‘DEVELOPING’ THE GOVERNANCE OF CHILDHOOD: THE (IN)COMPATIBILITY OF PROTECTION AND PUNISHMENT IN JUVENILE COURTS

DENİZ PINAR KONUK

BOĞAZİÇİ UNIVERSITY

2016

‘DEVELOPING’ THE GOVERNANCE OF CHILDHOOD: THE (IN)COMPATIBILITY OF PROTECTION AND PUNISHMENT IN JUVENILE COURTS

Thesis submitted to the

Institute for Graduate Studies in Social Sciences

in partial fulfillment of the requirements for the degree of

Master of Arts

in

Sociology

by

Deniz Pınar Konuk

Boğaziçi University

2016

DECLARATION OF ORIGINALITY

I, Deniz Pınar Konuk, certify that

- I am the sole author of this thesis and that I have fully acknowledged and documented in my thesis all sources of ideas and words, including digital resources, which have been produced or published by another person or institution;
- this thesis contains no material that has been submitted or accepted for a degree or diploma in any other educational institution;
- this is a true copy of the thesis approved by my advisor and thesis committee at Boğaziçi University, including final revisions required by them.

Signature ..... Deniz Pınar Konuk

Date 9.11.2016

ABSTRACT

‘Developing’ the Governance of Childhood:

The (In)compatibility of Protection and Punishment in Juvenile Courts

This thesis aims to analyze the changing discourses and practices of juvenile courts in Turkey with the enactment of the Child Protection Law from a critical legal perspective. By problematizing this denoted ‘development’ in child law, the study conveys the relationship between law’s calculated prospective and unintended impacts. It begins with tracing how children are constituted as particular governable subjects and how a legal reform concerning them relates to Turkey’s performance of progression in larger scales. Then, it examines the Child Protection Law as a governmental intervention which introduces novel epistemologico-juridical emphasis in reconfiguring the child issue. The thesis further maps the entanglement of this intervention with the legal processes that it aims to regulate which sparks off conflictual, ambiguous and competing forms of judgment. As the research shows, means of technical management and vocation of protection increases along with the intensified punitive apparatuses of juvenile courts. To this end, the emerging breaches and the incompatible mixture of legal discourses and practices are addressed as productive sites that (re)forms the ensemble of distinct power modalities. The thesis argues that focusing on the ways in which law works enable to see the articulation of punishment and protection in juvenile justice system as law’s compatible responses. In relation to this, and on broader level, the study demonstrates the transactional zones and reciprocal alliance between law’s sovereign and disciplinary effects in Turkey’s juvenile courts.

ÖZET

Çocukluğun İdaresini ‘Geliştirmek’: Çocuk Mahkemelerinde Koruma ve Cezalandırmanın Uyum(suzluğ)u

Bu tez, Çocuk Koruma Kanun’uyla beraber Türkiye’deki çocuk mahkemelerinde değişen söylem ve pratikleri eleştirel hukuk perspektifiyle analiz etmeyi hedeflemektedir. Çalışma, bu kanunun çocuk hukukunda bir ‘gelişim’ olarak ifade edilmesini sorunsallaştırarak, yasanın hesaplanan amaçları ve amaçlanmamış tesirleri arasındaki ilişkiyi aktarmaktadır. Başlangıçta, çocukların nasıl ayrı idare edilebilir özneler olarak kurulduğu ve çocuklara dair olan yasal reformların nasıl Türkiye’nin ilerlemesinin daha geniş çapta bir performansı haline gelmesi tartışılmaktadır. Bunun üzerine, çocuk meselesinin düzenlenmesine yeni epistemik-hukuki bir form getiren Çocuk Koruma Kanunu’nu, yönetimsel bir müdahale olarak incelemektedir. Sonrasında, bu müdahalenin düzenlemeyi amaçladığı yasal süreçlerle kurduğu dolambaçlı ilişkileri haritalandırmaktadır ve özellikle bu ilişkilerin ortaya çıkardığı çelişkili durumlara, belirsizlik alanlarına ve çekişmeli kararlara dikkat çekmektedir. Araştırmanın gösterdiği üzere çocukları teknik bir şekilde idare etme yöntemleri ve koruma uğraşı, cezai aygıtların yoğunlaşmasıyla beraber işlemektedir. Bu anlamda, görünür hale gelen çatlaklar, birbiriyle uyumsuz hukuki söylem ve pratikler, birlikte iş gören farklı iktidar mekanizmalarının yeniden şekillendiğini gösteren verimli alanlar olarak irdelenmektedir. Tezin temel savı şu: Yasanın ne şekillerde islediğine odaklanmak Çocuk Adalet Sistemi’nde korumanın ve cezalandırmanın uyumlu bir şekilde birbirlerine eklemlendiklerini görmemizi sağlamaktadır. Buna ilişkin olarak, bu çalışma egemen iktidar ve disipline edici mekanizmalar arasındaki etkileşim alanlarını ve karşılıklı iş birliklerini, yasanın isleyişi içinde göstermektedir.

ACKNOWLEDGEMENTS

I am indebted to my thesis advisor, Meltem Ahıska. She has been with me and commenting on my work in the long and uncertain times of writing. Her presence gave me comfort and endowed me with enthusiasm. Abbas Vali was a great influence who inspired me to think about law critically in an academic fashion. His commitment encouraged me since my undergraduate studies. I also want to thank Başak Can for her company and sincere support.

I am more than grateful to my friends in Sociology Department: Guzin has been an exceptional colleague, Cansu and Ferda always bore with me in the times of my frequent frustrations, I thank Zeynel for reminding me about the 'sürücülük', and I shared blood, sweat and tears with Mesut. I owe them so much. There are many people who encouraged me in the process of writing: Caner, Duygu U., Nesli, Cansu G., Dilan, İzem, Bala and many more that I cannot name here.

İdil does not only provided me a generous friendship but another home. I sincerely thank Melis for her care and turning suffocating moments into more bearable ones. I am grateful to my life-long friends Yumut, Özy, Iraz and Gizem for their understanding in these overwhelming times of writing and for all the things we share. I also felt the presence of Hati and Uğur, always.

I owe the most to the women that I grow up with. The presence of my dearest sister Melis made everything more doable. The presence of Ece is inexplicable as she has endured me throughout my life. Bilge, who made this thesis possible in the first place, is always a comfort zone for me. Gülbin has been a genuine companion with her disguised and sincere care. Tuba has been inspirational with her calming and

spirited mind. And I thank Övgü for her comforting voice and reasoning. Their presence in my life always deserves celebration.

Lastly, I am grateful to my mom for her invaluable, endless and warm support and to my dad for trusting in me throughout my studies.

In memory of Seher...

TABLE OF CONTENTS

CHAPTER 1

INTRODUCTION

1.1 Introduction

This thesis is an attempt to provide an insight into juvenile courts in Turkey after the enactment of the Child Protection Law (CPL) in 2005. By engaging with the workings of this law, I will particularly explore the relations between its calculated prospective and inadvertent effects. In that regard, I will address the emerging breaches and the incompatible mixture of legal discourses and practices as productive sites that (re)forms the ensemble of distinct power modalities. Seen as 'already belated' institutions compared to Western counterparts, juvenile courts in Turkey render the CPL as a reform to diminish coercive punitive practices. With CPL, a novel epistemologico-juridical emphasis is introduced for understanding reasons for 'delinquency' and to configure solutions within the same matrix. Subsequently, rehabilitative and disciplinary discourses and practices to 'bring children back into society' have been set in motion along the existing legal conducts. By taking the problematizations in and around the juvenile justice institutions as entry points, I intend to map out a diagram in which the techniques of governmentality embroil the (re)orientation of the alliances between the law's disciplinary and sovereign effects. Thereby, CPL will be addressed as part of a legal complex that is responsive to its outside conditions, bearing conflictual practices within, and endowing unforeseen impacts.

Regarding the law's relationship to its broader context, the changes made within the juvenile justice system (JJS) is situated in the wider transformations that Turkey underwent beginning in the 2000s. One salient moment can be expressed as

the coming to power of the newly founded Justice and Development Party (from now on AKP) in 2002. Concomitant with the AKP's rule which continues to this day, Turkey's European Union accession negotiation for full membership was launched in 2005. Various legal administrative reforms and extensive policies were implemented specifically during the first two terms of the AKP rule in accordance with the negotiation processes. These changes emphasised the need to widen the implementation of human rights in Turkey (Babul, 2015). They concerned various terrains ranging from the 'confrontation with military coups' to policies for the disabled, violence against women, torture and so on. The underlying claim was to instate a strong civil society in accordance with the aspired 'good governance' model. Subsequently, the 'reform' implicates Turkey's moral social progress and incites the redefinition of its development level. Along and beyond the compliancewith European Union (EU) standards, the idea of 'new' occupied a central place in the advanced discursive frame. The expression 'turning a new leaf within Turkey's political history' recurred not only in the official state statements but was adopted at different levels such as by the various NGOs. CPL, as a particular fragment of this wider process that I focus on this study, had a crucial role to play at this junction. On the one hand child protection and welfare was being uttered as the benchmark of society's civilisation. Additionally, CPL dealt with the regulatory practices for the 'new' generation, which embraces the promises of the future that is yet to be realised.

Specifically, this law that was ratified in 2005 can be viewed as an attempt to institute rehabilitative and restorative justice for children with a claim to 'protect' them. Various initiatives took place in accordance with this asserted aim: fostering the bureaucratic network, proliferating the number of social workers, increasing

officialdoms specific for juveniles, establishing new rehabilitative and care institutions, and so on. Addressing children as a technical issue is being reinforced in terms of assessing risk factors and making psycho-social traits commensurable by the expertise. These extensions of technical discourse and practices emanate as novel regulatory means. Directing children who are in dispute with the law to other state institutions rather than the application of penal sanctions was posited as an 'effective mechanism' to better 'protect' them. Implementation of this law, however, attests also to the significant growth in the accusations, convictions and incarceration of children. The constant problematizations regarding the deficiency of implemented protective and supportive measures on the other hand, build up the other prominent predicament. So how to make sense of these seemingly contradictory effects and further problematizations within the JJS along with the increased emphasis on 'protection'? While tracing this query, I avoid the discourses of 'underdevelopment' pertaining to the lack of adequate technical bureaucracy. In this way, unfolding the intermingled relation of penal and protective responses of law becomes possible. Furthermore, the discursive and material investments that aimed at expanding the domain of the calculable in the legal complex, and which consequently sparked off conflicting forms of judgement expose the boundaries of seeing law as a coherent set of rules. In turn, the ways in which the penal sanctions that persist along and accompany the new protection regulations, insinuate generative failures within the JJS. The effectiveness of this coexistence, as will be discussed, resides in the very partialness and inconsistencies of the operating discourses and practices.

1.2 Challenges in the field of child law and notes on methodology

For this study, which lies on the intersection of children and the law, the major challenge has been first to assert the field as vulnerable and subsequently to depict both children and law as inaccessible. Rendering child law as a delicate issue to be engaged with however, was operative in the way I address the particular field of law and the specific construction of its subject in the juvenile courts.

The field of law entails a 'strange autonomy', as Latour (2009) terms it. The legal domain with its esoteric language, spatial/material configuration and also ritual paraphernalia endows a quite settled world of its own. Juvenile courts too, in that regard, come forth as legal institutions that are hard for 'outsiders' to reach. It is not just the requisite of authorisation from state officials for conducting a study, but these legal institutions are equipped with a distancing attitude for ones who are not professionals belonging to their terrain. This 'autonomy', however, cannot be considered as in the way the formalist theory's deceptive portrayal.[1] Extra-legal realms such as science and politics are not isolated from the workings of a law which would indicate a fully closed autopoesis of the juridical field. Rather, law has intricate and inter-dependent relationships with the other loci along with its own peculiar discourses and practices (Terdiman, 1987).[2] This, on the one hand, enables one to study the legal field/complex with its effects of formalism and symbolic bearings of the autonomous appearance of law (Bourdieu, 1987). Yet on the other

[1] Formalist theory refers to jurisprudence theory that claim adjudication is an autonomous form of reasoning that is exempt from any non-legal normative considerations. For a detailed explanation of formalist theory see Brian Leiter, 'Legal Formalism and Legal Realism: What Is the Issue?' (University of Chicago Public Law & Legal Theory Working Paper No. 320, 2010).

[2] This point will be elaborated in Chapter 4 in relation to law's engagement with another autonomously defined field of science that can be traced in the practices of forensics and social workers in Juvenile Courts. Specifically, the ways in which the legal fact is constituted through the entanglement with scientific domain blurs the distinctly marked boundaries of these fields amid the overlapping claims of objectivity and impartiality.

hand, the extra-legal realms and their relations to law provide significant entry points as did in my research.

Accordingly, I draw upon fieldwork comprising mainly the social workers in juvenile courts who position themselves outside of the sanctioning rigidity of the legal domain.[3] With their own specified field of expertise, social workers and their rehabilitative guidance are fundamental interests of the CPL. Their non-legal knowledge therefore is set as the novel emphasis in the official legal discourse. The in-depth and unstructured interviews I conducted with them provided data regarding how the daily practices are pursued beyond the institutional language. Their narratives account the translation of the new regulations into their own terms and problematizations from their stance. The other major scope of the fieldwork concerns the lawyers and psychologists who are involved in a form of struggle to track down the deficiencies and short-comings of Turkey's JJSthrough various NGOs. The workshops and the seminars specifically on juvenile courts organised by them were informative in terms of seeing how the legal domain was problematised and the solutions that were discussed by the politically engaged legal actors. I also had in-depth interviews with a few executives of the child rehabilitation and care centres, which presented the performance of the official legal language.

