Therefore, the Turkish state does not recognize differences on the basis of ethnicity, race and religion. Article 88 of the Turkish constitution stipulates that “the people of Turkey regardless of their religion and race were, in terms of citizenship, to be Turkish”.¹ Every citizen of Turkey, regardless of race, ethnicity, language and religion is entitled to the same citizenship rights. This formal definition was extremely important for the nation-building process of the Turkish state because the homogenization project embraced by the Republic was justified by the new understanding of citizenship. (Icduygu, Colak & Soyarik, 2006, p. 187)

However, this formal definition is not free from the ethnic connotations. The formality of the definition is constituted upon the idea of “Turkishness” of citizenship. As I will discuss below, Turkishness has been regarded as a constitutional status into which other minorities will integrate through cultural and linguistic adaptation. The official discourse of the Turkish state has been established upon this constitutional citizenship, which guises the Turkishness as the constituent ethnic and political identity.

1.1.1. Political and Legal Framework of the Turkish Republic

While the root causes of the Kurdish question can be traced back to the 19th century, its more immediate causes have been constituted by the political and legal framework of the modern Turkish Republic. Although Kurds and other ethnic groups were constitutionally entitled to equal citizenship rights, any appeal to the promotion of a distinct culture, language and identity was not a part of this equality. Such distinctions were regarded as a threat to cultural, national and political unity of the Republic. (Gurbey, 1996; Icduygu, et.al., 2006; Klein, 2010) The

¹ See Article 88 of the Turkish Consitution, 1982.

demographic structure of the Turkish Republic is so diverse that at least 47 distinct ethnic, linguistic and religious populations have been differentiated so far. (Gurbey, 1996, p.10) In such a context, building a unified nation required a great effort and political engineering to ensure assimilation and homogeneity. Therefore, whole political and legal structure was constituted in accordance with this nation-building plan.

Not surprisingly, one of the major parts of the nation-building plan has been predicated upon the law and constitution. In the Turkish law, only the non-Muslim minorities, namely, the Greek, Jews and Armenians, are recognized as minorities.² However, according to Oran (2011, p. 39-40), the Turkish Republic does not fully implement these rights³ let alone the rights of the groups who have not been recognized as minority. (Philips, 2005)

Moreover, Kemalist⁴ principles of “indivisible unity of state’s people and its territory” and the concept of “national culture”, in the Constitution of Turkey⁵, are interpreted to be operationalized as the legal basis of protecting nationalist and Kemalist character of the state. Protecting these principles has been the main excuse of restricting basic rights and liberties. To illustrate, Article 125 of the Criminal Code “prescribes capital punishment for those who attempt, with or without violence, to separate portions of the state’s territory from the state union or attempt to pull away from the control of the central government.”⁶ Similarly, Articles

²As a result of the Lausanne Treaty signed with the Allies in 1923, the Turkish state not only achieved international recognition as a newly found republic as well as territorial integrity and unitary nature of the Turkish state, but also granted some rights such as education in native language, establishing their own cultural associations and freedom in religious affairs to the three biggest non-Muslim minorities. (Ergil, 2000, p.124)

³ For example, financial assistance to the non-Muslims had been provisioned in the Lausanne Treaty was not put into practice. Moreover, despite the provisions of the Lausanne Treaty, property rights of the non-Muslims were violated. With the “Wealth Tax” entered into force in 1942, the Turkish state implemented additional taxes for economic stability under war conditions. However, non-Muslims were disproportionately taxed; so much so that, while tax rates applied to Muslims was 4.94%, it was 156%, 179% and 232% for Greek Orthodox, Jewish and Armenians, respectively.

⁴ Kemalism here should be understood as the main ideology of Turkish Republic since the foundation.

⁵ See Article 3, Turkish Constitution 1982.

⁶ After the abolishment of death penalty in 2002, the prescription was amended as “life imprisonment”

141 and 142 of the Turkish Penal code state that “seeking to destroy the political and legal order of the state prescribes 5-15 years of imprisonment” in order to “protect the economic institutions and social foundations of the nation”.⁷ Article 8 of the Anti-Terror Law provides that “written or oral propaganda as well as meetings and demonstrations that aim to destroy the *indivisible unity of the state’s people and its territory*, by whatever ideas, goals or means, are prohibited.”⁸ This emphasis on the “indivisible unity” has been operationalized when minorities, in particular the Kurds, have sought cultural rights.

Given that the founding leaders of the Turkish Republic are military-bureaucratic elite, the military has always enjoyed a privileged political position. It has been characterized as the “political force of order” and “keeper and protector of Kemalist principles”. (Gurbey, 1996, p.12) Three consecutive military coups d’état (1960, 1971 and 1980) in 30 years highlight the crucial influence of the military in politics very well.

Especially after the 1980 coup d’état, the influence of the military was consolidated and its role was legalized in the institution of National Security Council (NSC)⁹. The NSC has never been accountable to the parliament or any other institution of constitutional democracy. The Council operates as an independent body of political decision-making, within which the “security-related issues” of the country are decreed. These legal and institutional measures correspond to the Turkish state discourse generated as I will explore in the following chapter.

⁷ See Article 141-142 of Turkish Penal Code

⁸ See Anti-Terror Law, 1991; emphasis added.

⁹ The role of the NSC is identified as the “protection and defense of ‘national security’ against internal and external dangers” and as “definition, determination and application of national security policy”. It is composed of the President, Prime Minister, Minister of National Defense, Minister of Interior, Minister of Foreign Affairs, Commander of the Turkish Armed Forces and Armed Forces Commanders and the General Commander of Gendarmerie. For more information see Republic of Turkey Secretariat General of the National Security Council. <http://www.mgk.gov.tr/en/index.php/secretariat-general/about-us>

1.1.2. State discourse

Founded after the collapse of an empire, the Turkish Republic renounced the multi-ethnic, multi-lingual, multi-religious and decentralized structure of the Ottoman Empire and opted for a Westernized and modern nation-state on the basis of Turkishness. Instead, it has promoted the Turkish-Sunni identity as its ethnic, national, cultural and core political identity. (Klein, 2010, p.81; Kirisci & Winrow, 1997, p.89; Muller, 1996, p. 178)

The methods chosen for integration of minorities and consolidation of the nation-state have been discrimination and assimilation. Minorities have been divided into two groups on the basis of possibility of “becoming Turkish”. (Yegen, 2006, p.137) While non-Muslim non-Turkish minorities were conceived as the ones who “cannot become Turks”, and thus subjected to discrimination, Muslim minorities such as Kurds, Lazs, Circassians, were regarded as “prospective-Turks” and subjected to assimilation policies. Newly constructed citizenship policies kept the “Turkishness” open to the non-Turkish Muslim populations, who were regarded as part of the nation as long as they adopted Turkishness. (Icduygu, et.al., 2006, p.195) Kurds, as the largest minority of the Turkish Republic, were the first to be assimilated into Turkishness and first to have the potential of “achieving” Turkishness as a status. (Yegen, 2006, p. 138)

Under Ottoman rule, the Kurdish population enjoyed certain degree of autonomy: as long as they paid taxes and provided military means to the Empire, they were free in their domestic affairs, and thus in their linguistic, cultural and religious issues. (Yegen, 1999, p. 562; van Bruinessen, 1992, p.51) Once the Turkish Republic was founded as a centralized nation-state, the Kurds rose up against the new regime, demanding the preservation of their old autonomy. These uprisings were perceived and presented as the resistance of the primordial, pre-modern

group against transformation into civilization. (Yegen, 1999, p. 563) Even though this discourse has changed in the following years, it has never been fully abandoned, but rather accompanied by the discourse which represents the Kurds as “separatist terrorists”. (Zeydanlioglu, 2008, p.167)

1.2. Violent Crackdown and Escalation of Kurdish Question

Kurds are the largest minority in the territory of the Turkish state. Even though the exact numbers are still controversial, the Kurdish population constitutes between 12% and 20% of the population of Turkey. (Somer, 2005, p. 592) At the same time, the Kurds have been most strongly subjected to the Turkish state’s assimilation and suppression policies. As briefly summarized by Aliza Marcus (2007, pp.9-10)

Decades of non-violent pressure had wrested little if anything from the central authorities in terms of Kurdish political and cultural rights. Those who tried to promote their ethnic identity ended up in prison on trumped up charges of trying to overthrow the state. Turkish television and radio barred the use of the Kurdish language in broadcasts, while Kurdish language education was banned outright. Kurdish names were forbidden and Kurdish village names had been changed to Turkish ones. Kurdish history did not appear in the history books and the country’s Kurdish region was dotted with the slogan reminding habitants that “Happy is he who calls himself a Turk”.

Even though the conflict is as old as the Turkish Republic, the escalation of conflict into an armed one traces back to the 1980s and continues to this day In this section, I will outline the milestones of the Kurdish question within the context of Turkish political history.

The years between 1960 through 1983 were marked by three coup d’etats. After 1960 coup d’etat, a new constitution was enacted. This constitution, known as the most liberal constitution of the Republic, gave extensive democratic rights including freedom of assembly, freedom of expression and the right to political participation. Moreover, this constitution adopted the pluralistic democracy as opposed to the former majoritarian democracy. (Hazama, 1996, p. 317) With the liberalization of the constitution and the impact of increasing leftist movements throughout the world, in the 1960s, the “decades of silence” of the Kurdish political elite ended.

(Klein, 2010, p.82) Kurdish and non-Kurdish leftist movements gained strength in the Turkish politics and started to challenge the Kemalist status quo. (Klein, 2010, p.83; Kirisci, 2010, p.58)

In 1961, newly formed Turkish Workers' Party (TWP) was the first to recognize the Kurdish identity. Kurdish left wing intelligentsia found the opportunity to express their identity as Kurds within the party. (Kirisci, 2010, p.58; Klein, 2010, p. 83) However, TWP was forced to close down in 1971 following the "coup by memorandum". In the memorandum, the Armed Forces criticized the government of being weak and inefficient, failing to implement the constitutional reforms, and to protect the Kemalist principles against non-Kurdish and Kurdish leftist movements. (Ahmad, 1993, p.1; Zürcher, 2004, p. 258) The military *demanded*:

the formation, within the context of democratic principles, of a strong and credible government, which will neutralize the current anarchical situation and which, inspired by Ataturk's views, will implement the reformist laws envisaged by the constitution putting an end to the anarchy, fratricidal strife and social and economic unrest.¹⁰

Unless these demands were met, the Commander of Turkish Armed Forces added, the army would exercise its constitutional duty and take over the power to ensure peaceful order in the country. After the memorandum, the government was forced to resign and new elections were held under the influence of military. (Ahmad, 1993, p.13) The transitional regime repressed the Turkish as well as Kurdish left with the help of army's outspoken desire to "overcome the *separatist* danger and to guarantee the *unity of the* homeland". (Bozarslan, 1992, p.81, emphasis added) In the subsequent years, official stance towards Kurdish politics became even more rigid, so much so that between the years 1971 and 1973, hundreds of Kurdish peasants, workers and intellectuals were arrested, tortured and sentenced. (Bozarslan, 1992, p.81; Zürcher, 2004, p.5; McDowall, 1992, p.16)

¹⁰ See 12 March 1971 Memorandum available at <http://arsiv.zaman.com.tr//2001/02/08/odosya/12mart.htm>

In the following years up to the 1980 coup d'état, some Kurdish organizations were established illegally. In the late 1970s, the Kurdish issue came to the foreground. Kurdish nationalist political activists had left the Turkish left-wing organizations, blaming Turkish left of indifference towards the Kurdish issue. Eventually, in 1978, the Kurdistan Workers' Party (PKK) was established by a group of Kurdish nationalists. (Kirisci & Winrow, 1997, p. 95) However, the armed operations of the PKK did not start until 1984.