I could not reach the children who are involved in the JJS and was unable to attend the court trials. The reasons for this inaccessibility, though, constituted my pathway to an understanding of the conceptualisation of childhood in the legal domain. An ordinance concerning the application of CPL indicates in the 13th clause

[3] Chapter 3 specifically discusses how social workers positions themselves different from the rest of the actors in the juridical field in terms of their expertise and approach to children. Legal formalism that frames their operation within the field on the other hand incites the terms of being a non-legal expert in the legal domain, as will be deliberated.

that juvenile trials and adjudication should be closed to public.[4] Juvenile trials that are privately held put forth the vulnerability of the children in the rationalisation of this regulation. The permission process, however, is extensively long, thorny and unattainable in practice. On the one hand, trials and other child institutions that are closed to the public prevents further stigmatisation of the children in different realms. Restraining my involvement therefore can be thought of as avoiding possible further harm to the children. Yet this vulnerability also indicated the ways in which the childhood was depicted as mouldable, as 'adults to come'. My presence in that regard can be articulated as an intrusion to their incomplete state of being and desired way of becoming. Subsequently, the natural, omnipresent and universal depiction of childhood - that is needed to be protected- in the official juridical discourse led me to problematise the very conceptualisation itself. As will be discussed in the following chapter, a developmental paradigm that constitutes the scientific grounding of thinking of childhood this way prompted its relationships with social order and normative individuality in general terms.

1.3 Theoretical premises

This study leans on the long-existing critical engagement with law while approaching JJS as a distinct legal institution and addressing the Child Protection Law with its particularities. Certainly, it is impossible to portray a linear and monolithic history of critical legal scholarship nurtured by various disciplines and schools of thought. Nonetheless, there exist distinctive instances in terms of changing theoretical approaches to law. In the following, I will outline certain critical instances to delineate the ways in which I came to consider the legal field as an object of study.

[4] Retrıved from: http://www.unye.adalet.gov.tr/dsym/mevzuat/5395_yon_usul.htm

That is to say, I will try to sketch out how my approach is situated and indebted to previous inquiries.

The critique of liberal legalism can be considered the prominent departure point in that regard. Liberal democratic theory in general terms embraces the doctrine of immanence, which presupposes that the identity of the ruled and the ruler are the same. Accordingly, this alleged 'political unity' emanates from the conjugated will of individuals. Thus, the norm is established through this collective consent of the homogeneous individuals in which law becomes the form of its representation. Broadly speaking, with this 'consensus' that is inscribed in the logic of liberal theory, in liberal legalism law and state are configured as different neutral vessels whose legitimacy lies at the technical procedural correctness. (Brown and Halley, 2002, pp. 5-7).

The initial critical approach to this liberal doctrine can be found in direct Marxist analysis of law.[5] In this framework, the critical study of law corresponded to the demystification and exposure of the 'real' exercises of the juridical domain. Herein, law is being rendered as an instance of ideology that represents the class position/interest. Concomitantly, law points to an illusionary relationship that hides the contradiction that stems from the real property relations. As it is argued by Goodrich, Douzinas and Hachamovitch, in the initial Marxist analysis of law that is

[5] Indeed, it is not only the Marxist interpretation that challenges the assumptions that liberal legalism entails. Schmitt for instance stands as an influential figure in exposing the antagonistic relationship that is both implicit and concealed in the liberal constitutional doctrine. His critique takes issue with the pre-political existence of law. His work places the political struggle at the core of construction of the juridical subjects in the first place. Throughout his analysis of the relationship between sovereign and the law as its effect, enmity relationship between the friend-enemy that he points to, exposes certain defects in the doctrine of immanence. Precisely, in the legal domain, for him, people do not encounter each other as unified abstraction but as 'political categories' which does not eliminate the inherent antagonistic relationship and challenges the unified abstraction that liberal legalism leans on. Here 'political categories' stand for the 'politically interested and politically determined persons, as citizens, governors or governed, politically allied or opponents' as Schmitt denotes. (1985, p. 11) Elaborations of Schmitt particularly became influential in recent political and legal theory as the compelling critiques of normative foundation of power. Acknowledging these critiques and extending them further for radical democratic projects (Mouffe and Laclau, 1985) or drawing on the relationship of sovereign and state of exception (Agamben, 2005) can be regarded as the significant examples.

predicated upon the economic inequalities, 'law reflected and helped to reproduce a reality external to it…' (2005, p. 9) and this precluded giving an account of how the law itself works. That is also the reason why these scholars point to the unmediated Marxist understanding of law as the 'pre-history' of critical legal studies movement that nevertheless provided crucial insights regarding the abstract presuppositions of liberal legalism.

A critique of the 'legal form', specifically as it is introduced by Pashukanis (1924), marks another crucial moment within critical legal studies.[6] Employing Marx's conceptualisation of 'commodity form' to explore 'legal form' with its effects, shifted the focus from the earlier emphasis on the content of law. Engaging with law on the basis of its 'form' also provided the space to inquire about the constitution of the legal subject. On the one hand, this has been attainable by recognising the different articulations of the subject in Marx's ideology critique (in German Ideology) and commodity fetishism (in Capital).[7] Elaborations tending towards the structural analysis made use of the commodity form to account for the material effects of the ideology whereby reproduction of capital is being posited as the same process that reproduces the subject's conditions of existence. That is to say, different from the ideological illusion by which the 'reality' is distorted or misrepresented and the subjects are merely deceived, commodity form predicates the subject as both constitutive of and constituted by the social totality. On the other hand, understanding the legal form as a historical expression of this commodity form of production provided the law with a constitutive role in the formation of legal

[6] His intervention is taken up by various Marxist scholars. Bernard Edelman's work; *Ownership of the Image: Elements for a Marxist Theory of Law* (1979) is a crucial example influenced by Pashukanis and that deals with Marxist theory of law and subject on the basis of legal form with respect to the copyright issues.

[7] Etienne Balibar discusses extensively the difference in the conceptualisation of the subject in Marx's Capital and German Ideology. Specifically in his work *Philosophy of Marx,* 1995 (and in particular Chapter 3: Ideology or Fetishism: Power and Subjection) he deals with the implication of the shift in Marx's analysis regarding the issue of fetishism that indicates different form of subjection.

subjectivity. Law is therefore there not only to mislead subjects and mystify 'the real', but it operates with relative autonomy. This constitutive role granted to law within the conception of economic determination, endows the space to consider how the law itself works. With this in mind, the critics argue that one should see law not as a'mask' that conceals power but only as an apparatus that reproduces existing social and political domination.

Expanding the inquiry concerning law's institutional complexity corresponded to reflecting on the symbolic and substantive domains of law and their implications. This does not necessarily mean abandoning the economic/political critique of law but it entails reorienting this critique. As Goodrich, Douzinas and Hachamovitch (2005) put it:

> It is not sufficient merely to reiterate the abstract complicity or dependence of law upon economic exploitation or political and social inequality. No matter how real or devastating the enforcement of law or the products of law's practice, an ethics of law or even a politics of legal judgment is an institutional issue in the sense that it is doctrine which determines the specific products, the designs, attitudes, complicities and judgments that govern institutional practice as sociality and political and ethical sensibility. (p. 6)

Specifically, the stake becomes the law's capacity not just for employing but for producing myriad webs of relationships, knowledge and diversified domination/subordination practices through unfixed frontiers. Seen from this vantage point, law is not just a repressive and sanctioning set of rules that works in coherence. Rather, it comprises of a series of practices that can play a constituent role and can be articulated in various ways with the differently identified modalities of power. Hence, law is not only a mask that conceals the power relations but a terrain which produces and configures these relations.

Acknowledging law in this way, as constitutive of and responsive to the sets of relations provide one of the main theoretical vehicles of this study. Before

explicating how the juvenile courts as a legal complex can be considered in this regard, I should appeal to another interrelated trajectory that presents crucial interventions in considering the terms of law and power. It is indeed Michel Foucault's profound analysis that substantially reversed the question of law and rights while approaching power. While avoiding an inquiry on power through a central origin that came to be associated with the juridical domain, Foucault's elaborations render multiple loci to trace the conducts of power in terms of their effects. Subsequently, he argues, in understanding the modern workings of power, the role of law - as a particular power modality - should be circumscribed as long as it is regarded pre-eminently a negative sanction. The juridically defined centre of power becomes inherently limited in its scope and application (Foucault, 1998, 2003).

The analytical toolkit that Foucault offers emphasises the productivity of modern modalities of power, which utilise and enhance life. Both in discussing the 'anatomy politics of human body' (disciplinary power) and 'biopolitics of the population', Foucault seeks to display the techniques, apparatuses, and the discourses that are employed to administer the vitality itself.[8] These jointly articulated technologies of biopower work in an extensive and pervasive manner that goes beyond the juridical expression of sovereign power. In the face of these emerging modalities of power, the sovereign-legal power argued by various scholars is being marginalised or expelled in Foucault's analysis of power. (Hunt and Wickham,

[8] Biopower's twofold adjustments in enhancing the field of discourses and targeting its objects takes the superimposed forms of anatomo-politics of individual body and biopolitics of the human species. On the one extremity, implemented techniques, that are centered on body aiming to optimize its capabilities for their efficiency and also for their docility, constitute the disciplinary mechanism of biopower. Categorizing and generating the 'apt' bodies, is being formulated as an individualizing technique. What biopolitics of human species exercise on the other extremity, can be seen as the 'massfying' process. Population, arising as the new object of power and gaining a political character accommodates different set of technologies with the different instruments that it employs. Although population as the new target of power does not eliminate the disciplining mechanisms of the bodies as organisms, by operating complementarily it renders distinct objectives for Foucault.

1994). In other respects, Foucault's analysis is critically interpreted as the subjugation of law to other modes of powers (Hirst, 1986). Again, another critical approach considers Foucault's approach as the mere instrumentalization of law in framing the disciplinary modes of power. A different stance criticises Foucault for seeing law's functioning only through norms and therefore in a bio-political manner (Ewald, 1990). The notion of governmentality that Foucault introduces in his later writings further suggested the mutual interaction among differently identified modalities of power (1991). The triangle of sovereignty, discipline and governmental management that he points to reveals not a replacement of one mode of power with the other but their hybridisation that targets life. This also has been interpreted as governmentalization of state which subsumes law into the techniques of government (Golder and Fitzpatrick, 2009; Valverde and O'Malley, 2014).

However, many other scholars, while still making use of Foucault's analysis, argue that the conceptual and practical distinction between disciplinary power, governmental management and sovereign power does not diminish the significance of law. Instead, these distinct forms imply a more complex relation of law with other modalities of power beyond mere instrumentalization or assimilation. (Valverde and Rose, 1998; Golder and Fitzpatrick, 2009; Valverde and O'Malley, 2014) Specifically, Golder and Fitzpatrick elaborate on the inconsistent and uncertain positioning of law with respect to disciplinary power in Foucault's analysis and pursue the theoretical implication of this irresolution. Their argument, on the one hand, concerns the constitutive compatibility of law and other forms of power. They further emphasise the necessary relationship in which these forms of power define themselves in relation each other. They argue that each of these power modalities - like seemingly opposing disciplinary powers and sovereign law - bear incomplete

and diversified practices within. Furthermore, they claim that these practices may not operate for the same goal. There exists a reciprocal compensation, and in their words: this 'reciprocal compensation between the power of discipline and the power of law in the very 'play of the[ir] heterogeneity', a process which reveals that discipline is, in fact, constituently dependent upon law in the realms of both knowledge and power' (2009, p. 70). So law and the normalising practices that Foucault distinctly analyses are not inherently opposing each other. Even their conflictual operations do not exclude their cooperation. Rather, the relationship between law and the normalising practices of disciplinary power is complementary, a relationship through which they reproduce each other on the basis of their heterogenous exercises.

In line with Golder and Fitzpatrick's interpretation of Foucault, throughout this study I dwell on law and disciplinary powers in juvenile courts with their generative inconsistencies. Juvenile courts specifically pursue investments in the lives of children with the claim of rehabilitating and protecting them, and thereby are equipped with disciplinary mechanisms. As legal complexes, these courts incorporate the relationships with other rehabilitative/care institutions, medical hospitals and various other expertise domains. The constitution of the subject of disciplinary power in that regard entails hierarchical observation, normalising judgments and constant assessments, as Foucault would argue (Chapter 3). Yet these very mechanisms involve heterogeneity in their discourses and practices, as can be noticed in the differences between forensic practitioners' and social workers' expertise (Chapter 4). In a similar way, a CPL that highlights the social workers' vocation in JJS can be considered as a governmental intervention (Chapter 3). As it offers a calculated plan for governing children, this specific law implicates regulations that also target the population at large in terms of assessing risk factors, enacting specific health

measures, and so on. However, again, this governmental management is not a fully realised achievement. We cannot regard the intervention of CPL as a finalised accomplishment when we look at the partial workings of the governmental mechanisms and conflictual practices as, for example, the insistence on 'protection' that continues in the penal courts (Chapter 4). As the disciplinary powers are unable to encompass a totality with their partial and incomplete epistemological reach (as it is the case with the expertise of forensics and social workers in legal domain), the governmental intervention of CPL does not implicate an efficient and coherent social engineering. Nevertheless, the sovereign-legal power can work to recompense these breaches and further these breaches, so they become generative sites that sustain the 'protection' complex with the extensive and intensified punitive means.

1.4 'Deepest is the skin'

In the course of delineating the changes made with the CPL, my concern is not to address the gap between the projected 'legal ideal' and the 'legal reality'. The ideal is set as 'developing' the JJS through rights and a welfare-oriented approach, which advocates the improvement of Turkey's level of civilisation. The visible output of the process that is initiated with this recent law, however, is increased number of convictions, incarceration and accusation of children in juvenile courts which contradicts the calculated plan.[9] However, I do not address the CPL as a misrepresentation of the 'real' objective nor do I seek to convey a structural causation between this law and the increase in punitive means. Instead, by acknowledging 'development' as a regime of truth, I intend to trace the sets of effects that the CPL has facilitated in the encounter with the existing way of conducting

[9] Government's internal audit report regarding JJS shows this increase in quantitative terms. (http://www.icdenetim.adalet.gov.tr/raporlar/yayinlanan_rapor/2012-3.pdf) I will be further discussing this point in Chapter 3.

things. Thereby my inquiry contests how the posited ideal of protecting children through increasing technicality (Chapter 3) subsist with and relate to the failure of this 'ideal' (Chapter 4).

In an interview, Deleuze (1995) describes Foucault's method by appealing to Paul Valery's maxim: 'Deepest is the skin' (p. 87).[10] According to Deleuze, Foucault employs surfaces to inscribe his 'situated analytics' which are not opposed to depths. To dwell on the surfaces then, to tackle with the skin, refuses the assumption that 'that truth is underneath, behind, or beyond what can be seen and documented' (Valverde, 2003, p. 12). What is seen on the surface can be as 'real' or as 'true' as what we cannot see. This remark on Foucault's method is also relevant in exploring the workings of law as Valverde (2003) proposes. Thereby, the argument can be shifted from 'what appear as a reform to improve law is underneath holds on to the same old domination practices'. Instead, the appearance can as well be accounted as part of the very mechanism that is the 'mushy mixture of the visible and the articulable' in Deleuze's words (2014, p. 33).

Along these lines, one can consider a CPL that is introduced in the JJS differently, not as a series of misleading discourses and practices. The changing means and the ways of addressing the technical management of children, on the one hand, and the increasing punitive application on the other, are not mutually exclusive. Thus, it is not the 'technicality' that hides the substantive content of the legal proceedings. Rather, as the recently formed 'surfaces' such as increased bureaucratisation, technical discourses, incorporated expertise domains instigate material effects that can be tracked. The official discourses likewise do not hide or

[10] In *The Logic of Sense*, Deleuze elaborates on the notion of surfaces and the effects of surfaces in relation to the Stoic thought. His concern is dismembering the cause-effect relation, not to distinguish between the types of causation, but to posit the effects themselves with an explanatory force, that are seen on the surfaces. (1990: 4-11)

mystify the ‘true’ interests, they partake in the maintenance of the mechanism as the constituents. Hence, what I attempt in this thesis is to sketch out the effects of commingled appearances, discourses and practices.

1.5 Organization of the study

I begin this study with the notion of temporality in order to convey the dominant developmental regime in the domain of JJS. The idea of linear progression portrays the theoretical and conceptual network that conjoins the category of childhood and the notion of legal reform. Chapter 2 accordingly, deals with birth and ‘development of ‘child question’ and legal articulation of this concern with respect to involved scientific paradigms. Herein, I seek to demonstrate how children are constituted as governable subjects along with extra-legal knowledge claims, and how the changes within child law perform the progression in Turkey’s developmental scale. After situating the CPL within the wider framework of thinking childhood and law, I proceed with what this specific law entails. Chapter 3 discusses how the CPL technicality circulatates through the discourses and practices with respect to the European Harmonization process. To this end, I outline the increasing bureaucratic officialdom, institutions, and intensification of the relationship between them and the assignment of new tasks that are initiated with the CPL. Particularly, I focus on the social workers with their vocation of assessment, rehabilitation and protection in juvenile justice institutions. Therewith, the CPL induces a governmental intervention that increases the calculable domain of the JJS and invests in the disciplinary mechanisms of the legal complex. Starting from this point, Chapter 4 maps out the CPL’s engagement with what it aims to ‘improve’ and regulate. Asserted failures and problematizations within the JJS provide the points of entry to explore the cracks

after the enactment of the CPL. These sites further open up the ambiguous, contradictory and conflicting discourses and practices that articulate punishment and protection. By tracing the entanglement, I aim to depict the transactional zones of disciplinary mechanisms and the sovereign effects of law.

CHAPTER 2

TEMPORALITY: DEVELOPMENTAL REGIME IN THE CONSTITUTION OF CHILDREN AND OF THE LAW

2.1 Introduction

Thinking about the JJS in Turkey requires us to recognize time in relation to the categorization of childhood and understandings of law. With this chapter, my aim is to show how particular temporal frames are at work in imagining law and the constitution of its subjects in the JJS in Turkey. I argue that the dominant temporal logic of development and its contentions become the point of conjunction of both formulations of childhood and apprehensions of juridical domain that asserts itself as a discrete sphere of social life. The idea of progress and constant development composes the domineering temporal framework of the JJS, beginning since its birth. As I will try to illustrate in the following, establishment of juvenile-specific legal practices in Turkey comes forth as a site of administrating 'growing up' of both the children and of law. In the course of delineating these sites I will rely on juridical texts and operationalised official discourses concerning the juvenile laws.

Legal texts and legal practices come forth as one of the spheres in which the salient relationship between time and childhood is established and embodied. Historical and scientific accounts that position juvenile courts as a distinct entity attached to the whole legal apparatus fundamentally bring forward the emergence of 'development' as a specific way of constructing childhood. Development, with its various stages, becomes a particular manifestation of periodizing human life that provides the rationale for ordering life spans. The arrangement and specification of time intervals of human life designate the particular modes of being and one's

capabilities. Concomitantly, the subject of law with the JJS is addressed separately as children and the divisions within that category further appeal to the distinguished phases of human existence on the basis of criminal liability.[11] As differently associated sectors of human life are asserted within legal texts, the underlying assumption becomes the constructive linear path in which each individual attains the ability to understand the meaning and consequences of one's own deeds and their social connotations. Conceptualization of childhood, with its stages, is depicted here as a continual process towards a more 'developed' physical, mental and psychological state. In other words, these stated 'temporal' phases as different times of life, far from being fluctuant, bear the premise of a clear and knowable destination as its end point, i.e. adulthood. Most significantly, the incompleteness of the childhood herein emanates as a ground where the complete 'human being' and its immanent relationship to social order come together.

In a different vein, temporality as a theoretical tool is useful to come to terms with the law itself and the operationalized juridical concepts within. In terms of organization of legal institutions, the idea of time shapes the understandings of law as an apparatus in managing social change. On the one hand, any law indicates a break with the past and embraces future in accordance with the 'advancement' of time which enables it to change and transform. Here, the temporal logic of law can be seen as linear in its form by relying on the precedent and at the same time committing to reform. The JJS of Turkey can be accounted within that frame and can provide the conceptual shifts in relation to the 'development' ideal of law as well as society. Specifically, Turkey's peculiar engagement with the Western hegemonic

[11] Turkish Penal Law, Article 31.

notion of time and of childhood, in which the idea of progress is pivotal, is manifested in situating its self-representation.

Apart from looking at the history and historicity of law (that reside on the idea of progress), recent critical engagement in legal theory puts temporality as a distinctive subject of interest and concern. As Fitzpatrick (1992), Mawani (2014) and many others argue, the law itself also produces, specifies and arranges certain temporal structures. This in turn gives meaning and insures juridical concepts, legal discourses and legal authority. These critical engagements take issue with perceiving law as a complete entity with the overarching presence. Law affirms an eternal presence through its impression of 'everywhereness' (Carty, 1990, p. 6). It also refers to a time that exists beyond mundane temporality, a time that 'exceeds all finitudes' (Carty, 1990, p. 6). Thus, law is an all-encompassing ensemble in a temporal sense as well. However, law also needs to respond to the present. A multiplicity of temporal forms stems from three interrelated points. That is law's reliance on linear progress that enables changes and transformations in legal practices, its claim of omni-temporal existence that renders it a complete/finished entity, and its inevitable encounters with specific subjects, objects and the events of the now. The idea of 'progress', with its bearings for betterment, settles the various and sometimes seemingly contradictory temporal structures of law. Progress is the temporalizing force of law and assures linearity and mythical continuity for the law. Nevertheless, taking these temporal tensions within law helps us see the limits of progressivist understandings of law in shaping the notion of childhood.

2.2 Development and incompleteness of childhood

My entry to the field of juvenile justice institutions to conduct ethnographies of the legal practices involved difficult processes. On the one hand, actors within the institutions frequently expressed the impossibility of reaching children who get involved in any legal institution. On the other hand, to attend court trials or to walk into any other institution meant a long and challenging authorization process. The Ministry of Justice and the Ministry of Family and Social Policy are the relevant authorities who can issue a permit. But also, people who work as social workers in courts and reformatories did not recommend the intrusion and were not inclined to agree to my talking with the children directly. This difficult course of entry to the field, however, was indicative of the way the juvenile category is situated as it is conceptualized. While suggesting that I talk with the personnel of the institutions instead of the children themselves, the administrator of the well-known Centre for Protection Care and Rehabilitation (KBRM) in Istanbul states the following:

> Since you are going to exert yourself getting permission for this… Because these institutions do not have signboards, we are sign-less, we are very sensitive institutions and we do not have any signboard outside our door, do I make myself clear.[12]

Being without a signboard and the asserted sensitiveness of these institutions marked how the children who are exposed to the legal codes are accounted in specific way. In turn, the way childhood is categorised limited my access to the field of the JJS. Throughout my endeavour to step into the state's institutions inhabited by children, including the courts, I encountered another agency that represents and/or gives voice to children. At times the mediator, had been lawyers, social workers, psychologists, forensic practitioners, judges, directors of reformatories, and at other times other it

[12] 'Cünkü cok çaba sarfedeceksiniz, bu konuda izin icin…çünkü bu kuruluşların tabelaları yok, biz tabelasısiz, yani çok hassas kuruluşlar olmamız nedeniyle bizim kuruluşların dış kapısında tabela yok, anlatabiliyor muyum.'

had been professionals who work on the issue of childhood and law. The ways in which childhood is constituted as a distinct category in law, pointed to the 'delicateness' of being in contact with children, which demanded another agency in-between. The stories of children can only be accessed through the expert's narrative. These narratives involved the claim of protecting children, which also required their supervision and control. I will first show how children are perceived as vulnerable beings that are in need of protection and supervision. To this end, I will ask the following questions: what constitutes the distinctness of childhood for the legal apparatus that brings the notion of 'child in danger' and 'dangerous child' together? In a similar manner, through which terms is this discrete relationship of law the with its subjects in the JJS reflected in the accessibility of these institutions?

One can look at the 'history of childhood' to understand how 'childhood' was constituted as a distinct category. Various chronological accounts were utilized to depict the changing images of the child and the patterns of child care. Steedman's (1990) methodological notice, however, is telling, as she remarks that, 'it has often been noted that the history of childhood is intensely teleological, much of it presented to illustrate a progress made by a society towards an enlightened present. In this version of history, a horrific past - child labour, or child exploitation, or child abuse - is overtly presented as a counterpoint to current circumstances' (p. 63). As she suggests, employing historical means by itself does not necessarily concern the enquiry of perceiving children as an uncontested state of being. Rather, it becomes another way of staging progressive conceptualisation of change and difference regarding the understandings of childhood.

It was Philippe Aries (1962) who, in his famous work 'Centuries of Childhood', propounds that conceptualization of childhood itself has a history.

Pursuing the genealogical account of children in a Western context starting from the seventeenth century, he identifies the association of children with a nuclear family and education as the basis of modern childhood conceptualization. These appointed domestic locus, as Aries claims, gave way to a recognition and valuation of children in which they are excluded from the world of non-family adults as the repository of high-esteem values. So rather than treating children as adults-in-making - which was the case in medical Europe, childhood came to be seen as an 'ontology in its own right'. Further, this sui generis group entailed, as Çiçek (2014) terms, an internal contradiction: 'while children came to be seen as the deserving objects of love and care with their naive and uncorrupted nature, their pre-social, primitive and dangerous character requiring supervision and control was also stressed' (p. 246). The modern Western notion of child, therefore, had this doubling image that bears both 'innocence' and 'savageness'. This contradictory articulation is being consolidated by acknowledging their potential that is to be developed, which indicates both a promise and a threat.