1.2.1. 1980 Coup d'état and its aftermath concerning the Kurdish question

When the Turkish Armed Forces took over the government on September 12, 1980, the official cause for the coup d'état was presented as “to avert possible civil war and fratricide” and to “re-establish the authority and existence of the state”. (Demirel, 2010, p. 129) This temporary stability in the country was welcomed by many; however, it turned out to be the politically most oppressive period of the Republic. Parliament was dissolved, all the political parties as well as labor unions were closed down; their leaders were arrested and the state of emergency was declared. Not only politicians but also university professors and students, lawyers, leaders of political organizations, and almost everyone who was deemed to be leftist were arrested. By September 1982, 80.000 people had been imprisoned. (Zürcher, 2004, p.278)

The oppression against the Kurds was no less. People in the Kurdish organizations, the PKK in the first place, had to flee the country. Those who stayed suffered a lot. Between 1980 and 1983 the military resorted to deportations, arrest and torture, as well as state-sponsored killings. (Klein, 2010, p.84) Military regime achieved to decrease the political violence in the country, albeit at the price of “the consolidation of a political approach based on the permanent control of society by the state” and even more centralization of the state on the basis of Turkish nationalism. (Goral, et.al., 2013, p. 15)

In 1983, the military regime ended and the first democratic elections were held. Although Turkey transitioned to democracy, the suppression of the Kurds has not changed. In fact, with the new constitution enacted in 1982, Turkey was marked by even stronger emphasis on the Turkish nationalism. Every expression of Kurdish identity, including giving children Kurdish names, singing Kurdish songs, and speaking Kurdish, was perceived as a threat to the indivisible unity of the Turkish state. (Marcus, 2007, p.85; Gurbey, 1996, p.13; Gunter, 1988, p. 399) To illustrate, article 26 of the 1982 Turkish Constitution stipulates that

No language prohibited by law shall be used in the expression and dissemination of thought. Any written or printed documents, photograph records, magnetic or video tapes, and other media instruments used in contravention of this provision shall be confiscated. (Gunter, 1988, p.399)

Despite all these attempts to ensure the homogeneity of the Turkish nation, the Kurdish movement continued its political activities. In August 1984, the PKK launched its first armed attack leading to an open war that would intermittently continue throughout most of the 1990s and until 2012.¹¹ The Turkish state justified its measures, which amounted to the killing of civilians, under the guise of the struggle against terror. Therefore, the 1990s were marked by the gross human rights violations.

1.2.2 The 1990s: the decade of state of emergency, denial and overlord state

According to statistics, between 1984 and 2012, death toll of the conflict is 35.576, 5.557 of them are civilians. According to unofficial data, death toll of the 30-year long conflict is 55.000. (Alpkaya, Altintas, Sevdiren and Ataktürk Sevimli, 2014, p.15) Unresolved killings are estimated between 2000 and 17.000. As of 2012, 386.360 people were internally displaced and the economic burden of the struggle is beyond numbers. (Isik, 2013)

¹¹ The year that Turkish Armed Forces and the PKK declared unilateral cease-fire as a result of initiation of the so-called Peace Process.

The Turkish state has implemented number of measures ranging from armed conflict to declaring a state of emergency in the region. However, the war waged against the Kurdish movement was not confined to the PKK. Civilian political activists and intellectuals, Kurdish and Turkish, university students, practically everyone who supported the democratic rights of the Kurdish population was stigmatized as an “enemy of the state”. These people were subjected to inhuman treatment including vetting and deposal, imprisoning, exile, kidnapping, torture and even extrajudicial execution. (Goral, et.al., 2013, p.16) The escalation of violence on both sides brought about civilian casualties as well as gross human rights violations. (Gurbey, 1996, p.9)

In 1987, a “state of emergency” was declared in ten Kurdish provinces and continued until 2002. (Goral, et.al., 2013, p.16) The legal foundations of the “state of emergency” lie in the Article 122 of the Constitution:

The Council of Ministers, under the chairmanship of the President of the Republic, after consultation with the National Security Council, may declare martial law in one or more regions throughout the country for a period not exceeding six months, in the event of widespread acts of violence which are more dangerous than the cases necessitating a state of emergency and which are aimed at the destruction of the free democratic order or the fundamental rights and freedoms embodied in the Constitution; or in the event of war, the emergence of a situation necessitating war, an uprising, or the spread of violent and strong rebellious actions against the motherland and the Republic, or widespread acts of violence of either internal or external origin threatening the indivisibility of the country and nation.¹²

The same article specifies the rules of extension: “the extension of the period of martial law for a maximum of four months each time, shall require a decision of the Turkish Grand National Assembly”.¹³ From 1987 to 2002, the emergency decree was renewed consecutively in the Kurdish regions, giving unlimited authority to the emergency rule governors as the only administrative powers of the province. The emergency law amounted to

the evacuation of certain settlement, the restriction of entry to and exit from certain settlements, the suspension of education at all levels, the restriction of entry and exit of all food stuffs and animal fodder in the region, the right to use all means and tools of

¹² See Turkish Constitution, 1982

¹³ Ibid.

communication within the borders of the region, and to confiscate them if deemed necessary. (Goral, et.al., 2013, p.17)

The law of state of emergency was enacted in order to legalize all illegal and anti-democratic activities of the state. (Goral, et.al., 2013, p. 16) State officers who had worked in the region were not accountable to any of the democratic institutions; in fact, the decree laws guaranteed the impunity. In such a context where every Kurdish citizen is the “usual suspect” of being terrorist, security measures were extended to the civilian Kurdish people, in particular, to the students, Kurdish intellectuals and political activists who struggled for democratic rights of Kurdish minority as well as to Kurdish villagers and even to children.

In 1991, in order to silence the civilian Kurdish opposition, Turkish state issued the Anti-Terror Law. This law further restricted political rights such as rights to freedom of expression, association and movement of the Kurds. (Muller, 1996, p.180) This law was presented as a necessary measure to counter the violent PKK attack. However, as it is stated in the report of Amnesty International, (1992, p.2) the law became the pretext for suppression of non-violent opposition. The rest of the 1990s passed under the shadow of measures taken against the civilian population. Some of them can be summarized as evacuation and burning of the Kurdish villages and other settlements, “unresolved murders”, summary execution of civilians, torture, ill-treatment, displacement, forced migration, arbitrary detention and arrest and, of course, forced disappearances under custody. (Kocabıçak, 2003, p.124) For the purposes of this thesis, I will focus on the forced disappearances that happened throughout the 1990s and a group of women who have been struggling to find out the truth about the forced disappearances in Turkey.

2. FORCED DISAPPEARANCES and the SATURDAY MOTHERS OF TURKEY

In this chapter, I intend to outline the meaning and significance of forced disappearances in the transitional context and the response of Saturday Mothers. The first section examines the phenomenon of forced disappearances and its definition in the international law. In the second section, I will give an account of forced disappearances in Turkey. Finally I will outline the Saturday Mothers phenomenon; how it came into being and how the Mothers struggle.

2.1. *Forced Disappearances*

Forced disappearances can be defined as the “state act of rendering those it perceives as the enemy legally and physically non-existent.” (*Interview with Gokcen Alpkaya on Disappearances under Custody/Forced Disappearances*, 2014) As one of the gravest violations of human rights, if not crime against humanity, forced disappearances are different from the other violations in two respects: firstly, acts of forced disappearance render the lost person nonexistent before the law. Since the person cannot be found, their legal personality is nullified. This, in turn, becomes the pretext of violation of her rights to freedom and security and right to due process. (Alpkaya, 1995, p. 31) Secondly, since the evidence of the crime in the case of forced disappearances is the body, the claims cannot be proved, thereby, the responsible cannot be charged. (Alpkaya, 1995, p.31)

Since the mid-1960s, forced disappearances have been used to intimidate and silence the opposition in many countries. In efforts to curb such practices, the UN has taken many steps. One of them is the UN International Convention for the Protection of All Persons from Enforced Disappearance (ICCPED) which entered into force in 2010. The term “forced disappearance” is defined as

(...) the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by the concealment of the fate or whereabouts of the disappeared person,

which place such a person outside the protection of the law.¹⁴

As the definition suggests perpetrators are related to the state either overtly or covertly. Secondly, victims' right to protection of law is denied. Finally, this act is marked by the refusal of the State to provide information as to the whereabouts of the person disappeared. (Alpkaya, 1995, p. 32-33) The ICCPED stipulates that state parties to the convention bear the responsibility of both avoiding and preventing forced disappearances and providing information about the fates of the forcibly disappeared.

2.2. Forced Disappearances in Turkey

Turkey is not a party to the ICCPED; however, it is party to a number of international human rights covenants with similar provisions that of the ICCPED.¹⁵ Moreover, under Turkish criminal law and Constitution, forced disappearances under detention are defined as a criminal offence. To illustrate, Article 181 of the Turkish Penal Code stipulates that

A civil servant who deprives a person of their liberty by abusing his duty as a public offices or contravening the relevant procedures and conditions shall be punished by a sentence of imprisonment of from one year to three years.

However, practices in Turkey utterly fail to conform to these laws. Forced disappearance has been one of the tools Turkish State systematically used under the name of “struggle against terror”. This strategy was used not only to punish those Kurdish political activists and their families, but also to create fear among the Kurdish population and to discourage Kurdish people from becoming involved in political activism. (İvegen, 2004, p. 23)

¹⁴ See United Nations International Convention for the Protection of All Persons from Enforced Disappearance (ICCPED) entered into force on 23 December 2010.