The notion of development which points to their malleability, resided at the core of thinking about childhood and fundamentally presented childhood as a specific time span. The periodization of life that is reflected as the ageing process posit 'time past' as the foundation of childhood with respect to its expected development. In other words, a rigid age structure that compartmentalizes the sectors of life initiates also the 'time passing' as a regulated and directional change. Relying upon linear and progressive temporal form, childhood endures as a journey toward a clear and knowable destination, i.e. adulthood. 'Growing out' of childhood in that sense, comprises the sequence of stages that unfolds certain biological, psychological, cognitive, and social abilities. A constructive linearity of time works

both to singularize and universalize the category of childhood. The linear path for the development of child, on the other hand, is being substantialized by the emergence of different scientific knowledge of fields such as medicine, psychology, and pedagogy. As it is discussed extensively in the critical works of Donzelot (1979), Foucault (1998) and Rose (1985), the new expertise domains concerning childhood and its development involve cultivating the souls of infants as part of the larger modern governmental technologies on which I will elaborate later in this study. Yet for the moment, what I would like to reiterate is the unified notion of childhood that relies on their linear development. This understanding of childhood that is grounded scientifically, as I will clarify below, engenders a juvenile-specific juridical domain that requires distinct measures.

It is also important to note here that studying childhood scientifically within the paradigms of development is rather a new idea based on Western notions (Walkerdine, 1993). However, as Çiçek (2014) notes, the modern notion of childhood with its universality claim has been disseminated in the non-western contexts. Therefore, the scientific paradigms, which fashion the legal terms of addressing childhood, constituted the prevailing discourses in non-western contexts too. Çiçek also explains Turkey's specific engagement with the conception of childhood and juvenile delinquency. Turkey has specific differences and divergences from the universal articulation of childhood, which cannot be considered monolithic. As I will discuss in the following, beginning from the Early Republican Era, particular significations that childhood bears resonated in the law's relationship to children. Yet the idea of development and its scientific explanations persist in being the defining frame and they can be traced in existing juridical discourses about juveniles. Herein, the juvenile subjects of the law, who need special

attention/care/regulation different from adults, appeals to these developmental paradigms. The scientitificity of these explanations thereby render the difference of childhood intelligible in an objective manner.

Today, the development scale of children, that is to say their distance from being an adult, is the focal axis for criminal liability and any legal regulation in Turkey. The Turkish Penal Law (TPL), the Juvenile Court Law (JCL) and the Child Protection Law (CPL) are the major legal codes as regards children as the peculiar juridical subjects who are in dispute with law or/and their rights in the face of sanctions. While the recent CPL defines children strictly as persons under 18 and institutionalising the universal notion of childhood, all of these codes entail the categorisation among children themselves regarding their mental, psychological and social capabilities. This categorisation in turn also cultivates the categorisation of 'the child in danger' and 'the dangerous child'. TPL indicates in Article 31 that the children who are between 12 and 15 do not have criminal liability and therefore there can be no criminal prosecution but only certain security measures are deemed suitable. The children who have attained the age of 12 but have not yet completed the age of 15 'does not have the ability to perceive legal meanings and consequences of offence, or to control their actions, they may not have criminal responsibility for such behaviour. However, security precautions specific to children may be adopted for such individuals. If a person has the ability to apprehend the offenses he has committed or to control his actions relating to these offenses, then such person may be sentenced'[13]. For the children who have attained age 15 but who have not yet completed the age of 18, punishments will be abated.[14] The preamble of this law though, is more telling and it starts as follows:

[13] Turkish Penal Law, 5237 (31).
[14] Ibid.

> In parallel to a person's physical development, her ability to perceive; society's value judgments, meaning of these judgements and the content of these judgments are being developed. Along with the ability of comprehend; again, in this process of development, ability to conduct one's own deeds (will) is also being developed with respect to society's normative behavioural rules…[15]

The grounding of this law incorporates ideas concerning psychological development and maturation regarding one's relationship with 'society's value judgments' as it is put. 'Ability to conduct one's own behaviour' and 'capability of commanding one's own will' are seen as indications of cognitive progress. They should be in tandem with 'ability to perceive society's value judgment', and 'ability to comprehend the juridical meanings and the consequences of the deed committed' and 'comprehending the deed comprise of injustice'. For the minors who are under 12, the preamble states the following:

> According to the pursued crime and punishment policies, for the minors who are in this [under 12] age group, the lack of criminal responsibility is normatively accepted. The reason is that, implementing penal sanction for these children will completely have an adverse effect in terms of the penalty's function of preventing the offence and reintegration to society. Further, process of penal prosecution itself for these children may engender negative effects on their psychological development…[16]

What is designated as a transitory phase in the childhood category is the age range between 12 and 15. For these age groups, the immediate determination of criminal liability does not exist. The preamble states the reasons and the processes for evaluating criminal liability as:

---

[15] 'Kişinin, fiziksel gelişimine paralel olarak, toplumun değer yargılarını, bunların anlam ve içeriğini algılama yeteneği gelişmektedir. Yine bu gelişim sürecinde algılama yeteneğinin yanı sıra, ayrıca toplumdaki ölçü davranış kurallarının gerekleri doğrultusunda hareketlerini yönlendirebilme (irade) yeteneği de gelişmektedir.' Preamble of CPL. Retrived from: http://www2.tbmm.gov.tr/d22/1/1-0991.pdf (own translation).

[16] 'İzlenen suç ve ceza politikasının gereği olarak, bu gruba giren yaş küçüklerinin ceza sorumluluğunun olmadığı normatif olarak kabul edilmiştir. Çünkü, bu çocuklar hakkında ceza yaptırımının uygulanması, cezanın özel önleme ve yeniden topluma kazandırma işlevi bakımından tamamen ters etki gösterecektir. Hatta, bu çocuklarla ilgili olarak ceza kovuşturmasına ilişkin işlemlerin yapılması, psikolojik gelişimleri üzerinde olumsuz etkiler meydana getirebilmektedir.' İbid.

> . . . persons who are in the transitory phase from childhood to youth, who completed the age of 12 but not yet 15, usually are aware of their committed deed comprises an injustice, but in certain situations they cannot refrain from committing the deed and for certain behaviours they cannot command their wills enough. For this reason, in the case of determination of ability to conduct one's behaviours concerning the committed crime for this age group, existence of criminal responsibility is accepted. Existence of the criminal responsibility for this age group of minors, is determined by the juvenile judges. Yet before this determination, reports provided by experts is asked for about the family conditions, social and economic conditions along with psychological and the education level of the minor. The juvenile judge considers these provided reports for the evaluation of criminal responsibility. It is decided that for the minors that lack defect liability, imposing a penalty is inexpedient. Yet regarding these persons, protective, educative and security measures with the redintegrative intent are enacted…[17]

For the youth category, which is closest to the category of adulthood, the preamble asserts:

> The young ones who completed the age of 15 but not yet the age of 18 at the time the deed was committed, in normal conditions, possess the ability to comprehend the juridical meaning and the consequences of the deed committed, but still their ability to conduct their behaviours may not be developed sufficiently. Therefore, for the youths who take the road to crime, it is normatively accepted that their capacity of will is poor. Concerning the youths who have less criminal liability, reduced penalties are enacted by the rule.[18]

As these excerpts from the law's preamble elucidate, the development of an individual is asserted with respect to different age intervals that possesses varying

[17]'Çocukluktan gençliğe geçiş sürecinde bulunan oniki yaşını doldurmuş ve fakat henüz onbeş yaşını tamamlamamış kişiler, genellikle işlediği fiilin bir haksızlık oluşturduğunun bilincinde olmakla beraber, bazı durumlarda fiili işlemekten kendini alıkoyamamakta ve bazı davranışlar açısından irade-sine yeterince hâkim olamamaktadır. Bu nedenle, suç oluşturan bir fiili işlediği sırada oniki yaşını bitirmiş olup da henüz onbeş yaşını bitirmemiş olan kişilerin, işlediği suç açısından davranışlarını yönlendirebilme yeteneğine sahip olduğunun belirlenmesi hâlinde, ceza sorumluluğunun olduğu kabul edilmiştir. Bu grup yaş küçüklerinin ceza sorumluluğunun olup olmadığı, çocuk hâkimi tarafından tespit edilir. Ancak, bu belirlemeden önce, yaş küçüğünün içinde bulunduğu aile koşulları, sosyal ve ekonomik koşullar ile psikolojik ve eğitim durumu hakkında uzman kişilerce rapor hazırlanması istenir. Çocuk hâkimi, hazırlanan bu raporları, ceza sorumluluğunun belirlenmesiyle ilgili olarak yapacağı değerlendirmede dikkate alır. Kusur yeteneği bulunmayan yaş küçüğü hakkında ceza tertibine yer olmadığına karar verilir. Ancak, bu kişiler hakkında koruyucu, eğitici ve yeniden topluma kazandırıcı nitelikte güvenlik tedbirlerine hükmedilir.' İbid.

[18] 'Fiili işlediği sırada onbeş yaşını doldurmuş ve fakat henüz onsekiz yaşını tamamlamamış gençler, normal koşullarda, gerçekleştirdikleri davranışların hukukî anlam ve sonuçlarını kavrama yeteneğine sahip olmakla birlikte; bu kişilerin, davranışlarını yönlendirme yetenekleri yeterince gelişmemiş olabilmektedir. Bu nedenle, suç yoluna girmiş olan gençlerin, işledikleri suçlar bağlamında irade yeteneğinin zayıf olduğu normatif olarak kabul edilmiştir. Azalmış kusur yeteneğine sahip bulunan gençler hakkında kural olarak indirilmiş cezaya hükmedilir.' İbid.

abilities accordingly. According to the law, growing up embraces the self-possession and ability of discernment as a certain end point by leaning on the dominant paradigms to understand childhood and its distance from adulthood. We can trace prominent theories of psychological development in the text.[19] This perspective capitalizes the assumptions of 'naturalness' of childhood and necessity, normality and desirability of development as the continuum of becoming a grown-up. What Piaget claims by the 'decentering' of the child is the gaining of cognitive abilities to consider the multiple aspects of a situation. Cumulative series of transformation are ordered temporarily and arranged hierarchally from infantile figurative thought to adult operative intelligence. The path towards this 'higher' model of cognition comprises; 'the change from solipsistic subjectivism to realistic objectivity, a change from affective response to cognitive evaluation, and a movement from disparate realm of value to absolute realm of fact' (Jenks, 2009, p. 97). One important feature of this cognitive development is the improving ability to take possession and control of oneself and learning the limits of it to separate your being from the rest of the world. Piaget (2000) calls this 'a transition from chaos to cosmos' (p. xiii) and the path moving away from disorder entails learning to to rely on appearances, self-consisting reasoning that is also consistent with the physical world which enables you to distinguish your being from it. Normative individuality that is taken as the model here implicates this particularly defined rationality as the core criteria to address the development of a child.

Further, these explanations of the preamble pave the way not only to see how the complete individual is configured in a certain fashion but also how the social

[19] Piaget is the leading figure of this psychological development paradigms that I make use of here. Of course there are several influential scholars differing from Piaget in developmental analysis like that of Vygotsky. I use Piaget's explanatory schema as it is frequently referred in my discussions with the social workers and the pedagogues in theJJS. Further, as Jenks states this paradigm has a great impact on the everyday conceptualization of child as it is the case with the JJSin Turkey.

order is imagined. Along with the complete individuality that is portrayed as the model for 'growing up', a child's increasing abilities over time in comprehending the content and meaning of the 'society's values' is being emphasised. Awareness about the society's conventions is presented as another aspect of what one lacks in childhood. This lack is expected to be fulfilled over time and appeals to another dominantly accepted account of growing up. While in the domain of psychology Piaget and his followers become prominent with the cognitive development and enhancement of particular form of rationality as the locus of growing up, in the same decade Talcott Parsons was an influential sociologist who has introduced another developmental frame of growing up through 'socialisation'. For Parsons (1956), children are born unaware of the 'patterns of value' and obtain knowledge about the social conventions through the instructive interaction with parents or other adults. Transition to adulthood is termed as the 'internalization of culture of society into which the child is born' (Parsons and Bales, 1956, p. 17). As this internalization proceeds, 'the child's emptiness is filled with the knowledge they need to understand the conduct of others, to be comprehensible to others and, ultimately, to be recognized by others, through mutual comprehension, as a fully-fledged member of its culture.' (Lee, 2001, p. 39). Mutual comprehension and agreed convention work to sustain order where children gradually find their place in the social world. This time, integration into the presumed coherent social order becomes the stake through which children's development can be assessed in relation to it.

I have introduced the conventional developmental frames that theorize childhood. I will problematize these frames on several levels as they put forth the supplements of the presupposed lack of childhood in differing aspects. Whether it is the level of consistency of thought for an individual or the level of integration and

coordination in the social sphere, a gradual move for becoming ‘morealof a human being is postulated. Growing to be more ‘rational’ or more ‘cultural’ in that sense fills the void of childhood as it is depicted as a special stage of humanness. These propositions initially dispose childhood as an incomplete state of being and, on the other hand, they prescribe the ‘normal’ way of growing up in which the notion of ‘grown up’ as the full human is formulated. Delineating the normal way of growing up with its own hierarchal established subdivisions further, fundamentally concerns identifying the anomalous state for one’s age. Ones that fallout from the aptitude imposed by the structure, ones that are not ‘developed’ at the right time and at the right amount, bears the attributes of ‘backwardness’ or ‘giftedness’ as well as ‘immaturity’ or ‘precocity’. Hence, through these frames not only the normative ground is presented but also the instruments to assess any child with comparison to these norms are provided (Rose, 1999, p. 144).

An incomplete state of being implicates a constraint that draws the limitations of the subjects and it is also this state of incompleteness through which the agency of the children rises. Yet within these paradigms this agency is confined to the age structure that organises the degree of their competence in a determinant manner while assuming their malleability. Specifically, the full human being that is rendered in opposition to childhood, endowed with a particular form of rationality. This rationality corresponds to gaining self-possession to conduct one’s deeds and being able to understand them in an objectivized manner that should conform to social conventions. An abstract form of cognition and abstract reasoning as the dominantly accepted form of rationality entails objectivity and concomitant universality of the formal operation that paves the way for ignoring the social and/or position it at the background of what they demarcate as the primary (Buck-Morss, 1987).

The specific rationality that these perspectives of 'growing up' appropriate is equally embedded to the way of conceiving society as a coherent whole. Developing to a higher/better form becomes their driving point through which society is imagined with harmonious rational individuals. Drawing on the journey towards completeness in the case of child also becomes grounds to scrutinise the social order that inscribes conventions as the consensual outcome. Based on linear progressive temporality, both the path from childhood to adulthood and the path from disorder to order find their explanatory schema in which childhood is paired off with the disorder. This association with disorder also helps to abridge the dangerous child and the child in danger by the same token and grounds the interventions of legal apparatus. Autonomous/self-possessed individuals who will reason and be reasonable due to their advanced stage of development are considered to ensure a rational social order. Thereby, central claims regarding the development of child encapsulate the interwoven imaginings of children, of a complete individual and of social order.

Taking a fully formed rational individual as the ideal and drawing its relationship to social order thereby maps out the definite state of 'being' along with the definite way of 'becoming' in a wider scope. 'Being' is postulated as the ones that are deemed capable of self-control and that leads to a form of self-presence. And 'it is on the basis of self-ownership, self-control and trustworthiness that a community of the self-present can form and exclude those who do not 'own' themselves. The voices of women, children and slaves have historically been muted, partly because they were not deemed to have voices of their own that were worth listening to.' (Lee, 2005, p. 108) 'Becoming' within the developmental frames, on the other hand, is depicted as the singular path to attain that self-present, complete 'being'. Yet exposing the limits of possibility of completeness and also the single

becoming can be instituted by appealing to Derrida's philosophical offerings.[20] Specifically, Derrida's profound elaborations in *Of Grammatology* involves a crucial dialogue with Rousseau's remarks on childhood's 'natural' incompleteness and the 'cultural' supplements that she needs. 'Supplement', as Derrida terms it, is 'both humanity's good fortune and the origin of its perversion' and the dangerousness that this lack accommodates is to be worked by the 'cultural' terrain. Rousseau's conceptualisation of Nature's primacy over culture, however, is violated at this moment for Derrida (1976), as he argues that 'Childhood is the first manifestation of deficiency which in Nature calls for substitution' and asks 'How is a natural weakness be possible? How can Nature asks for forces that it does not furnish? How is a child possible in general?' (p. 146). These questions help Derrida to delineate the 'natural lack' as the indispensable partition of any presence. Supplement for Derrida (1976) is not an adjunct as Rousseau argues, but has a constitutive role since 'its place is assigned in the structure by the mark of an emptiness.' (p. 145). The ways in which Derrida challenges self-identical presence in general terms relates to the notion of 'constitutive outside'[21] through which any form of presence become intelligible with its exterior. Therefore, the 'being' which can never be self-sufficient and complete is rendered contingent to its diverse others. Although this contingency is not in the sense of 'indefinite', it implies the 'non-essence'.

Deriving from this requirement of a supplement for the nature and untenable self-presence external to this 'anterior lack' (and/or its constitutive outside), Derrida rejects the different times of the Nature's work and culture's work in the course of

[20] Indeed, Derrida's philosophical gesture in challenging the self-identical presence resides in his extensive elaborations on writing and speech which is unattainable to account fully here without doing injustice to his work. However, what I want to propound is the relevance of his move, as his dialogue with Rousseau could imply, in stimulating critiques of developmental paradigms that set the self-present being as an endpoint which ought to coincide with the coherent social whole.

[21] Staten is the one who first used this term to describe Derrida's notion of supplement as the 'exteriority that is the necessary condition of any self-identity'. (1984)

reaching a complete being. Putting it differently, his intervention induces supplementation and mediation as constant features of human life. Both adults and children in that sense are indebted to external supplements. Thereby, coming to terms with the difference between childhood and adulthood, beyond the dichotomy of being/becoming, shall correspond to 'differences in the patterns of supplementation, mediation and extension for the people at different times.' (Lee, 2005, p. 113). Further, what is offered by thinking through these terms of differing patterns of supplements and extensions is the space to account for multiple becomings that may diverge from designated singular route of the developmental paradigms.

Nevertheless, development regimes with their appointed supplements that entail specific form of rationality and/or capacity of cultural integration demand to inquire their effects as truth regimes in the Foucauldian sense. At this juncture, the historical and geographic specificity of the emergence of child concern itself that is fashioned by the idea of development can further challenge these settled explanatory systems. This would also help to recognize the webs of relation that the child concern intersects, the effects of the knowledge produced around child concern and will pave the way to see how it is also a special part of the juridical concern.

Childhood is not innately conterminous with 'concern', neither in terms of legislative attention nor with 'development' in terms of being the object of scientific investigation. The mid- and late nineteenth century is marked as the era that witnessed the emergence of institutional forms of child welfare for neglected and offending children that positioned them at the centre of social policy. (Stoler, 2002, p. 120; McCallum, 2006, p. 2; Steedman, 1990, p. 62). This changing interest in childhood arising from Europe and inducing transnational debates (Stoler, 2002, p. 120) in general scope accounted the modernising political rationalities. These

rationalities are intertwined with various terrains concerning childhood in their regulation of sexuality, education, public assistance in the form of social work, nuclear family, and so on. The gained interest in childhood in Europe and the colonies argued by Stoler (2002) stems from 'the liberal impulse for social welfare and political representation focused attention on the preparatory environment for civil responsibility, on domestic arrangements, sexual morality, parenting and more specifically of the moral milieu in which children lived' (2002, p. 120). Yet the shift in the relation with childhod that alludes to new administrations of life enables us to discern how this 'modernizing political rationality' is at work in terms of constituting its subjects.

Foucault's methodological intervention in addressing power endows the means to map how this interest in childhood intersects with the increase in production of knowledge about childhood, their subjection to institutional codes and their becoming subjects in that regard. While Foucault proposes to approach power not through stable originary locus that can be appointed as the juridical apparatus, he elucidates another emerging form of power that works through capillaries that infuse to and mould bodies. It's a take-off in the productivity of power starting from the eighteenth century for Foucault (1980) that enables power to operate not only as a repressive force but significantly as a 'productive network which runs through the whole social body' (p. 119). Having this positively articulated power, he marks 'life' itself as its target and object of investment both at level of individual bodies and the whole body of population. Through its multiple locals, power that deals with life, in Foucauldian terms, forms knowledge and produces discourses that constitute regimes of truth which allow the effects of power to circulate. Since this new economy of power embraces and works through an individual's 'free' conduct,

scientificity/objectivity, in other words, the power of being the 'truth', weaves the certain domination/subordination practices. Although the juridico-discursive set up endures with its sovereign effects, through developmental regimes of truth, another modality of power is induced which constitutes the normalising practices of modern law.[22]

An increase in the production of knowledge about childhood in the disciplines of psychology or sociology can be situated within these pursued relationships of power. Childhood emanates as a fertile position since it implies the possibility of change that is easily mouldable due to its designated incomplete state. Therefore, what I mean by the historical specificity of the emergence of child concern embedded in the idea of development, beyond relativistic reduction, is its pertinence to power relationships. What development carries through its circulation is the regulatory mechanisms stemming from certain forms of knowledge that are attached to the specific effects of power. This 'truth' substantially builds up the domination/subordination network by administering the anomaly of the child, the normality of the grown-up condenses the ties between them. JJS as an institution accommodating these fields of knowledges and discourses on development enforces a singular state of being, of becoming and of social order. Linear understanding of time manifested as the developing subject with its determinant stages becomes a backbone of the institution where possible diversity of becomings is submerged, and the non-palpable conduct of power exercises can be disguised.

[22] The relationship between law and normalising practices and the ways in which Foucault engages with them will be further elaborated in the following parts of the study on the basis of Child Protection Law in Turkey.

2.3 Development and multiple temporalities of law

To decipher the ways in which childhood becomes a juridical concern in Turkey, temporality as a theoretical tool holds the crucial locus. As I strive to approach the JJSby employing the notion of time, not only time's instillation of childhood's subjects but also the law's own fundamental engagement with time comes forth. That is law's response to management, utilization and the production of time. The organization of temporal forms emanate as the common ground that pertains to both the imaginings of childhood and of the law. Different temporal logics that are enacted in legal practices, their coexistence, and the effects of this coexistence raise the issues concerning law's relationship to society in terms of its legitimacy, authority and its susceptibility. The notion of development as the specific organization of time is central but this time as the indication of state's and society's progression. Therewithal, pursuing the JJSnot only as an instance of development but as a terrain of temporal contentions allowed me to penetrate the intricate assemblage of law, childhood, and society.

One of the commonly adopted ways of conceiving the law's time in line with the idea of progress is to inquire about its history and historicity. Grounding legal change in a historical context engenders a coherent narrative of law through certain periodizations that are perceived as the outcome of historical struggle. The Child-saving movement in the nineteenth century, for instance, is depicted as the basis of the initial child protection laws and institutions (Hanson, 2014, p. 4).[23] In terms of the 'birth' and the 'evolution' of the JJS in Turkey, as with the world, there are certain points of departure that can be appointed for the history of this institution. Several studies have been conducted that illustrate the legal alterations in Turkey

[23] For a detailed account of Child-saving movement, see Anthony M. Platt, *The Child Savers, The Invention of Delinquency* (Chicago, IL: The University of Chicago Press, 1969)

with respect to general historical debates where a focus is on the construction of the modern nation state or the neoliberal tendencies beginning from the year 2000.[24] This type of narrativizing the history of law bears the hazard of depending solely on the determinants exterior to the practices within the law. But it nevertheless helps to draw the alliances and to contextualize changes within the general shifts taking place in the different parts of the world. Still, the way the story of juvenile courts is explained often entails a path towards a more 'complex' manner of dealing with children that portrays some sort of betterment of the legal conduct in which the progress of law is reconciled with the imperative of order.

Before sketching out a brief history of juvenile courts in Turkey, one needs to address the vitality of the legal and judicial reforms for Turkey's nation-state project. Transformation in the juridical domain based on the Western prototype of a centralized state goes back to late Ottoman period. Specifically, with the Constitution of 1876, reformer elites' aim to exchange pluralism in the juridical field for a single legal space was largely achieved, including the establishment of secular courts (Keyder, 2006).[25] The Turkish nation-state building that followed the dissolution of the Ottoman Empire further relied on the legal reforms to construct itself separate

[24] Some critical examples can be; Ozgur Sevgi Goral's work that inquiries the child concern in the early Republican era of Turkey (Goral, O. S. *The Child Question and Juvenile Deliquency During Early Republican Era* (Unpublished MA Thesis). Boğaziçi University Atatürk Institute for Modern Turkish History, Istanbul, Turkey, 2003), Nazan Cicek who gives the story of Juvenile Courts of Turkey between 1940-1990 with respect to changing debates of modernisation (Cicek, N. Mapping the Turkish Republican Notion of Childhood and Juvenile Delinquency: The Story of Children's Courts in Turkey (1940-1990) in Heather, E. (ed.) *Juvenile Delinquency 1850-2000: East-West Perspectives* Basingstoke: Palgrave Macmillan, 2014), Bengu Kurtege who explores the way the juvenile delinquency is accounted in the 'neoliberal period' of Turkey with the focus on property crimes (Kurtege, B. *The Historical Politics of Juvenile Justice System and the Operation of Law in the Juvenile Court in Istanbul in Regard to Property CrimesQuestion and Juvenile Delinquency* (Unpublished MA Thesis). Boğaziçi University Atatürk Institute for Modern Turkish History, Istanbul, Turkey, 2009)

[25] Caglar Keyder terms this period as 'constitutionalism' and discusses it as the instantiation of 'modernisation from above' that restructures state. This process as he argues, continues with the reception of Western law to 'effectively' modernise the Empire which at the same time brought its end as the Empire. (2006, p. 120).

from the Ottoman past.[26] 'Civilizing society' was the fundamental goal for initiating this top-down Westernized and secularized model. In particular, for the modernizing cadres, 'progress' towards this model could only be achieved through the 'force of law' (Özman, 2010). Therefore, the legal and judicial reforms were instrumental to the social engineering of the 'to-be-civilized' Turkish nation.