¹⁵ Such as European Convention on Human Rights, European Convention on the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, and UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. A more detailed list is available at <https://www1.umn.edu/humanrts/research/ratification-turkey.html>

According to tentative numbers, the number of enforced disappearances between 1980 and 2000 is 1353. However, the vast majority of these took place between 1990 and 2000. (Goral, et. al., 2013, p. 24) Almost all of the incidents occurred in Kurdish provinces, with the exception of Istanbul.¹⁶ Many people applied to the state authorities to find their relatives but most cases went unanswered. The “bodies of 67% of the forcibly disappeared have still not been found, in 7% of the cases the bodies have been found but not delivered to their families.” (Bozkurt and Kaya, 2014, p. 64) The Human Rights Association, as reported by the UN Economic and Social Council Commission on Human Rights (December 1998, p.12) believes that among all the forced disappearances, 90% are Kurds; the remaining 10% are considered to be left-wing activists.¹⁷

The report of the Helsinki Watch (1993, p.15), conveys the words of those who were interviewed:

What we care about are killings and disappearances; it happens over and over – police come to someone’s house and take him away the family goes to police station or gendarmerie station and ask for him. The police say ‘we never took him’. Then the family goes back with a witness who says that he saw police take the person then police say, ‘Well we had him, but we let him go.’ Then the person’s body turns up outside of the town.

The Turkish state not only avoids prosecution and investigation, but it also circumvents the attempts of investigation by others. After detention, families do not get any official notification; the whereabouts of their family members are concealed. In consequence, the impunity for the

¹⁶According to the table of “the Number of disappeared by province and year” in the report *the Unspoken Truth* (2014) overwhelming majority of the disappearances has occurred in cities with Kurdish majority such as Diyarbakır, Batman, Şırnak, Mardin, Hakkari, Tunceli, Bitlis.

¹⁷ “Many people “disappear” because of their suspected political activities, legal or illegal. Particularly at risk are those active in organizations working to foster rights for Turkey’s Kurdish minority. Several victims had a history of repeated detention and ill-treatment by police. Some had also reported, prior to their “disappearance”, that they received frequent death threats. Other “disappeared” persons had refused to act as village guards. Many of the “disappeared” are Kurdish villagers with no history of political activity, detained during the course of security raids on suspicion of giving food or shelter to PKK members.” - Amnesty International Report, November 1998.

responsible has become a rule. A report of Amnesty International (1998, p. 7), states that

Detainees are not often registered for several days after being taken under custody. Police records of detention are not available for inspection by relatives or lawyers (...) Family members are often reluctant to check at the police station for fear of being detained themselves. Moreover, the best that can be hoped from the police station is verbal confirmation of the detention.

In 1996, as reported by the United Nations Economic and Social Council Commission on Human Rights (1998, p.10) the state established the “Bureau for the Investigation of Missing Persons”, to investigate the fate and whereabouts of missing persons. However, this Bureau did not issue any report with substantial information about the missing persons. In fact, Amnesty International (1999, p.15) argues that relatives of the victims are suspicious about the Bureau and they believe that it was a “fake initiative” whose real purpose “seems to be to deflect public disquiet about ‘disappearances’ and discredit those who demand genuine investigations into the fate of the disappeared”. As a result, what the families of the forcibly disappeared persons encountered was nothing but government inaction.

2.3. The Saturday Mothers of Turkey

In such a context, in 1995, Saturday Mothers came into being. Saturday Mothers are a group of women who “have been holding regular vigils in Istanbul, Turkey.” (Arifcan, 1997, p. 265) Two cases in particular moved them to action. On March 21, 1995, Hasan Ocak was taken by the police and he disappeared under custody. Human Rights Association (IHD), his family and other human rights organizations were mobilized to find him. 55 days after his detention, his dead body was found in a destitution cemetery, tortured and ill-treated. The second incident was that of Rıdvan Karakoç, whose dead body was found just like Ocak's. (Ivegen, 2004, p. 24) After these events, mothers of the disappeared who had been silent thus far took action against the forced disappearances.

On May 27, 1995, mothers came together in Istiklal Street with photographs of their beloved

ones, sitting silently in the Galatasaray Square. They gave speeches about what happened to their children. In the beginning, there were around 30 women asking for justice for the disappeared. Back in the day, it was a movement which nobody was interested in. (Ivegen, 2004, p. 25), including the police. However, after a while, these protests started to attract people's attention. Hüsniye Ocak, mother of Hasan Ocak, recalls that people started to come and sit with these women, listened to them and shared their demands. (Kocabiçak, 2003, p. 101) The movement drew international attention as well. In the 169th week, on May 30, 1998, Mothers of *Plaza de Mayo* of Argentina came to Istanbul and sat with Saturday Mothers. (Ivegen, 2004, p. 25)

With the 170th week, police violence against Saturday Mothers started and increased over time. The state and police were bothered by the increased visibility and political resistance of Saturday Mothers. The more the Mothers attracted people the more state violence they were exposed to. Along with the police violence, the movement turned into a powerful, well-supported political resistance. As Kocabiçak (2003, p.112) reports, police violence continued for 7 months. During these 7 months, "total 431 people were taken under custody, beaten up, assaulted, dragged on ground and insulted." As a result of this violence, in the 200th week of the protests, on March 13, 1999, Mothers decided to take a break because of beating, abuse and mistreatment. (Ivegen, 2004, p.26)

These protests were not the only forms of struggle. Saturday Mothers continued their struggle in the legal field with their demand to "find the disappeared, and prosecute the perpetrators". However, judicial institutions have not fulfilled their duty to conduct effective, fast and independent investigation. (Altintas, et. al., 2013, p. 29). Cases usually ended up with verdict of non-prosecution. Other cases were dismissed based on the statute of limitation. The prolongation of proceedings has been perceived as a strategy of the Turkish state to avoid prosecutions. (Altintas, et. al., 2013, p. 32) In consequence, many relatives of the victims have

concluded that the judiciary is on the side of the state and prevents or ignores the right to fair trial and due process for their cases. (Goral, et. al., 2013, p. 41; Altintas, et. al., 2013, p.32) The mistrust to the Turkish state and especially independence and impartiality of the judiciary has become widespread among the victims.

Once the Turkish state ratified the individual application to the European Court of Human Rights¹⁸ (ECtHR hereafter), cases concerning forced disappearances were referred to the ECtHR. In several cases Turkey has been declared guilty of violation of the Articles 2, 3, 5, 13 and 14 of the Convention (right to life, right to protection from ill-treatment, right to fair trial, right to provision of effective remedy by the state and right to non-discrimination¹⁹). (Pelek, 2010) To illustrate, in the case, *İpek and Others v. Turkey*²⁰, the application is about the forced disappearance of two Kurdish villagers, İkam and Servet İpek, on May 18, 1994. According to the testimonies of the applicants, they were taken into custody by the gendarmerie and have been disappeared since.²¹ Relatives of İpek brothers could not get any response to their application of the Turkish authorities, from local gendarmerie patrol to the State Security Courts.²² Turkish authorities denied that İpek brothers were ever taken into custody.

¹⁸ Although Turkey is one of the earliest signatory of the European Convention on Human Rights, right of individual to bring their human rights complaints directly to the ECtHR was recognized in 1987. In 1990, Turkey ratified the individual application and committed itself to the binding jurisdiction of the Court. However, the main condition to bring the complaints about the court is to exhaust all domestic remedies. Therefore, cases referred to the ECtHR have to exhaust all possible legal options in Turkey. [For more information see Reppell, L. (January 1, 2015). Turkey's track record with the European Court of Human Rights. *Turkish Review*. Retrieved in May 17, 2015 in http://www.turkishreview.org/reports/turkey-s-track-record-with-the-european-court-of-human-rights_549090]

¹⁹ For more information see European Convention on Human Rights, available at http://www.echr.coe.int/Documents/Convention_ENG.pdf

²⁰ For more information see *İpek v. Turkey*, Application no: 25760/94, judgment dated 17 February 2004, available at [http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-91063#{"itemid":\["001-91063"\]}](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-91063#{)

²¹ See *İpek v. Turkey*, Application no: 25760/94

²² State Security Courts were created under the military junta in 1982 under the Article 143 of the Constitution, in order to deal with “security offences against the indivisible integrity of the state with its territory and nation, the free democratic order, or against the Republic whose characteristics are defined in the Constitution, and offenses directly involving the internal and external security of the State”. In June 2004, the State Security Courts were officially abolished. For more information see Human Rights Watch Report (May 28, 1999),

Furthermore, the judiciary did not fulfill its duty to investigate timely and effectively. The case ended up in the ECtHR which found Turkey guilty of violating Articles 2, 3, 5, 13 and 14.²³ This has not had any effect on Turkish policies. Despite the convictions, neither investigation nor prosecution of the perpetrators has been attempted.

In the beginning of the 2000s, Turkish context has also transformed and even though the clandestine past of state oppression is yet to be unfolded, since 2007, some “taboo” issues have started to be discussed. In a series of lawsuits called *Balyoz* and *Ergenekon* initiated in order to “face the past”, a number of people associated with coup d'etat attempts have been prosecuted. Among them were the alleged offenders of the human rights violations including enforced disappearances. Once these people were sued, the Saturday Mothers and many other human rights groups asked for broadening the scope of the investigation beyond “the east of Euphrates”, the river that is the geographical boundary of Kurdish region in Turkey. (Bozkurt & Kaya, 2014, p. 63) Nevertheless, their applications were rejected. In reply, in 2009 the Saturday Mothers decided to resume their protests which still proceeds.

The demands that have been articulated since the beginning of the movement are as follows:

“state officials to disclose the fate of the forcibly disappeared to their families; recovery of the bodies of the forcibly disappeared and their release to the relatives; state to recognize its responsibility and culpability specifically for the enforced disappearances; prosecution of state officials who have been directly involved in the enforced disappearances and administration of the necessary punishments; implementation of reparation and redressal processes for the ones left behind” (Bozkurt & Kaya, 2014, p. 69)

The Saturday Mothers expect the state to reveal the truth about their relatives, and demand that the state acknowledge its responsibility. What I claim is that these demands need to be understood beyond truth for Saturday Mothers. It has more implications than simply revealing the truth regarding the whereabouts of the disappeared. It has also more implications than

“Ocalan Trial Monitor: Backgrounder on Turkey’s State Security Courts”, available at <http://www.hrw.org/legacy/backgrounder/eca/turkey/security.htm>

²³ See *İpek v. Turkey*, Application no: 25760/94

persecution of the wrongdoers. What they imply is a political struggle for challenging the official “truth regime”, revealing it as state-sponsored lie, and re-writing the truth by recovering what really happened. This effort amounts to rediscovering the lost memory and rewriting the history. In this respect, Saturday Mothers as a movement stands as a challenge to the truth regime constructed by the political power relations. In the next chapter, I will discuss the history-making meaning of transitional justice; in particular, of the truth-seeking in transitional societies and how truth-seeking and truth-revealing contribute to re-constituting the collective memory.