One should situate the emergence of juvenile courts and the changing legal arrangements regarding children within Turkey's nation state project. The relation to and the response to the debates of the Western world therefore are central, and constantly denote the idea of 'progress'. Therewithal, the peculiarities and the 'belatedness' of the Turkish case stems from the anxieties of the new Republic. In 1899 the world's first juvenile court began its legal existence in Chicago with an expression of the need to incorporate law and social work, making the punitive purpose subsidiary and merging the concerns of crime and child welfare. Differing legal perspectives were labeled 'individualization of justice' (Caldwell, 1961), which is substantiated with the initiation of social worker's reports for each and every child. The major doctrine, however, was the *parens patriae* that furnished the state with rights that were superior to those of the family.[27] Separate juvenile courts proliferated in accordance with these principles in different parts of the world, more prominently in the West.[28] In Turkey it was not until 1982 that the juvenile courts had their

[26] Aylin Özman accounts some crucial instances of legal changes as; 'The Civil Code, a translation of the Swiss Civil Code of 1912, was enacted with slight modifications in 1926…The introduction of monogamy and judicial divorce, as well as provisions allowing Muslims to alter their faith… [T]he Code of Obligations (contract and tort), closely modelled on the text of the Swiss Code of Obligations, and the Code of Commerce that borrowed provisions from German, French and Italian codes, came into force in the same year…Meanwhile, the new Penal Code replaced the 1858 French Penal Code with the modern Italian Code (Adli I ̇nkilabın Ana Hatları, 1937, pp. 9–23; Aygün, 1983).' (2010, p. 73)

[27] I will dwell upon this conception of parens patriae in the following chapter to draw close the relationship of family and state and how the transfer of sovereignty from family to state is lived in existing JJS of Turkey.

[28] Such as England in 1905; Canada and Portugal in 1911; France in 1912; Australia in 1919; Germany, Holland, Brasil and Japan in 1922; Italy in 1934.

separate legal existence, but starting from the last century of the Ottoman Empire, several codes and regulation concerning the legal status of the children as part of the new sensibilities were enacted. (Goral, 2003, pp. 34-57) The construction of Turkey as a modern nation-state had continuities and discontinuities with these regulations, where the legal apparatuses concerning children's rights, protection mechanisms and the rules of being a decent child are clarified. The transfer of parental authority to the state to some extent and protective purposes contained in the rhetoric of 'service for the nation' can be articulated as a major route that had been started with the Ottomans.

The early Republican period of Turkey witnessed the first legislation regarding the protection of children with the Civil Code enacted in 1926. The law stated that 'parents are responsible for raising the child about their potentialities and to raise them appropriately. This upbringing becomes moral, educational and religious. Parents are obliged to spend their income on the basic needs and education of the child.'[29] State intervention is legitimate when the parents do not perform this denoted 'natural duty' and the intervention is manifested as the authority that puts physically and morally endangered, neglected, or disobedient children in protectorates and foster homes.[30] The difference between the adult and children's judicial processes lay only in the punitive orientation, where the children were sent to child prisons and reformatories and subjected to reduction of punishment based on their age.

[29] Turkish Civil Code *1926* No.743(273).

[30] İbid. The exact phrase in the article is: 'If the physical or mental development of the child is at risk, or if the child is psychologically abandoned, then the judge can take away the child from her parents and place her with a new family or an institution. In the conditions of child's obstinacy towards the parents' orders and lack of any other possibility of rehabilitating the child effectively, the same measures are called upon the demands of parents.' (Cocugun bedeni ya da fikri tekamulu tehlikede bulunur ve ya cocuk manen metruk bir halde kalirsa hakim, cocugu ana ve babadan alarak bir aile nezdine ve ya bir muesseseye yerlestirebilir. Cocuk sirretligi hasebiyle ana ve babanin emirlerine gelmekte temerrut ederse; muessir baska bir islah caresi bulunmadigi takdirde, ayni tedbirler ana ve babanin talebi uzerine hakim tarafindan ittihaz edilir.)

The underlying discursive frame in the Turkish Civil Code in which the relationship of crime and childhood is considered incorporates inborn physiological and psychological traits that require medical treatment to change or normalise. However, unlike in Western articulations, crime control and child welfare were not merged in Turkey until the first establishment of juvenile courts in 1979. The tensions that Çiçek points to regarding the peculiarities of child concerns in Turkey can be illuminative to understand the 'undeniable lateness' (2014). As she argues, the notion of delinquent children was left outside the definition of 'child in the need for protection'. This insistence, for her, fundamentally pertains to the 'constructed allegory between the children and the new-born nation state' emphasised by the Kemalist ruling elite, and that led to incompatible discourses. At one level, 'the innocent vision of childhood who should enjoy their sheltered world' was adopted, but there were also 'the nationalist expectations that children should grow up rapidly and join the ranks of the regime defenders'. At another level, as Köksal (2014) puts it, 'the Turkish Revolution needed to transcend its own childhood in order to secure the Republic a place among the civilized and mature countries of the world, while on the other hand it had to cling to its childhood in order to reproduce its romantic ideals' (Köksal in Çiçek, 2014, p. 255).

Amid these tensions that stemmed from Turkey's anxieties about its development scale and that overlapped with child concerns, delinquent children were seen as threatening. Threat not only targets the peace in society but more importantly society's positioning in the line of progress. In Çiçek's (2014) terms; 'The issue of delinquency stood as a constant reminder that the new regime was failing to incorporate all the nation's children into the project of creating a new society

composed of physically, morally and spiritually well balanced citizens' (p. 258). However, after the Second World War, debates concerning juvenile delinquency tended to shift toward a new explanation about what 'led the child into crime', which can also be fixed socially. For Çiçek it was also an outcome of the desire of the Republic to detach itself from the labels such as 'barbaric' and 'archaic'.[31] In the new rhetoric of welfare policies, inherited weak personal characteristics are combined with social maladjustment and a morally dysfunctioning family arise as the central locus. As outlined by Göral (2003), '… all the facts that can be related to the living conditions of lower classes are cited as the causes of crime, and then it is added that these causes might only cause crime with their moral consequences …The main cause of crime was cited as the lack of the moral upbringing or *terbiye*' (p. 122). In relation to these emerging differences in the conceptualisation of delinquency, existing legal codes called into question and criticisms regarding the conduct of legislation that emerged in the 1960s and 1970s within the legal domain.[32] With the *Law on Children in Need of Protection* enacted in 1957, a legal distinction between the child that needs protection and the criminal child is made, and several drafts for juvenile-specific courts are created with the intervention of Turkish Criminology Institute and other legal professionals. In the reports commissioned by the Turkish Criminology Institute, for instance, lack of coordination between state institutions,

[31] The case that is put forth by Cicek about the British 14 year old who was put in prison in Turkey which led the international debates regarding the 'backwardness' of Turkey, makes her argument compelling. As she denotes, 'Barbaric Turks Jail Boy of Fourteen For Six Years' was the headline of *The Sun* and widespread public sensation was also accompanied by the conflicts at the diplomatic level. Thereby, the ways in which the terms of discussing delinquency after these incidents pertained more to Turkey's will 'to rehabituate the people of the Republic in Western lines', than the changing popular conceptions of childhood. (2014, pp. 260-268)

[32]Altan Aysel, as the Chief Public Prosecutor in Ankara during the beginning of 1970s, for instance called to institute a separate Juvenile Courts in Turkey which should fundamentally engage with the rehabilitation of the delinquent children. (Altan A. 1972, Suçlu Çocukların Đyileştirilmesinde Bütünlüğe Doğru *Adalet Dergisi* 63(1): 32) Abdülkadir Özbek was also a well known psychiatrist during the same years who emphasised the need of separate Juvenile Courts in which psychologists, social workers and pedagogues as the experts on juvenile delinquency, ought to operate primarily. (Abdülkadir, Ö. (1972) Psiko-Biyolojik Açıdan, Ceza Sistemlerinde Suçlu Çocuk Ve Ergenlerin Durumu Ve Bilirkişilik Durumu *Adalet Dergisi* 63(6-7):452.)

formal and volunteer social service were identified as needing a categorization of juveniles in terms of age and criminal culpability. (Kürtege, 2009) The report was also a call for the incorporation of social service officers with an emphasis on the rehabilitation of children by the means of legislated treatment programs.

In 1979 the *Law on Establishment, Duties and Procedures of the Juvenile Court* (no. 2253) was enacted and modifications in 1982 were implemented which transformed 'criminal child' to the 'child abetted into crime'. This was a crucial adjustment that diminished the criminal culpability of the children at the discursive level and consolidated innocent and deceivable image of the childhood. On a legal basis, protection measures can also be recommended for offending child by the same court, along with the punitive measures. Through this law and the establishment of juvenilce courts in 1987, new principles of preliminary investigation, interrogation and prosecution peculiar to juvenile delinquents were set; new division of labour among the legal professionals in the court was occurred and rehabilitative procedures were incorporated to punitive codes and execution. The law states that legal permission is needed to participate in the trials, which were closed to the public. It is also designated that these special children's courts must be built physically separate from other courthouses. Preliminary investigations and interrogation were assigned as the duty of the prosecutor instead of the police force. In terms of the structure of court, reformulation of the conditions for being a judge; it is suggested that they be experienced, have a child and be older than 30 years of age. The parent figure was implied and she or he expected to function as a social judge since she or he not only 'settles the legal disputes with reference to penal code, but also had the responsibility of taking appropriate legal decision to protect and educate the child.' (Kürtege, 2009, p. 55)

Starting from the mid-1990s, as part of the wider transformations that the Turkish state underwent, legislation concerning children also went through intensive changes. After adopting the UN Conventions on the Rights of Child, several protocols were ratified in 2002 concerning the children's sale, prostitution, pornography and their involvement in armed conflict. In line with the EU adjustment laws, the Child Protection Law was enacted in 2005. By this change both the children in 'need of protection' and the 'child abetted into crime' were being referred to as victims although the law strictly defined the scope of these distinct categories in legal terms.[33] Accordingly, the child in need of protection is the one 'whose physical, mental, moral, social and emotional development and personal safety is in danger; who is neglected or abused; and who is a victim of crime.' A child abetted into crime, on the other hand, is one 'who is investigated and prosecuted due to an allegation of a deed that is defined by the law as crime or for whom security measures are decided because of the committed deed.' Along with this recategorization, the law gave rise to the proliferation of social experts and specification of the measures suggested by them. This law was seen as an immense reform in the conduct of the JJSthat will pave the way for a rehabilitative treatment which former practices lacked. Further, it was with this current law that Turkey can situate itself alongside the more 'civilized' nations whereby the child welfare seen as a significant benchmark of progress.

The chronological path that I draw above, concerning the child law is the explicit account that addresses the alterations in the legal domain. 'Increased rights and protection measures' for children over time alludes to the 'development' of the legal system with its reliance on citations and its undertaking of reforms. Further,

[33] Child Protection Law *2005,* 5395 (3).

these changes can easily be thought as catching the spirit of the epoch whether as the responses of new-born nation-states, adaptation attempts to increased welfare policies or neoliberal tendencies along with the international standards that are set like the UN conventions or EU principles. Here, law can be rendered out as adjusting/responding to its exterior conditions, meaning outside of its autonomously defined field. Yet another temporal dimension that law bears within, along with its linear proceedings, is its simultaneous fixity. Invariance in the law becomes a temporal form dwelling within, and that consolidates its being 'all-time rule' which complements its omnipresent image. Juvenile laws, as with other criminal laws, endow this fixity and endurance throughout the changes they underwent.

It is argued by both Carol Greenhouse (1989) and Peter Fitzpatrick (1992) through different veins that the law carries out this mythical overarching time that fosters its self-totalization with the feature of being both in and out of time. Omni-temporality of law, in a sense, corresponds to the constancy and established representation of law that implies an eternal presence of the rule. For Greenhouse, the 'symbolism of all times' is a temporal myth organised and reproduced by law with the claim of invoking a system of its own. This builds up the fundamental part of a law's legitimacy. Fitzpatrick further laborates the mythical dimension of law that is fortified with the temporal logics, which beyond legitimacy postulates it as an indispensable constituent of law itself. Borrowing Henry Maine's (1931) idea of legal fiction which refers to the assumptions that conceal the alterations and modifications in the law, Fitzpatrick delves into time, adjusting device of this legal fiction. 'Apotheosis of autonomously determinant law' as he terms it, is one way that legal fiction presents itself. Responding to the 'outside' conditions of the law as Turkey's EU negotiations process for instance, coexists with the divine quality of

law that is maintained by simply being the law. The imperative of being beyond any circumstances and posited independence are concurrent with subjection to determinate forces exterior to law. Further, it is this concurrency of different temporalities - responsiveness to present and the 'beyondness' of now - that ratifies law and allows its continuing existence. In Fitzpatrick words:

> Law's most abject responsiveness to social and historical change proves to be law's ultimate affirmation since, with the legal fiction, law is assuming a primal power to posit anything yet simultaneously to accept the opposite into law and make that also its own. Therefore, law 'is' not only a resultant combing presence with what is beyond presence, it is also the 'mute ground' on which combination is made effective. (Fitzpatrick, 2001, p. 88)

In the closing ceremony of a 'child welfare' project called 'Justice for Children' pursued by the Turkey's Ministry of Family and Social Policy associated with European Union in 2014, the Minister of Justice of the time, Bekir Bozdağ, reminds the audience;

> We put the clause concerning the Convention of Children's Rights in our constitution. Turkey issued a decree that carries and gives special importance to the Convention of Children's Rights in the constitution, and we put positive discrimination for children in our constitution…[34]

In the same ceremony, Minister of Family and Social Policy Ayşenur Islam continues:

> Adopting the perspective of constant betterment, we do accept that we are at the beginning of the road to providing a just life to children in their homes and in other realms. Concerning the minimisation of risks that children in particular encounter in the social realm and for them to live in a just social environment, we think we need to work more.[35]

[34] 'Anayasamıza Çocuk Hakları Sözleşmesi'ni bir madde olarak koyduk. Türkiye Çocuk Hakları Sözleşmesi'ni anayasasına taşıyan ve buna özel bir önem veren bir hükmü getirip anayasasına koydu ve çocuklar için pozitif ayrım yapılmasını da anayasamıza getirip koyduk.' Retrieved from: http://www.milliyet.com.tr/adalet-artik-daha-cocuk-dostu-olacak-ankara-yerelhaber-493213/

[35] 'Sürekli iyileştirme bakış açısıyla çocuklara gerek aile ortamında gerekse diğer mecralarda adaletli bir hayat sağlamada yolun daha başında olduğumuzu kabul ediyoruz. Özellikle toplumsal süreçlerde çocuğun karşılaştığı risklerin asgariye indirilmesi ve çocuğun adaletli bir sosyal ortamda yaşayabilmesi için daha çok çalışmamız gerektiğini düşünüyoruz' Retrived from: http://www.milliyet.com.tr/adalet-artik-daha-cocuk-dostu-olacak-ankara-yerelhaber-493213/

Accordingly, several newspapers had the same headline the next day: ‘From Now on Justice will be ‘Child Friendly’’. While changes made in the constitution were set forth as the ‘advancement’ of the current legal system concerning children, it nevertheless fuels the need, the effort and the promise of betterment that will be secured in the future. The effectiveness of the mediation between what are seemingly opposite temporal forms of law - legal changes and the law’s invariant order – is consolidated with the notion of progress and it becomes intelligible with the imperial idea of linear time (Mawani, 2014). For Fitzpatrick (1992) the mythical foundation of law resides in this conciliation and ‘resolution of the contradiction between order and change is provided in a progression which matches change, incorporating or at least orienting it in a unitary, linear and serial ordering’ (p. 93). Within juridical domain, progress erects the dominant temporal logic that reflects both a continuity and a break with the previous practices. The linear ordering promises betterment through changes made without disrupting the force of law. Presumed differences with the past further denote embracing the future and, more precisely, amount to promises and proscriptions for an anticipated future that is yet to be realised.

As I evoked above, the question of future not only frames the discourse of the law’s ‘progress’ but at the same time points to society’s development stage. One of the main issues that is addressed by the Ministry of Foreign Affairs in Turkey under the title of Foreign Policy, for instance, is the legal structure that is supposed to preserve the rights of children. The law’s relation to juveniles, as the peculiar subjects of the law, becomes a way of representing Turkey’s ‘developed’ position in the international arena. Similar to other official declarations concerning the relationship between justice and juveniles, the legal field itself also emerge as a temporalizing force that orients society in the linear path of progress. The law here

works to impose a particular form of time that moves with linearity and concomitantly points to the developmental stage of society while reaffirming the status of juveniles as the criterion for that stage.[36]

2.4 Conclusion

Pursuing the temporalities of the law together with the constitutive relation of time for childhood categories provides a theoretical grid to make sense of the child laws in general terms and changing legal practices in Turkey. In terms of perceiving childhood, incompleteness and its anticipated development (or specific form of fulfilment) mark a special subject. As I suggested above, the construction of juvenile subjects is historically and geographically contingent, as with the legal codes cornering them. But further, their formation that relies on a universal and objective

[36] Another dimension of law's production and management of time in relation to the notion of futurity occurs within its own field and exercises. While law situates society within a specific form of temporal structure, it also becomes a device that 'binds time' through its encounters with the subjects, objects and the events of the present, and the necessity to respond them. Elucidating on Luhnmann's elaborations on law's constitution of temporal control Opitz and Tellmann notes; 'It [Law] binds time, since it encounters an uncertain future with a supplementary certainty about specific expectations. To this extent, law permits an indifferent stance towards contingencies of the future. As Luhmann (1999, p. 73) puts it, law allows for a 'mere continuation of the past and the present in a world full of surprises, full of enemies, full of conflicting interests.' Over and against the discontinuities between past and future, it secures continuity through time. It defuturizes the future.' (2015, p. 118) In a similar vein, common law's temporality is articulated through Bergson's critiques of mechanistic and finalistic understanding of time.(Mawani, 2014; Lefebvre, 2009). Mechanistic and finalistic perceptions refer to grasping time in accordance with the realisation of a given program and nothing more. Bergson's opposition to these formulations of time invokes the inventive and creative aspect of time itself. Bringing in the concept of duration Bergson seeks to conceptualise change/motion not through a determinant path but with the internal differences and differentiation. If, 'duration is what differs from itself' as Mawani argues in relation to Bergson's notion of time, (2014, p. 260), then adopting this frame of thought can enable one to discern the temporality of law beyond the progressive ascriptions to it. So the law can be thought also as a 'becoming', that is invented and reinvented internally on the daily basis with the every adjudication and multiple practices. Thereby, employing Bergson's conceptualization to understand the connection between law and time helps to see the legal domain beyond the containable and controllable future it aspires, and for acknowledging the multiplicity of lived times accommodated within daily experiences. Different temporal logics furnished in the legal domain on the other hand, produces tensions, inconsistencies and excesses that can be elucidated more clearly by inspecting the internal material context and the quotidian practices embedded in. Tracing the becoming of law outside of the teleological orientation or a realisation of a plan, and mere response or adaptation to its exteriority, may unfold the interior of law. In the following part of this study, I will try to sketch out how a legal reform, namely the CPL, that is set as a definite prospective plan encounters the existing workings of law (in Chapter 3), and how this encounter sparks off internal differences, tensions and unforeseen excesses (in Chapter 4).

claim of human development signifies them as the ‘historical offspring of modernity’ as Camaroff and Camaroff term it (2006, p. 268). As they further claim, ‘modernity as an ideological formation that naturalised its own telos in a model of human development (Lukose, 2000) casting youth as both the essential precondition and indefinite postponement of maturity’ (2006, p. 268).

In a similar vein, but from the perspective of law, Fitzpatrick (1992) emphasizes the entanglement of the dominant temporal framework of development in modernity and the law’s omnipresent imperative: ‘The opposition between the progression of law and law’s order is mediated and the two are united in the origin of a primal and chaotic savagery. Both the progression and the order of law take their being in the negation or denial of this ‘state of nature’’ (p. 91). ‘State of nature' here is associated with the childhood of modernity in a sense, but also with what the developmental paradigms appoint for the phase of childhood, negated by the order and progression of the law. To consider juvenile laws from this perspective conveys them along and beyond the politics of metaphor and/or the discursive space that inhabits the errors of the past, anxieties of the present and the prospect of a future. Juvenile laws and the JJSin that regard can be considered as the fundamental alignments that embodies the material conjunction of these concerns. Governing juveniles, in turn, not only involves certain subjection modalities specific to children but production/maintenance of juridico-discursive realm in general terms.

CHAPTER 3

TECHNICALITY: CHILD PROTECTION LAW AS A GOVERNMENTAL INTERVENTION

3.1 Introduction

While the notion of ‘progress’ pertains to the JSS both in terms of children’s development and the law’s improvement, as outlined in the previous chapter, Child Protection Law no. 3595, which was enacted in 2005, marks a crucial case in Turkey, enmeshed in this regime of truth. This chapter centres around this specific law that was issued in relation to Turkey’s accession process to the EU. To see how the CPL reconfigure the JJS amid Western gaze, I will sketch out the discursive and technical modification pursued in the governmental realm.

Hinged by the wider harmonisation process that Turkey underwent, the CPL seeks to ‘improve’ the existing JJS in line with the ‘good governance' model that evokes efficient and welfare oriented child protection. New bureaucratic officialdom, tasks, institutions and enhancement of the relations among the existing ones emerge as the prominent arrangement for this aspired model. Through amplification of state bureaucracy, and particularly social workers who engage with new commensurable domains of psycho-social, JJS is equipped with broader technical means and forms of knowledge. The incorporation of social work along with other bureaucratic authorities can be interpreted as intensifying the disciplinary and normalising features of power modalities. An emphasis on the detection of risks, assessing juveniles with respect to those and the measures targeting the lives and bodies of children to eliminate those risks draw close to technical management of juvenile justice rather than the coercive application of rules.

Many have suggested that Foucault's analytical distinctions among sovereign and disciplinary power as well as between the law and the norm, leads to denying the role of law, legislation and sovereignty in existing societies (Ewald, 1990; Hunt, 1992)[37]. Other scholars who make use of Foucault's analysis are being criticised for seeing every form of government through a discipline that works to produce technical and scientific knowledge (O'Malley and Valverde, 2014). Abstaining from the discipline/norm vs. sovereign/law antagonism and to trace their various alliances, I draw on juvenile courts as 'legal complex', in Valverde's and Rose's (1998) terms, which refers to the 'assemblage of legal practices, legal institutions, statues, legal codes, authorities, discourses, texts, norms, and forms of judgment' (p. 542). I take the CPL as a governmental intervention in the legal complex and by government. I invoke Foucault's (1982) notion in which power relations are gradually 'elaborated, rationalised and centralised in the form of, or under auspices of, state institutions' (p. 793). Albeit this extension of state channels or statization in Ferguson's (1997) term, I do not suggest complete, efficient and coherent social engineering through state and the bureaucratic power that is extended. Rather, my aim with this chapter is to trace what is facilitated by the conceptual apparatuses of the official thinking and technical means that are set forth, which will later help me to pursue the uneven and partial modalities of power at work in the following part of this study.

[37] Foucault himself, especially in his later works, points out various articulations and hybridisation of different power forms specifically in his work *Governmentality* (Foucault, M. (1991). 'Governmentality', trans. Rosi Braidotti and revised by Colin Gordon, in Graham Burchell, Colin Gordon and Peter Miller (eds) The Foucault Effect: Studies in Governmentality, pp. 87–104. Chicago, IL: University of Chicago Press.) and *Truth and Juridical Forms* (Faubion D. J. (2002).(ed.) *Power: Essential Works of Foucault 1954-1984* London: Penguin.) Nevertheless, 'expulsion thesis' pursued primarily by Alan Hunt and Gary Wickham (Foucault and Law: Towards a Sociology go Governance, 1994) argues the 'expulsion' of law as an analytical category in Foucault's explanatory scheme of power. 'Expulsion thesis' and its critiques are still extensively discussed issues in Foucaudian literature. For a completion of essays that deals with Foucault's engagement with law see; Golder, B. (ed.). (2013) *Re-reading Foucault:On Law, Power and Rights* New York: Routledge.

3.2 EU harmonization and fostering technical bureaucracy

Being part of Europe or not has been an intricate question for Turkey from its very constitution as a national state. It is a question that goes beyond the scope of this study but still, to begin with, noting the ongoing ambivalent engagement of Turkey with the West is needed. For Turkey and other non-western countries, Europe (or the West in general) connotes advanced modern civilisation bearing temporal significance to assess itself in terms of backwardness and progress. This aspired model of development comes also with a crisis of identity, as many argued. (Ahıska, 2003; Deringil, 2007; Babül, 2015). In this regard, articulating the West as a source of anxiety, frustration and resentment that threatens the national being builds up the other thread of this relation. Situated within this double relationship, 'the West' continues to be the hegemonic imagery for Turkey that constitutes the integrated part of its self-representation (Ahiska, 2003).

Amid this symbolically loaded ambivalent relationship, contestations of EU membership heated up in the early 2000s as a result of harmonisation mechanisms and technical administration process.[38] In 2002, with the newly elected AKP government, seeking a date for the EU negotiations was back on the hot agenda. Although the bid for accession to EU goes back to 1987, it was 1999 that official candidacy for the full membership of Turkey was declared. In 2005 the official accession negotiations for full membership was launched. Specifically, during the first two terms of the AKP rule, a series of legal administrative reforms were put in place in line with the accession negotiations. The CPL issued in 2005 was in

[38] Today, considering the official government discourses, one can claim that integration to EU and strengthening the ties with the West in general seen mostly as damaging to Turkish identity. West, more and more is being articulated as a threatening focal to 'national unity' on the one hand, and as an object to disdain on the other. Yet again, the very alteration in the official discourses and practices, engenders a significant instance of Turkey's ambivalent relationship and reiterates the equivocal feature of the Turkey's attachment to the West.

accordance with the general legal changes initiated within the Turkish Penal Law[39]. Nevertheless, the CPL has a unique implication since an improvement of the child protection system was mentioned as a crucial criterion monitored by the EU in relation to the issues of human right and social policy. (Yazıcı, 2012, pp. 118-119). Rather than the integration to neoliberal economic policies, joining to EU was presented as a concern for moral social progress. Children rights, and welfare in particular, were used as an index of society in terms of its democratic values, level of civilisation, development of rights, and the rule of law.