3. TRUTH-SEEKING AND RE-MAKING OF COLLECTIVE MEMORY

The debate on truth and justice has been important both in transitional justice literature and in transitional societies. However, what this relationship implies has not been a matter of discussion. What I will contend is that regardless of the method through which justice is achieved, the role of truth seeking is beyond what it has been deemed to be. In the first section, I will focus on the justification of truth-seeking attempts in transitional justice literature. In the second section, I will discuss the role of truth, truth-seeking and transition with specific reference to Michel Foucault's understanding of truth and truth regime. Finally, I will discuss the political significance of truth seeking, more precisely, politics of truth seeking. I will contend that truth-seeking is a subversive practice in transitional societies with particular aim of democratizing the truth which is produced through political, societal and discursive power relations.

3.1. Meaning of truth-seeking in transitional justice literature

Ruti Teitel (2004, p. 69) defines transitional justice as “the conception of justice associated with periods of political change, characterized by legal responses to confront the wrongdoings of repressive predecessor regimes.” Transitional justice, as the term suggests, refers to a period in which certain society faces a discontinuity, a break in the course of normality. It can imply wars, revolutions or the demise of a repressive regime. Transitions are periods in which the foundational aspects of the societies are re-defined, and in which a society responds to evil legacies that have been allowed, if not emboldened, by the previous regime.

Truth-seeking and truth revelation are justified by numerous reasons. Here, before moving to history-making/re-making potential of truth-seeking and its political significance, I will give a general overview of truth in transitional justice literature, by focusing on the definitions, methods and roles of truth-seeking.

3.1.1. Definition and Methods of Truth-Seeking

Truth-seeking as a transitional practice signifies uncovering the facts of the past abuses that have been unknown, concealed, or denied. This practice changes understandings and challenges the previous perceptions of culpability and responsibility. (Smyth, 2007, p.10) Especially in the case of disappearances truth-seeking practice becomes all the more significant. As Zalaquett (1995, p.6) argues, since the method of repression is based upon secrecy, crime “perpetuates its pernicious effects as long as truth remains hidden”. Unveiling truth about the repressive or violent past of the society paves the way for further democratization since it uncovers the concealed atrocities of the old regime, thus drawing the line between oppressive past and the desired democratic future. In this respect, uncovering atrocities means challenging the political structure of societies “where truth has been repressed and distorted for a protracted period”. (Smyth, 2007, p.35)

There is no unified approach to truth. Smyth asserts four different approaches: forensic truth denotes the factual, objective truth which depicts what has happened; narrative truth consists of the individual stories as a practice of remembering; dialogical truth is attained through interaction, discussion and intersubjective deliberation; and, finally, restorative truth “aims to provide non-violent methods of addressing harm and violations of human rights, through working or a resolution that promises repair of damaged relationships, reconciliation and reparation for the harm done”. (Smyth, 2007, p.28)

For Fischer, (2011, p.411) in instances where gross human rights violations occur, truth recovery cannot be limited to telling of the forensic truth which depict what has happened. A holistic approach is needed. Forensic truth needs to be

complemented by the following: narrative truth (story telling by victims and perpetrators, in which personal truths are communicated to a wide public); dialogical truth (truth of experience is established by interaction, discussion and debate); and healing or restorative truth (documentation of truth and acknowledgment which accords dignity to victims and survivors. (Fischer, 2011, p.411)

Interplay of these different conceptions of truth is important. Firstly, especially through narrative truth, victims encounter the relative nature of truth whereas they ask for *the* truth. The multiplicity of truths can very well be disappointing and frustrating. Secondly, for the perpetrators, hearing of the factual truth and sympathizing with the victims can help the society reconcile. (Smyth, 2007, p. 29) Moreover, even though the forensic truth is revealed to the victims or their relatives, public dissemination of truth signifies a general acknowledgement of the victims through hearing their stories.

In the transitional justice literature, mainly two ways through which truth is sought are emphasized: truth commissions and criminal justice. Truth commissions are designed to discover and acknowledge the past abuses, and to prevent denial and forgetting. (Hayner, 2002, p.11-12). Secondly, this mechanism serves to respond to specific needs of victims and finally, it contributes to justice and accountability by recommending reforms and delineating institutional responsibility. (Dimitrijevic, 2014) However, truth commissions do not function as a judiciary body. Their mandate is limited to producing a formal record. Therefore, they do not serve to punish or compensate the victims.

For that matter, they are often presented as mechanisms aimed at compromise in the societies where former oppressors are still in power: in a situation in which justice (understood as criminal justice) cannot be achieved, truth is offered as an alternative. (Dyzenhaus, 2000, p.471) Sometimes, this particular bargaining contains a promise for amnesty, ending up effectively in impunity for wrongdoers. Those suspicious toward truth seeking conclude that truth-seeking attempts cannot contribute to the peace and justice in the society since peace and justice cannot be built upon impunity. (Dyzenhaus, 2000, p.471) On the other hand, Jose Zalaquett (1995, p.6) insists on a more nuanced approach, which points out that compromises are sometimes unavoidable and not necessarily unprincipled. He gives advantage to the truth, arguing that the full truth must be known but, while post-conflict society should strive for as much justice as

possible. Nevertheless, it should be noted that the way through which justice is attained very much depends on the context of the particular society.

Another way to discover truth is criminal trials. Proponents assert that implementing criminal justice means fighting against impunity. Criminal trials are perceived as establishing or re-establishing of the rule of law which has been disregarded during the times of conflict and violence. In this respect, it is widely argued that trials assume a bedrock role in the foundation of successor regime. (Teitel, 2000, p. 28) Criminal trials discover the truth during the criminal investigation of particular crimes. They collect the testimonies of witnesses, victims, and perpetrators. Moreover, trials are publicly conducted and the verdicts are publicly announced.

However, Mendez (1997, p.2) argues that “there is no guarantee that trials are the best means of redressing past human rights violations, nor are they appropriate in all circumstances.” The method through which the justice is achieved depends very much on the context of the particular society. Nevertheless, regardless of the context, revelation of truth maintains its importance, since trust, and thereby peace and reconciliation, “cannot be built upon the incomplete account of past, where suspicion remains and where responsibility has not been acknowledged”. (Smyth, 2007, p.10) Although there are certain distinctions in these methods, all in all, they serve the same aim, to reveal the truth and to make it public.

3.1.2. The role and significance of truth-seeking practice

Truth seeking plays different roles in transitional context. These roles cannot be detached from their normative claims and idealistic projections toward the future. These do not necessarily correspond to the political and societal realities of the transitional context; nevertheless, they deserve a detailed discussion. In this section, I will outline the roles of truth revelation under two main interdependent headings: acknowledgement (recognition) and potential for reconciliation. For the purpose of the following analysis I will take the truth-seeking and truth

revelation as the interplay between four abovementioned approaches: forensic truth, narrative truth, dialogical truth and restorative truth.

Times of conflict or repression accompany the denial of the equal status of those who are deemed to be “enemy”. In transitional context, this equal status of victims needs to be reestablished, or recognized anew, by the perpetrators and by the society as a whole. For this reason, recovering truth serves as acknowledgement: to recognize publicly who has been the victim, and who has caused suffering.

I understand acknowledgment as serving three main goals. Firstly, it serves to end state of denial. In societies that have undergone a violent conflict, the demarcation between the self and the other, meaning the demarcation between the conflicting groups, becomes very clear. This demarcation distorts the perception of each side. The other, being *the enemy*, is not regarded as entitled to the victim status. Therefore, the tendency to deny the suffering of the “others” is resilient. As Cohen (2001, p. 1) points out, the information, which might be shocking, disturbing and threatening to the society, is “somehow repressed, disavowed, pushed aside or reinterpreted. Or else the information ‘registers’ well enough, but its implications— cognitive, emotional or moral – are evaded, neutralized or rationalized away”. Denial can occur at many levels. In transitional context, official and cultural denials are of interest. For Cohen, (2001, p.10) official denial is public, collective and highly organized. States produce, disseminate and bolster massive sources of denial. Especially in totalitarian regimes, denial amounts to “an entire rewriting of history and a blocking-out of the present”. (Cohen, 2001, p.10) Cultural denial, on the other hand, is not officially organized but it is rather informal consensus, or dominant attitude, over what can be known and what can be remembered. In these cases, recovering truth serves ending both types of denial. Once truth is unveiled, it becomes publicly known and those who hear truth, hence the suffering of the other, offers a chance to come to recognize the others’ victim status (Smyth, 2007, p.7)

Another role that acknowledgment plays is “naming the names”. In the process of truth-seeking, victims, victims’ relatives and the perpetrators are named.²⁴ It is significant because without names, victims are dehumanized; in the conflict, their human status has been neglected or ignored; they were defamed by the former government and their dignity has been compromised. They are treated as not having unique personal traits but reduced to mere existence to be exterminated or suppressed.

In the case of perpetrators, “naming the names” functions in a different way: those who are responsible for gross human rights violations are made publicly known. By not letting the perpetrators go unknown, it helps the society be more just and accountable. Knowledge of the names, for Zalaquett (1995, p.11) has the meaning of reparation. He argues, “a public acknowledgement of misdeed on the part of the culprits or the institutions they belonged to (...) is an important measure of reparation for the victims, for the society”. Therefore, this practice has the aim of restoring the “human and civic dignity” in the eyes of the society. (Dyzenhaus, 2000, p.471)

Finally, together with all abovementioned roles played by acknowledgement of victims, it also serves to challenge the moral superiority of the perpetrators. Groups in conflict are alienated from each other; they either rationalize their wrongdoings against the enemy or focus on the wrongdoings of the “other”. This distorts the self-reflective capacity of the actors and they keep denying responsibility. They sustain their claim to moral superiority and innocence. (Smyth, 2007, p.11) However, with the revelation of new facts and evidence moral and self-justificatory

²⁴ For instance, Truth and Reconciliation Commission of South Africa Report includes “the names of all those people who, by that date, had been found by the Commission to have suffered a gross violation of human rights”. See Truth and Reconciliation Commission of South Africa Report, Volume Five. Available at <http://www.justice.gov.za/trc/report/finalreport/Volume5.pdf>

claims of those “who had sought to elevate themselves above the victims through the process of abuse” are rebutted. (Dyzenhaus, 2000, p.471)

Besides acknowledgement, truth-seeking and truth revelation have a reconciliatory potential. This potential for reconciliation is not independent of the acknowledgement: the extent to which truth is accepted by the wider public and to which state of denial is ended is decisive in the reconciliation. Otherwise, as Cohen (2001, p.1) argues, state of denial may very well continue even after the truth is unveiled; the truth unveiled can be justified, rationalized and pushed toward oblivion.

Firstly, reconciliatory potential is achieved by preventing recurrence. Documenting all means of human rights violations, shocking and disturbing notwithstanding, can raise awareness about the past for those who deny or do not know it. Once the disincentive for violence is ensured, people can find the chance to communicate with each other in a more peaceful environment; thus, they can be more open to reconciliation.

Secondly, this potential lies in providing access to the discourse of the “other”. (Smyth, 2007, p. 7) In transitional societies, parties do not have access to what the “others” think and believe. Truth revelation includes collecting and publicizing individual and personal testimonies from all sides. People, whose access to the “other” has been obscured because of spatial and ideological segregation and repression, can come to know each other through general accessibility of truth across the all sectors of society. (Smyth, 2007 p.7) Moreover, making truth accessible to everyone bears the opportunity to synthesize the polarized discourses of the past. (Smyth, 2007, p.9) This, in return, paves the way for reconciliation.

Finally, truth revelation plays an educational role. Truth is transferred to the next generations as the memory of the bad past. For Dyzenhaus (2000, p. 484), “truth investigated is transformed into an ethos as a shared information among the societal actors and as a result, plays an

educational role in order to correct the past wrongdoing”. Moreover, truth recovery seeks to demonstrate that all human beings are of equal value and offers “participant a public and official opportunity to face their own grief and culpability and respond with emotions appropriate to the ending of human life and infliction of human suffering”. (Smyth, 2007, p. 12) This public educational role serves the purpose of peace and reconciliation by teaching people to share the suffering and responsibility in the transitional context.

3.2. Truth as Justice? Truth-seeking as a subversive practice in transitional context

In the literature of transitional justice reviewed above, one question remains unanswered: to what extent can these roles and functions of truth-seeking amount to justice? In other words, to what extent is the revelation of truth conducive to the goal of achieving justice in a society marked by legacies of injustice? What I contend is that this relationship can be understood by exploring the ways in which truth is constructed and by looking at the political significance of truth. Truth seeking is a political struggle, if not resistance, in the face of regime of denial. Truth in divided societies is a contested field for revelation of which truth-seekers strive. Especially in societies where official and dominant cultural denial of truth prevails, the monopoly of truth construction is enjoyed by the political power. In these cases, attempts to challenge this authority of truth-making have been repressed. Therefore, the power of providing official interpretation of what, why and how things happened remains the monopoly of political power. Truth seeking becomes a subversive practice which stands up against the hegemonic, suppressive power relations.

In the following sections, I will discuss the transformative potential of truth-seeking, the political struggle it envisions and its role in subverting the current power relations in the society. While doing so, firstly, I will give an account of Michel Foucault’s understanding of truth as a social construct and the way it operates. Secondly, I will discuss the importance of this

understanding in transitional context. Finally, I will discuss truth-seeking attempts as a transformative practice challenging the social and political structure of society.

3.2.1. Michel Foucault: Truth, Truth regime and political significance of construction of truth

For Foucault, truth is a constructed phenomenon which prevails in every society. That is to say, it is constructed within societal relations, with its own power mechanisms interacting. In this regime, truth turns out to be the meta-narrative which shapes the political discourse. In this respect, instead of seeking to acquire *the* truth, we need to embrace multiple forms of truth as well as we need to explore the mechanisms through which truth is constructed. Foucault argues that the essential problem is not how we acquire the truth or how we criticize the ideological content of it, but rather to understand through which mechanisms truth is constructed and made functioning:

The problem is not changing people's consciousness but the political, economic, institutional regime of production of truth. It is not a matter of emancipating truth from every system of power but of detaching the power of truth from the forms of hegemony, social, economic and cultural, within which it operates at the present time. (Foucault, 1980, p.133)

For Foucault, truth has never been outside the power. Neither has it lacked power. (Rabinow, 1984, p.73) That is to say, truth has never been *the* truth which is unique, absolute, universal and discoverable. Truth, in this respect, should be grasped "as a system of ordered procedures for the production, regulation, distribution and operation of statements". (Foucault, 1980, p. 133) It is produced, disseminated, sustained and made true. It is a constructed phenomenon which cannot be grasped as independent from social, economic and political power relations. Foucault gives an account of *how* truth operates in society. For him, there are five important traits that characterize the truth:

[The truth is] centered on the form of scientific discourse and the institutions which produce it; it is subject to constant economic and political incitement (the demand for truth, as much for economic production as for political power); it is the object, under diverse forms, of immense diffusion and consumption (circulating through apparatuses of education and information whose extent is relatively broad in the social body, notwithstanding certain

strict limitations); it is produced and transmitted under the control, dominant if not exclusive, of few great political and economic apparatuses (university, army, writing, media); lastly, it is the issue of a whole political debate and social confrontation ('ideological' struggles). (Foucault, 1980, p.131-132)

Through these mechanisms, truth is produced, circulated, and sustained as the hegemonic discourse. Therefore, understanding and analyzing power relations is central to understanding and grasping how truth operates within a society.

By power, Foucault does not refer to something that is seized, held, transferred and used. He understands power as something that "circulates, or rather as something which only functions in the form of a chain. It is employed and exercised through net-like organization." (Foucault, 1980, p.97) In this respect, power is not a phenomenon held by a person or an institution; it does not exist in a universally concentrated or diffused form. For Foucault (1982, p.788), it exists only when "it is put into action, even if, of course, it is integrated into a disparate field of possibilities brought to bear upon permanent structures." In this respect, power is an action and relations of power are the relations within which we see these actions upon actions. Therefore, relations of power are manifold which "permeate, characterize and constitute the social body". (Foucault, 1980, p.93)

Without understanding the power relations, we cannot understand how society functions. The functioning and sustainability of these relations of power are also dependent upon the circulation of certain discourses. For Foucault (1980, p. 94)

"there can be no possible exercise of power without a certain economy of discourses of truth which operates through and on the basis of this association. We are subjected to the production of truth through power and we cannot exercise power except the production of truth."

Hence, there is a circular relation between truth and power. One without the other cannot be achieved. That which is made true is produced as a result of exercise of power and of power relations; in turn, power is consolidated, sustained and extended through the very production and dissemination of truth. In this respect, each society is constrained by multiple forms of

power relations, these constraints determine what to be seen as true or false. This relation is attained by general politics of truth: “that is the types of discourse which it [society] accepts and makes function as true”. (Foucault, 1980, p.131) Foucault’s theory, this relationality is named as truth regime. A truth regime is

the mechanisms and instances which enable one to distinguish true and false statements, the means by which each is sanctioned; the techniques and procedures accorded value in the acquisition of truth; the status of those who are charged with saying what counts as true. (Foucault, 1980, p.131)

The truth regime is essential to understanding social relations, how discourses of truth are constructed and made to function as true, and how these relations operate within the society.

The emphasis on discourse needs to be elaborated here. Differing from the previous scholars, Foucault does not use the word in linguistic sense but rather refers to “relatively well-bounded areas of social knowledge”. (McHoul & Grace, 1993, p.31) Discourse in Foucault’s thinking is different from language in the sense that types of discourses are produced by certain constraints. Everything stated, articulated and even thought happens within the limits of discourse which, on the one hand, produces the meaning; on the other, is produced within certain historical limits. In this respect, for Foucault, “modern pattern of discourse imposes a discipline of sorts on human statements which works to limit and normalize the making of such statements.” (Schneck, 1987, p. 20) Discourse is underlined since it represents the dominance and repression in prevalent power relations. Moreover, discourse both reflects a certain reality within which people live and it plays a determinative role on “what people know, what they hold true, and how they behave accordingly”. (van de Ven, 2012, p.5) More precisely, it generates knowledge and “truth”, and it is intimately involved with socially embedded networks of power. Therefore, there is no truth outside the discourse. Rabinow (1984, p.4) argues, for Foucault, there is no certainty external to the history and society; there is no universal understanding of truth outside of what has been constructed within the truth regime of this particular society.

What Foucault argues has contributed a lot to our understanding of truth. The intimate relation between power and truth, how the truth is constructed and operates in the society and what are the ramifications and repercussion of this relation is of significance. However, as Weir (2008, p.368) aptly criticizes, the ‘truth’ with which Foucault is concerned is exclusively that of scientific and quasi-scientific practices. But, in contemporary society, forms of truth cannot be delimited to these forms. It is more heterogeneous and complicated than Foucault asserts, it is also carried in the form of science, religion, governance and everyday life. These forms may or may not engage in stable relations, they might be a matter of contestation and truth itself turns out to be a contested field. (Weir, 2008, p.381) Given that truth cannot be independent of power relations, these power relations cannot be independent of competition, contestation and the struggle for dominance. This struggle can be carried in the economic, political, social as well as in the discursive realm. This competition can take the form of resistance as well as violence. In divided societies, this contestation assumes a more urgent form; truth regimes are hardly unified and shared. Below, I will discuss the transitional societies where, as Teitel (2000, p.71) points out, “shared notions of political truth and history is largely absent.”

3.2.2. Fragmentation of truth regime and remaking of collective memory/history in divided societies/societies in conflict

In this section, I will discuss the significance of truth-seeking in transitional contexts with reference to Ruti Teitel’s conception of “historical justice”. Teitel, in her theory of historical justice, agrees with Foucaultian thinking in analyzing and grasping the nature of truth and its relation with the power relations. For Teitel, (2000, p. 69) the demand for truth is to render a more liberal order possible. This more liberal order comes with remaking of collective history of the repressive past. In this respect, she not only discusses the significance of demand for truth but also moves the discussion toward a collective history making in transitional context. Demanding truth also means challenging what is known, what is remembered and what is

socially and culturally transmitted as true. In this respect, the role of history as the mediator of the social action “has a political and discursive significance”. (Alonso, 1992, p.405)

The understanding of history should be clarified in terms of history's relation to truth. Even though collective history making is essential to liberalization, the assumption that there is clear, single, objective truth as the underlying factor of the history (Teitel, 2000, p. 69) has been rethought. With the “interpretative turn”, we have come to see that “recognition of the degree to which historical understanding depends on political and social contingency.” (Teitel, 2000, p.70) With this epistemological break, the common enlightenment assumption that history reports the truth has dramatically changed; now, social and political contingencies as well as power relations have to be taken into account. This politically charged feature of truth has been extensively explored and truth has been widely accepted as a socially constructed phenomenon (reference?). In this regard, the collective history making process is claimed to be dependent upon this socially constructed truth and the association of history with “truth-telling” or with “truth” has stopped to be the fundamental understanding of history.

It follows that we need to explore the epistemic implications of power relations in history making processes. As I have discussed above, the intimate relation between imposition of power and control of knowledge is determinative in construction of collective memory. History, as the representation of the past, is constructed through “truth regime”. (Teitel, 2000, p. 70) Recall that truth regime in Foucault’s theory is constructed and reproduced by a circular relation between power and knowledge; this circular relation is no different collective memory making processes. Collective memory, thus, is not single and unified representative of truth; but rather that of power relations. What is more striking is that it stands as a meta-narrative which shapes the dominant discourse. In this respect, politically charged power relations shape the way the history is written. If, for Alonso (1992, p.405) discourse is produced and reproduced in social action,

“social action is always historically situated. (...) Memory, meaning and power are internally related. Thus, an inquiry into the construction and dissemination of historical memory, itself a central site for the production of effects of power, is critical for an analysis of hegemony.”

This discourse is both information and bearer of collective memory. Memory is transferred and transmitted through collective memory. Collective memory is defined as “inter-subjectively constituted results of shared experience, ideas, knowledge and cultural practices through which people construct a relationship to the past”. (Mitzal, 2003, p.x, quoted in Barahona de Brito, 2010, p. 362) According to Barahona de Brito, memory plays an important role in societies’ political structure because it marks social flows and political disjuncture. Moreover, through remembering, societies determine the scope of their policy options, whom to include/exclude and which discourses to legitimize. (Barahona de Brito, 2010, p.361) To the extent that memory is considered, its role in the society underlies the political structure of society.

However, in transitional societies, truth as well as collective history has been manifold and “epistemic consensus” has been disintegrated. In the period of conflict or radical flux, truth as the alleged threshold of shared understanding loses its single and shared character and becomes fragmented and fragile. As Teitel (2000, p.71) points, transitions are periods “when shared notions of political truth and history are largely absent.” Collective memories of different groups conflict with each other and the shared notion of memory is missing partly or altogether. Scattered versions of histories and memories either contradict each other or avoid any confrontation. Even after the conflict, formerly enemy societies hardly encounter each other and do not transmit their memories to one another.

In the case of post-civil war societies, each party has produced its own truth and truth regime and these truth regimes are in opposition to each other. Each party knows and believes in its own version of truth. This absolutism does nothing but reinforce the boundaries between the

conflicting parties. And this prolonged conflict reproduces the unilateral discourses about truth. (Smyth, 2007, p. 30)

Similarly, in the case of repressive regimes, such as military dictatorship, truth has been appropriated by the regime itself. A repressive regime either distorts or manipulates truth, producing yet another truth regime and using it to transform the public discourse. Human rights violations are justified under the name of “war against terrorism”, “for the unity of the country” or the repressive regime engages in a state of denial and hides what has happened. What is hidden are the “massive systemic atrocities”, gross violation of human rights and repression of the modern state. (Teitel, 2000, p.75) However, on the side of the repressed, things are known and remembered differently. Therefore, the collective memories contradict and clash with each other.

However, it should be noted that reconciliation between the conflicting parties is not necessarily the immediate outcome in transitional societies. Shared memory may lead to worse consequences such as further silencing of one party or misrepresentation and misinterpretation of the facts. In this respect, emphasis on shared memory conditions the democratization of truth as well as of memory that I will discuss in the following section.

3.2.3. Transitional Justice as a transformative practice and the Politics of truth-seeking

In the framework of a dissolved and scattered truth regime, the question Teitel raises is “how do societies go about constructing their pasts in a way that collectively understood as ‘shared and true’?” (Teitel, 2000, p.71) In other words, she asks how to achieve a threshold understanding of truth upon which everyone in the society agrees; how to construct a new truth regime? To my mind, as I will explore below, this question amounts to the democratization of truth; hence to the democratization of history and society. In the first part I will discuss the transformative role in the society in two senses: firstly, delegitimizing former regime of truth

and linked to this, reconstructing the legitimacy of the successor regime. Secondly, I will focus on politics of truth-seeking as a process of shaping society since the former power relations are displaced and the monopoly over truth is broken.

3.2.3.1. Establishing a new truth regime

Periods of transitional justice are marked by a discontinuity with the former regime. Therefore, in transitional periods, the reconstruction of history is mostly predicated upon the distance taken from the former regime. However, it is not plausible to expect this discontinuity to be a total one: institutional legacies, legal rules as well as actors of the former regime might survive. Discontinuity is rather a political one, heralding that the successor regime will not involve itself into gross human rights violations, suppression will not be a part of politics. This distancing thereby drawing “a line of discontinuity” (Teitel, 2000, p.71) ensure the legitimacy of the successor regime. To be able to draw this line, the successor regime needs to denounce what has been done in the repressive period and help produce a more honest truth in accordance with this distance. Facts covered needs to be discovered and the truth regime as well as truth policies of the previous regime have to be condemned.

The previous regime’s policy of truth which tends to “wield power through the forces of secrecy, disappearance and impunity” is revealed through public revelation and dissemination of truth. This truth “consists of placing moral templates and frameworks on past circumstances and deeds, templates and frameworks (...) moral uncertainties, inversions and moral disruptions generated by war and oppression”. (Smyth, 2007, p.32) These moral inversions and disruptions need to be heard of from the victims who have been silenced and deprived of articulation of her own truth. This truth “reclaims the voice of the victim, delegitimizes the justificatory narrative of the repressors”. (Barahona de Brito, 2010, p.364)

Consequently, delegitimizing the past helps establish the legitimacy of the successor regime. This happens, on the one hand, through unveiling truth; on the other, democratization of truth. The revelation and production of public knowledge happens in public processes, in which victims and the broader society, including bystanders, take part. (Teitel, 2000, p.81). It is possible that under certain conditions even perpetrators would be included in this process (e.g. in criminal trials, or truth commissions). Reclaiming the victims' voice in the production of knowledge produces new truth regime in a more democratic manner contrary to the previous regime of secrecy in and control over the truth. Revealing the truth in transitional context rewards not only historical but also political accountability. (Teitel, 2000, p.83) This convergence of historical and political accountability is an essential part of the legitimacy of the successor regime since it paves the way for democratization of truth as well as of the history and political structure of a society in transition.

However, not only the revelation of truth but also critical interpretation of it has great importance. Unless the truth is critically interpreted and rights abuses are publicly condemned, this line of discontinuity may fall short in responding past abuses. Therefore, not only legal and bureaucratic but also discursive as well as performative response to the previous regime is needed to denounce the past regime's truth policies. This response is an essentially political one. It requires new constitution of power relations which shape the truth to form the future political framework and collective history of a society. Therefore, it requires a certain political confrontation with the former elite who have helped sustain the previous regime as well as with some parts of society who were either bystanders or continue to believe the former discursive regime. Through these encounters, repressor's truth regime through which it circulates its discourse and justifies the atrocities is delegitimized. The representational language constructed during the war and repression transforms: those who were "terrorists" become "victims of human rights violations" and the "war against terrorism" becomes "crime against humanity".

Not only the politics but also the language representative of former politics changes. Teitel (2000, p.91) points out, in the process of truth revelation,

“political truth is constructed at all once, demonstrating how change in truth regimes corresponds to change in political regimes. The express nature of the transitional historical forms and processes reveals the often instrumental, and significantly politicized, nature of these measures, politicized in the sense that the relevant truth is that public knowledge needed to advance the particular society’s transformation. In this most urgent of the transitional responses, a new story line is speedily produced; a ‘truth’ is an overtly and explicitly political construction shaping the direction of the transition.”

As a result, I contend that there is not a direct relation between truth and justice. Rather, I believe, it is a mediated relation, and this mediation is constituted through the political struggles, which subvert, depose and transform the truth regime into a more democratic one. By democratization of truth regime, I mean an understanding of truth upon which any kind of monopoly is unacceptable. Especially in the case of truth seeking, this struggle becomes more relevant and significant because questioning and challenging the clandestine nature of the political power means challenging the foundations of that political power. Thus, the relation between truth-seeking movements and political power becomes political in nature. Moreover, the power relations which allowed the past atrocities to happen come to be questioned; thus, truth-seeking plays a transformative role.

However, what I add to Teitel’s approach is the pre-truth revelation period. It is true that once the settlement for truth revelation is negotiated, necessary legal and institutional measures are taken. In other words, institutional measures such as truth commissions and criminal trials in the transitional context come to being as a result of certain negotiations, after the terms are settled. As Maier (2000, p.262) points out, these institutional measures become able to function once the parties agree upon it or once one side has defeated the other. However, in societies where the former truth regime is still prevalent and where transitional terms are not negotiated, truth-seeking as a practice turns out to be more of an activist movement seeking to reshape the society. In such a situation, institutional frameworks do not suffice to address transitional

justice. As Gomez (2010, p. 1) points out, “behind the institutional processes and the enactment of legal frames, there are collective actions and practices of various actors who make possible the emergence of resistance to oppression and the construction of new paths of justice”. In the following section, I intend to discuss the politics of truth seeking in pre-transitional societies which amounts to resistance to the truth regime of the repressive regime.

3.2.3.2. Politics of truth-seeking

By politics, I mean the “the rules of the game that society accept as legitimate means of making binding decision”. (N. Dimitrijevic, personal communication, May 27, 2015) These decisions and capability of making them binding for all are, by no means independent of power relations. Through power mechanisms, rules are set up and people who are subject to those rules know that they are bound by the rules. Political activity, on the other hand, refers to the process which “is about power relationships: about establishing and maintaining them, or contest which already exist”. (Hensman, 1996, p.50)

In this respect, the practice of truth-seeking in a transitional context is a political process targeting, and challenging existing truth and truth regime. Truth-seeking is an act of resistance. Resistance against truth regime does not necessarily mean resistance against institutional politics; it is, at the same time, resistance to everyday life “in which power is experienced and negotiated outside the formal contexts, to the effects of power on identities and bodies”. (Alonso, 1996, p.417) This act of subversion is attained at two interdependent levels in the context of repression: by publicly challenging the dominant truth regime in a context of organized lying and by narrating their “own” stories that repressive political authority has silenced.

Firstly, truth-seeking is a public declaration that dominant ‘truth’ which has been told and imposed by the political power is actually a deception. It publicly denounces what the dominant

truth regime tells us to believe, it seeks for what has been suppressed or distorted. Of course, this role of truth seeking is of more relevance in the context of repressive regimes. As Smyth (2007, p. 35) draws on Arendt, “the impact of truth seeking (...) depends on the extent to which truth was suppressed or distorted”. The more suppressed the truth, the more subversive truth seeking becomes. Accordingly, in oppressive regimes where the dominant discourse is unchallengeable, asking for truth in the public sphere becomes shocking, challenging and subversive.

Secondly, narrating their own version of story, truth-seekers generate a counter-discourse. This counter-discourse is articulated publicly. The public sphere, in this respect, should be seen in two respects: firstly, as Arendt points out, it is the sphere of visibility; where a person can appear and confirm her existence with the others’ presence. (d’Entreves, 2014) Therefore, the articulation of demands for truth and stories in the public sphere makes one visible in the eyes of others. Secondly, the public sphere is a discursive sphere within which dominant discourse is produced, circulated and sustained. In the public sphere of a repressive regime, the meta-narrative which reproduces the power relations does not leave any room for the others. In this respect, the public sphere is a bounded space that disregards the other discourses. Expressing the alternative narrative that bears other truths creates a rupture in the boundaries of the established public sphere. It incorporates the unheard into the sphere of circulation of discourses.

Consequently, this narrative assumes a political status as standing up against the dominant narrative in the public sphere. It reshapes the public sphere and opens up new possibilities for new discourses to enter. In the following chapter, I will discuss the case study of Saturday Mothers, a group of women who have been holding vigils of truth seeking and who have been articulated their own narratives for almost 20 years now, through which we can explore the meaning of truth seeking as a means of political and historical transformation.

4. IN PURSUIT OF TRUTH: THE SATURDAY MOTHERS OF TURKEYS

In the final chapter of the thesis, I intend to focus on the political significance of Saturday Mothers. In the first part, I will outline the attempts for transitional justice in Turkey both in the state and in the civil society level. In the second part, I will discuss the political struggle of the Saturday Mothers and its repercussions on the Turkish context with regard to challenging the truth regime and transformation of the public sphere.

4.1. Attempts for transitional Justice in Turkey

Institutionally speaking, Turkish State's attempts for transitional justice have never been satisfactory and they are mostly belated. Even though there have been several transitional periods after the coup d'états, not until recently, had well-known methods of transitional justice been initiated; nor had they been opened to discussion. This silence in the face of the past was partly because of the Provisional Article 15 of the Constitution²⁵ which had provided immunity for the supreme commanders of Turkish Armed Forces. On the other hand, since the institutional, constitutional as well as political legacies of the military regime(s) continue in Turkey, the lack of attempts at transitional justice cannot be ascribed only to the constitutional provisions.

The efforts for transitional justice started with Turkey's constitutional referendum in 2010, which abolished the Provisional Article 15. Trials of leaders of the coup d'état followed, though

²⁵ Article provides that "no allegation of criminal, financial or legal responsibility shall be made, nor shall an application be filed with a court for this purpose in respect of any decisions or measures whatsoever taken by: the Council of National Security formed under Act No. 2356 which will have exercised legislative and executive power on behalf of the Turkish Nation from 12 September 1980 to the date of the formation of the Bureau of the Turkish Grand National Assembly...". For more information see <http://www.constitution.org/cons/turkey/part6.htm>

not for crimes against humanity²⁶ but for crimes against state. The institutional and political legacies of the military regime²⁷ remained largely untouched. The Turkish state's attempt to face the past has yet to succeed.

This lack of effort and willingness for transitional justice is even more explicit with regard to the Kurdish question. The problem is that the crimes against the Kurds have always been justified by reference to the foundational aspects of the Republic. Therefore, I argue that the lack transitional justice should be seen as a conscious negligence and denial on the part of the Turkish state.

Most recent example of this negligence happened during the mentioned trials of *Balyoz* and *Ergenekon* cases, lawsuits launched to prosecute numerous military officers of all ranks involved in coup d'état-related crimes. As mentioned in the second chapter, most recent example of this negligence happened during the mentioned trials of *Balyoz* and *Ergenekon* cases, lawsuits launched to prosecute numerous military officers of all ranks involved in coup d'état-related crimes. As this example suggests, as far as the Kurdish question is concerned, official silence and negligence of Turkish state have been even more resilient. As mentioned in the first chapter, Turkish state's way to deal with Kurdish question has always been stated in the official discourse of modernization. Since then, state violence and gross human rights violations have been perceived as legitimate on the part of the Turkish state.

²⁶ In the military regime, 230.000 people were prosecuted; 517 people were sentenced to capital punishment and 50 of them were executed. 300 people were suspiciously found dead; 171 people were killed under torture. 400 journalists were prosecuted and were sentenced to 1000 year -long imprisonment in total. 30.000 people were fired from their jobs and 14.000 people were deprived of their citizenship of Turkey; 30.000 people fled to Europe and to neighboring countries for asylum seeking. For more information, see Comert, H. (April 4, 2012). *Rakamlarla 12 Eylül Darbesi* [1980 coup d'état in numbers]. *NTVMSNBC*. Retrieved in May 28, 2015 from <http://www.ntv.com.tr/arsiv/id/24999286/>. These numbers include both Turkish and Kurdish population.

²⁷ Especially the institutions established or officialized by the military regime remained untouched. Most controversial of these institutions is National Security Council: It is composed of military officers and governmental authorities and it overrules the Parliament in the issues of "state security".

Therefore, neither unresolved killings, summary executions, arbitrary arrests and torture nor enforced disappearances have been a matter of investigation; rather, implicitly or explicitly they have been rationalized away by the governmental authorities under the name of struggle against terror.²⁸ This has been the main component of the dominant discourse of denial of or, even worse, denigrating and oppressing the Kurds. Therefore, demands of the Kurds as well as their right claims were neglected, pushed aside, overpassed or simply rejected by stating the state security and indivisible unity of the nation as a reason.

Throughout the history of the Republic, Turkish state has always pushed the alternative discourses out of the public sphere. The state has practiced two main and interconnected strategies to silence the alternative: violence and making them invisible. In the case of Saturday Mothers, women were beaten up and detained many times. As detailed above, they had to abandon the protest due to the police violence. Starting from the 170th week to the 200th week, mothers and their supporters were beaten up, taken under custody and physically and psychologically assaulted. (Kocabicak, 2003, p. 112)

Secondly, the Turkish state makes the alternative discourses invisible. It delimits the public space only to the dominant official discourse, while those who challenge it have been ridiculed, abandoned or accused of being unpatriotic and traitor. Sharing a similar fate, Saturday Mothers were sued for resistance to police, being members of illegal organization and inciting hatred in the society. (Baydar & Ivegen, 2006, p. 709) Moreover, the discourses generated have been disseminated and sustained by means of media, education and institutional politics. In addition, other channels which attempt to disseminate alternative discourses were either repressed or

²⁸ Remark of the then Prime Minister Tansu Çiller is telling here: *“Those who both fire a gun and are shot for the state are men of honor”* (November 26, 1996)

marginalized.²⁹ In such a framework, denial and negligence were the official policy of the Turkish state towards Kurds.

In this political context, it is not surprising that attempts and efforts for transitional justice, particularly for truth seeking, have been initiated by the civil society. Human rights organizations, political parties and citizens have been involved in the truth-seeking struggle in Turkey. Despite all the measures taken by the Turkish state, the Saturday Mothers have continued to gain a wider support in the society, especially from the NGOs and human rights activists.

That being said, the change in the political context in Turkey played a decisive role in the increasing support for the Saturday Mothers. Two political developments changed the political landscape of Turkey considerably: the peace process between the PKK and the Turkish state which officially started in 2012, and Gezi Movement of 2013. These two events have strong impacts both on the political agenda of the State and on the broader public opinion in Turkey. For the purposes of this thesis, I will discuss the impacts on public opinion, not on the state's political agenda.

When the peace process started in 2012, a bilateral cease fire was declared between the PKK and the Turkish Armed Forces. With this, the Kurdish question was brought to the public discussions and peace emerged as an opportunity. The political visibility of the Kurds increased and the Kurdish population's voice in the public sphere has come to be heard. Moreover, the censorship in Kurdish regions was lifted to a considerable extent and speaking about the Kurdish

²⁹ Until the peace process started in 2011, 7 Pro-Kurdish parties were closed down by the Constitutional Court. Their members and MPs were desisted from political activity; their immunities were lifted and they were arrested and imprisoned. Moreover, in 20 years, 39 pro-Kurdish newspaper were closed down by legal order and these newspapers were legally and physically assaulted. Besides these, not only Kurdish but also Turkish journalists who reported any news regarding Kurdish question were either fired from their job, exiled or arrested. For more information, see Ince, E. (December 18, 2014). Years of "Free Press" in Chain. *Bianet*. Retrieved in May 30, 2015 from <http://www.bianet.org/bianet/medya/160894-ozgur-basin-in-tutsak-yillari>

issue in the public sphere has become possible. Journalists started to report more about Kurdish question and, nowadays, both NGO reports and media cover the gross human rights violations of the 1990s. However optimistic this sounds, this peace process has not transformed the dominant discourse in Turkey. The terms of peace are yet to be negotiated and the Kurdish side is not content with the inaction of the state. They ask for the revelation of truth and remind the Turkish state that “without facing the past, no peace can be achieved”. (“No Peace without Facing the Past”, 2015)

Secondly, the Gezi Movement in 2013³⁰ affected the perception of non-Kurdish citizens to a great extent. In the Gezi Movement, state repression of all kinds (from physical violence to arbitrary arrests and torture; from impunity for the police to excessive censorship on the press) was experienced and witnessed all over the country. (Amnesty International, 2013) Those who had not heard or who had sustained the dominant discourse began to sympathize with the Kurds. Although this movement has not dissolved the dominant discourse in the public sphere regarding the terrorism of the Kurds, it paved the way for questioning it. As a result of these developments, public support of Saturday Mothers increased dramatically. In the 500th week of their gatherings, thousands of people participated in their sit-ins. (“Saturday Mothers ask for justice in the 500th week”, 2014)

The Saturday Mothers stand as the longest lasting movement for revelation of truth. They keep challenging the truth regime and truth policies of the Turkish state. In the following section, I will discuss this challenge.

³⁰ This month-long movement emerged against the increasing authoritarian and anti-democratic policies of the AKP government.

4.2. Saturday Mothers: 20-year long quest for truth

The Saturday Mothers have been gathering to ask for the truth about their loved ones for 20 years now. I will argue that they have developed a subversive practice that challenges the truth regime of the Turkish state. I will discuss this point under two main headings: first, the attempt for democratization of truth; second, the attempt for transformation of the public sphere and the collective memory prevalent in the public sphere.

The overt aim of the Saturday Mothers is to force the state to inform them about the fate of their beloved ones, and to accept responsibility for crimes.(Bozkurt & Kaya, 2014, p.69) As the state inaction continued, their movement has become even more determined. They have become more engaged into other societal sufferings, expressing solidarity with other movements³¹ However, they have never deviated from their own cause of revealing the truth. I will focus on is the political and societal significance of these demands, on what they mean in the broader context of Turkey. I argue that Saturday Mothers has been contributing to the truth revealing process firstly by challenging the dominant discourse in Turkey, and secondly, by providing an alternative account of truth.

First, since the beginning of the movement, Saturday Mothers ask for the truth in the face of the denial and concealment of the Turkish state. Asking for truth from the state means “state is lying” or at least, it is hiding the truth. This, in turn, amounts to challenge the monopoly of state over the truth. Moreover, since every truth regime is constructed through power mechanisms ruling in the society, challenging the truth implies challenging the dominant power relations

³¹ Saturday Mothers as a movement has been working in solidarity with other civil society organizations and they stand up against all kinds of rights violations and injustices. A very striking example to this is the commemoration of Hrant Dink, an Armenian citizen of Turkish Republic and journalist who was assassinated in 2007 because of his writings about Armenian Genocide. Every year, Saturday Mothers attend the commemoration for Hrant Dink and protests against impunity of the murderers. For more information see Cinmen, I. (January 14, 2012). Cumartesi Anneleri de Hrant için Yürüdü [Saturday Mothers too marched for Hrant]. *Bianet*. Retrieved in May 30, 2015 from <http://bianet.org/bianet/diger/135452-cumartesi-anneleri-de-hrant-icin-yurudu>

and their agents. This challenge opens up new questions regarding the nature of official truth to the wider public, and unmask the power relations based on repression and denial. Especially in the case of enforced disappearances, this becomes all the more important since the state not only denies the act but it also obscures the evidence, which is the body of the disappeared. The lack of transparency and accountability of the state become exposed, and wider public starts discussing about the nature of repressive regimes.

Second, since the state holds on to its own truth and makes it function among the non-Kurdish population, the majority was convinced either that those who disappeared have deserved their fate as “terrorists”, or that those who stand up against the state have the aim of defaming the state and destroying the indivisible unity of the Turkish nation. These perceptions penetrated into and pervaded the public discourse of non-Kurdish population with the help of underlining the nationalistic values. Moreover, not only mainstream Turkish media but also judiciary, education system and the institutional politics have played an essential role in reproducing this discourse and stigmatizing the Kurds. (Zeydanlioglu, 2008, p.166) In this respect, calling for the revelation of truth by the Saturday Mothers have sought for the subversion of the power mechanisms including institutional politics, media, education and judicial systems.

In addition to demanding the truth revelation, the Saturday Mothers have been demanding that the state “recognize its responsibility and culpability specifically for enforced disappearances”. (Bozkurt & Kaya, 2014, p.69) This demand goes beyond its primary request for the prosecution of the perpetrators, but also requires state abandon its moral righteousness and acknowledge wrongdoing. Insisting upon the culpability and liability of the state signifies the demand for a new political structure that would be built not upon the state’s monopoly over what is known and remembered but on the principle of accountability to citizens. This demand for state responsibility challenges not only the dominant discourse but also political and ethnic foundation of the Turkish state. In this respect, the Turkish state needs to reorganize its own

political foundation so that it re-defines the citizenship as well as political, social and cultural rights to be recognized. Both the political, legal and institutional legacies of the repressive regime against the Kurds and the perception of state in the eyes of the public change. That is to say, not only the state but also the society needs to revise its perceptions about the Kurds. They are seen no longer as “terrorists” or “violent and backwards” who do not appreciate the modernity of the Turkish state but rather as fellow citizens who ask for their own cultural rights. Moreover, by prosecuting the perpetrators, it ensures its accountability and responsibility in protecting its citizens’ lives.

In addition, appearing in the most crowded street of Istanbul, hence of Turkey, Saturday Mothers claim certain publicity, thus reclaiming the public sphere which has been closed to the opposing views. Efforts to transform the public sphere can be discussed in two respects: first, by becoming visible, and second, by challenging the collective memory which is circulated and reproduced in the public sphere.

By public sphere, I mean both meanings of it: the sphere of visibility and the platform through and by which the dominant discourse is circulated and reproduced. The Saturday Mothers’ choice of Galatasaray Square was by no means coincidental. As Ivegen (2006, p. 36) points out:

One of the reasons is that the street houses a variety of cultures, commercial areas, activities, historical places, etc. so that a diverse range of people can be there and the diversity is reflected in the daily life of the street. (...)Moreover a large number of people who are coming from and going to Taksim Square, the heart of Istanbul, pass from there. More importantly, many intellectuals pass from there because a significant publishing house Yapı Kredi is located on the street. Hence, the sit-ins would receive considerable attention from all walks of life. Since the publicity is the main goal of such protests, Istikla Street provides an excellent location.

They chose the Galatasaray Square to be visible among the wider public. They state that they are well aware of the fact that if they had not forced themselves into the sphere of visibility they would have never be known or reported by the mainstream media. (Kocabiçak, 2003, p. 78)

As to the discursive character of the public sphere, it is argued that public sphere is the discursive space where the truth regime is disseminated and strengthened. Moreover, the public sphere is marked by intersubjectivity through which citizens share ideas, experiences and knowledge contributing to the creation of the collective memory. The Saturday Mothers' intrusion into the public sphere penetrates it with a new discourse which reclaims the truth. This invokes the need to revise what is known and what is remembered in the collective memory of the wider public.

However, it should also be recalled that the practice of the repressive state can very well be extended to all who are in opposition to it. As the half of the population (Turkish and non-Turkish altogether) have been experiencing since the Gezi Park protests, the repressive regime's tendency to suppress or distort the truth is not limited to the Kurds. Unless the accountability and transparency of the state as well as the democratization of truth are ensured, the regime can transgress its own boundaries and portray every societal opposition as a (legitimate?) target.

All these efforts and effects I have discussed should be accompanied by the demands for justice. Going back to the question I started, that is, the question as to the relation between truth and justice in the transitional context, I contend that this relation should be discussed, first with regard to the challenging of the truth regime and the politics of truth of the repressive regime; secondly, with regard to the transformative and the subversive power of the truth-seeking. Since it is quite probable that revelation of truth may not amount to justice, a broader understanding of justice needs to be considered; an understanding which goes beyond the criminal justice and institutional truth revelation and which extends to challenging the truth regime and hegemonic discourse, subverting the power relations which construct the truth and to reconstituting the societal relations. In the final analysis, what I argue is that the relation between truth and justice can only be established with a broader framework of democratization of truth as well as democratization of the power relations in the society. In the case of Turkey, Saturday Mothers'

demand for truth and justice should be conceived in such a framework that the Turkish state as well as non-Kurdish citizens, while revealing the truth, should reconsider the repressive, unaccountable and culpable nature of the regime. While doing so, the foundational aspects, as well as discursive aspects of the regime should be opened to question so that everyone, especially those who have been silenced so far, can have a say in the making of the new, democratic truth regime.

Conclusion

The analysis I attempted to present here assumes that truth cannot be considered as monolithic and absolute phenomenon that is unchallengeable; it is rather a constructed phenomenon construction of which is very much dependent on the power relations. However, no matter how constructed it is, it should not be conceived as fiction; it cannot be detached from what has happened. As I discussed above, it must be taken as the interplay between the factual, narrative, dialogical and restorative aspects of it. Moreover, in the transitional societies, the truth, as the meta-narrative of a country, is dispersed among the conflicting groups. Every party has its own understanding of truth and these different accounts of truth collide with each other.

In addition to this, truth's relation to power, as outlined in the section I have outlined Foucault's theory, cannot be passed over. Especially in repressive regimes where truth is monopolized by the political authority, this relation becomes all the more important. Foucault argues that power as such should not be regarded as a negative phenomenon. It is the basis of societal relations and he argues that there is no space where power does not operate. These relations of power are not necessarily relations of domination. However, when they assume the character of domination as in the repressive regimes, the priority of political action becomes the challenge to these power relations. This challenge does not come to mean ouster of the power relations altogether. It is rather an attempt to reconfigure the power relations and end the domination of one sector over the other. There are various way to achieve this. What I believe is that asking for truth, in repressive regimes, is a very effective way to do this.

In the case of Turkey, the repressive nature of state is a complicated issue. The transition after the 1980 coup marked the last transition to democracy in Turkey, at least in the most generic meaning of the term, that is, there have been democratically elected governments. However, in the Kurdish region of the country, this democracy has not been satisfied. Further, anti-

democratic measures, such as state of emergency and all the other measures explored in the first chapter, prevailed in the region. Therefore, in the eyes of the Kurdish population; the Turkish state is a repressive state with all the anti-democratic and violent measures, with the strict censorship and with the ouster of the Kurds from the public sphere. Moreover, all these repressive measures were conducted in a clandestine way and reinforced the impunity and non-accountability in society. Now, the efforts to disclose these measures are an attempt to expose the clandestine and repressive regime of the Turkish state to the rest of the population.

The movement of the Saturday Mothers has challenged the truth regime in Turkey to a considerable extent. Though not at the state level, at some sector of the non-Kurdish population, people sympathize with the Saturday Mothers; they keep wondering what state might have done; they wonder what else state might have done and they criticize the clandestine nature of the Turkish state by sharing the demands of the Saturday Mothers. The more their voice comes to be heard, the more people will ask for truth in Turkey. Even though the demands of the Saturday Mothers remain unreciprocated on the part of the state, on the part of the society, their visibility increases each year. More people discuss the repressive nature of the state and more people criticize the monopolization of truth by the state. Furthermore, as their demands for justice remain unfulfilled, more people question the judicial mechanisms and consciously or unconsciously, more people question and challenge the power mechanisms operating behind all state policies. Today, the Saturday Mothers occupy a place in many people's memories and the collective memory which was shared by a very small part of the society in the beginning has been reconstructed in many more people's lives.

In this respect, what I have tried to discuss is the political significance of the truth-seeking. As long as truth seeking is regarded as part of institutional politics in transitional context, the relation between the truth and justice remains unanswered, if not unnoticed. Beyond the institutional politics of the societies in transition, what needs to be reconciled is the truth

regimes of the conflicting parties. Democratization of truth, in this respect, which includes not only revelation of truth but also preempting any monopolistic claim over truth, is what is required for the constitution of peaceful society. The Saturday Mothers, in such a framework, stands as a distinctive example of peaceful quest for truth.

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