As might be expected, the preamble of the CPL begins with a reference to international documents:

> Deriving from the fact that prosecuting and sentencing children abetted into crime as adults, not only is ineffective for protecting them from crime and similar risks but avails further risks; international documents inform the necessity to establish child specific procedures, rules and officialdom.[40]

Aiming to fulfil the obligations arising from the United Nations Convention on the Rights of the Child (UNCRC) and the European Convention on the Exercise of Children's Rights (ECECR), ratified in 1995 and 2002, respectively, the law introduced novel ways of administering juvenile delinquency and victimhood with the claim to regard the 'child's best interest'. To this end, the act foregrounds the need for child-specific rules, procedures and officialdom. While institutionalising the

[39] The preamble of the CPL asserts: 'The codes that make crucial changes in the founding principles of penal law; Turkish Penal Law No.5237 dated 26/9/2004 and Law on Penal and Prosecution of Security Measures No. 5271 dated 1/5/2005, shall enter into force and these laws necessitate to reconsider the code No.2253 regarding the international conventions and declarations about the children that we are part of.'(Ceza hukukunu olusturan temel muesseselerde onemli degisiklikler yapan 26/9/2004 tarihli ve 5237 sayili Turk Ceza Kanunu, 4/12/2004 tarihli ve 5271 sayili Ceza ve Guvenlik Tedbirlerinin Infazi Hakkinda Kanun 1/5/2005 tarihinde yuruluge girecek olup, bu kanunlar ve cocuklarla ilgili olarak tarafi bulundugumuz uluslararasi sozlesme ve bildirgeler karsisinda, 2253 sayili Kanunun yeniden gozden gecirilmesi zorunlulugu ortaya cikmistir.) Preamble of CPL. Retrived from: http://www2.tbmm.gov.tr/d22/1/1-0991.pdf (own translation).

[40] 'Uluslararasi belgelerde, suca suruklenen cocuklarin yetiskinler gibi yargilanmalarinin ve cezalandirilmalarinin, onlari suc ve benzeri risklerden koruyamadigi gibi, daha fazla riske acik hale getirdigi gerceginden hareketle, cocuklara ozgu usul, kanun ve makamlarin olusturulmasi gerektigi bildirilmektedir.' Retrieved from: http://www2.tbmm.gov.tr/d22/1/1-0991.pdf

universal notion of childhood (which is anyone under the age of18), the law points to 'other' culpable agents as 'risk factors' for the 'children abetted into crime' which must be assessed:

> Deriving from the vision that children's deeds which are accounted as crime results partly from the conditions they inhabit and partly from the behaviours peculiar to puberty, the law aims to establish mechanisms for assessing the risk factors and appealing to efficient precautions that will eliminate those.[41]

The efficient mechanisms that would eliminate the risk factors subsequently are depicted as 'protective and supportive measures' that entails the examination of 'child's personal characteristics' and 'living conditions'. Underlying aim of the CPL is stated further and more broadly as 'to protect the children', 'securing their rights and welfare', and 'fulfil society's need for justice and security'.

The relationship that the CPL lays out with the EU harmonisation process is a prominent aspect of its official discursive frame. The departure point of the preamble and frequent references to Western countries (such as Germany, the UK, Denmark, Ireland, Sweden, and so on) and to international documents, posits improvement to reach EU standards as an important objective. Denoted geography composes the 'origin' of modernity with its concepts and institutions through which Turkey's juridical changes can be arranged in relation to it. As I tried to outline in the previous chapter, the 'progression' of law in relation to this imagined origin embraces the promise of a better future that is yet to be realised. But a further developmental stage of society is being set in relation to the law whereby the legal reform can be postulated against the non-modern (Fitzpatrick, 1992). The CPL, with its aim to 'fulfil society's need for justice and security' and improving the JJS in that regard,

[41] 'Kanunda, cocuklarin suc sayilan eylemlerinin bir kisminin cocuklarin icinde bulunduklari kosullardan kaynaklandigini, bir kisminin ise ergenlige ozgu davranislar oldugu ongorusunden hareketle, risk faktorunun arastirilmasi ve ortadan kaldirilmasi icin etkili onlemlere basvurulmasini saglayici mekanizmalarin olusturulmasi hedeflenmektedir.'http://www2.tbmm.gov.tr/d22/1/1-0991.pdf

entails the notion of 'keeping up' with Western modernity as its substantial formal reasoning.

One can also discern a pedagogical stance in Turkey's EU membership process that seeks the recognition by the West intrinsic to its will to improve JJS. The EU's stance as the educational model can be traceable in the legal discursive setup of the CPL, which appoints 'the West' as the template, but various solid undertakings do follow these. Elif Babül (2012), in her inquiries of the changing governmental field in Turkey with respect to EU harmonisation packages, discusses several capacity building projects and programmes for training state officials and government workers. The asserted aim of these projects that include juvenile-specific programmes is to develop people's ability to respect and implement human rights. She notes that these enterprises compel government workers and state officials in various ways to conform to certain membership criteria. Of course, as Babül (2015) also points out, this process cannot be viewed in terms of the clear-cut demarcation between the learner and the one who teaches. Rather, state officials' encounters with the training programmes become sites that generate contradictions, resistance and ambiguities while confronting the existing way conducting things.[42] Still, this dynamic but uneven relationship of power stemming from the EU's authority of being the trainer is informed by legal codes. In turn, Turkey's relationship with the EU and more specifically the pursuit of the EU's recognition becomes a significant premise for legal changes. In the JJS too, the CPL can be thought as a performance that calls for the recognition of the EU while situating Turkey within the mythic linear line of progress.

[42] I will delve into the ambiguities, problematizations, competing forms of judgement that stem from the introduction of this law in the following chapter.

The question of how this amendment in child law acquires justification concerns not only the historical positioning of the West as the epitome of modernity (progress/civilisation) but in relation to what the EU model suggests. What is implicit in the EU harmonisation processes is the promotion of 'good governance'. 'Good governance' that is associated with the European way of governing (Sokhi-Bulley, 2011; Babul, 2012) signals a more egalitarian relationship between state and society with a great emphasis on the discourses of rights. As Sokhi-Balley (2011) explicates, the European/good/new governance rhetoric implies withdrawal from the rigid hierarchal modes of government and the encouraged methods of better governance relies on more flexible and cooperative state-society relationships. The predicated distinction of governing better is not governing any less but indicates modifications in the art of government in Foucault's sense of the term.[43] Furnished by the discourses of refining JJS, the CPL holds on to the unproblematic, neutral image of the EU that advocates human rights and welfare/prosperity of a nation. However, with the new bureaucratic apparatuses and forms of knowledge that is set in motion, the CPL recalibrates the field of power in the field of juvenile justice.

The law introduces child specific rules, procedures and officialdom and a requirement of assessing the risk factors as the administrative changes to protect and secure children that can be accounted for as a manner of good governance. This meant proliferating bureaucracy quantitatively and defining new tasks that are to be carried out by the state officials. In addition to the already-existing juridical staff specified for juveniles, the CPL emphasises a need for juvenile-specific officialdoms such as juvenile police, juvenile prosecutors, juvenile judges and social workers that work only in the juvenile courts and Juvenile High Criminal Courts. Not only are

[43] Foucault, M. (1991). 'Governmentality', trans. Rosi Braidotti and revised by Colin Gordon, in Graham Burchell, Colin Gordon and Peter Miller (eds) The Foucault Effect: Studies in Governmentality, pp. 87–104. Chicago, IL: University of Chicago Press.

juvenile-specific officialdoms carried out, but various state institutions are brought in through the CPL. Local governments, the Ministry of Health, the Ministry of Education, the Ministry of Labour and Social Security, the Ministry of Family and Social Policy and the Ministry of Internal Affairs are all assigned certain tasks and are obliged to be in coordination with each other.[44]

In particular, CPL sets the instructions concerning the expertise of social workers and the terms of social inquiry report (SIR) about children's living conditions and psycho-social traits which they ought to hand in to juvenile judges. Protective and supportive measures that can be suggested by them include health, education, housing and consultancy. Further, the juvenile judges now need to consider SIR that social workers convey to decide on the criminal liability along with the report of forensic practitioners. All in all, CPL highlights the significance of social workers and their suggestions for instituting 'welfare' for children. Accordingly, the number of social workers in the juvenile courts was increased significantly after CPL was issued. Examining risk factors and designating appropriate courses of action to 'protect children against the social dangers such as crime'[45] was their essential task. The efficient mechanisms are conveyed as strengthening the relations with other rehabilitative and medical institutions and forming new ones such as the Centre for Protection Care Rehabilitation[46] (mostly for the children who abetted into crime but who are ineligible for detention homes), Centre for Care and Social Rehabilitation[47] (mostly for the children who are only in need of protection and were not abetted into crime) and the Centre for Children and

[44] For the exact tasks each have and their codification in the CPL see Appendix.
[45] Preamble of CPL. Retrived from: http://www2.tbmm.gov.tr/d22/1/1-0991.pdf (own translation).
[46] 'Koruma Bakim Rehabilitasyon Merkezi' (KBRM)
[47] 'Bakim ve Sosyal Rehabilitasyon Merkezi' (BSRM)

Youth[48] (only for the children who work and live on the streets)[49]. Like the social workers assigned in the juvenile courts and Juvenile High Criminal Courts, these centres are overseen by the Ministry of Family and Social Policy, as the CPL indicates. This is a crucial administrative move in terms of allocating authority to the Ministry of Family and Social Policies along with the Ministry of Justice, regarding the children who abetted into crime. In this way, social policies, protective measures and punitive apparatuses are being institutionally allied for the children who encounter any legal problem.

Foucault's notion of governmentality is relevant to the enactment of the CPL in terms of seeing the ingrained modalities of power within the aspired 'good governance' scheme. Reconceiving this law as governmental intervention may unravel the 'power relations that are less visible and which manifest themselves in the forms of authority less detectable than the hierarchal forms of government' (Sokhi Bulley, 2011, p. 266). Triggered by the will to improve the JJS and to society with respect to the Western model, the CPL is situated in the domain of power that sees population as a field of force upon which various regulatory mechanisms can be built. Targeting the population at large, the governmental form of power, as Foucault (2002) discusses, succinctly aims the much-cited maxim: 'conduct of conduct' which is being able to 'control the possible field of action of others' (p. 341). To this end, the workings of government strive to secure the population's welfare, improve its conditions, increase its wealth, longevity, and health, etc. that, in short, augments vitality. Although the way Foucault formalises the term 'government' exceeds the juridical form and corresponds to an ensemble of multiple institutions, procedures,

[48] 'Cocuk ve Genclik Merkezi' (CGM)
[49] I use 'mostly' since it is the way these institutions are actually organised in practice although they both subjected to same ordinance. The names of all these centres changed to Centre for Child Support (Çocuk Destek Merkezi) with the new ordinance released in 29.03.2015 (Official Gazette No. 29310)

calculations and tactics, law is not diminished in significance. Rather, 'using laws themselves as tactics' for the disposition of things, arranging and managing certain groups arise as a technique of governmentality. (Foucault, 1991, p. 95). Targeting specific group of children, that is, the 'children who are in dispute with law' and 'children who are in need of protection', the CPL expands the terrain of their regulation that avails corrective intervention through protective and security measures. As it is stated in the preamble, this expansion is equipped with the expressions of securing the 'welfare', 'best-interest' and 'rights' of the children. 'Good governance' that is aspired to with the concern for enhancing children's well-being thence provides the ground for a novel regulation mechanism.

Regulatory instruments spawned by the CPL, though, are bound to stimulation of bureaucracy specific to juveniles with its rules, procedures and officialdom, and initiating new commensurable domains of psycho-social. The ways in which these adjustments are pursued within a discursive realm, together with their apparatuses, is crucial to think this governmental intervention. On the one hand, they consolidated the supposition that intensifying and specifying the bureaucratic performance will correspond to instituting rights, the rule of law, and democratisation, etc. and see the state as a neutral vessel arranging these 'improvements' (Li, 2007; Babul, 2015). Expanding the bureaucratic field in this framework implies the elimination of deficient, unruly and subjective practices that will reinforce the state apparatus as a rational legal authority. (Herzfeld, 1992) Leaning on the mostly ideal-typical Weberian bureaucracy[50], 'objective legal order' is presumed to be achieved by involving new institutions, officialdoms and widening

[50] Through, it is also Weber himself who provides the initial criticism of prevailing bureaucratic domination that he associated with particularity of modern Western context. The inescapable formal abstractions that 'parcels-out the soul' for him is described by the celebrated Iron Cage metaphor in which the 'need for order and nothing but the order' will become the sole stake that confines and compels individuals in this modern domination form. (1978)

the webs of their relations. Constituting procedures is indeed a rudimentary element of legal authority enacting abstract rules and thence basing itself on the formal requirement of these rules. Rather than the substantive content of the rules or the ways in which their application process occurs, procedural correctness and formality in itself brings legitimacy. It is this formal abstraction mechanism to which the CPL also appeals by further specification and fortification of bureaucracy. The emphasis on animating the bureaucratic field by forging ties among different Ministries and institutions, forming new institutions, radically increasing the number of social workers as well as other juvenile-specific officialdoms and extending their tasks posit the 'betterment' of governing depending on these arrangements.

On the other hand, and immanent to bureaucratic amplification, these adjustments render the field of juvenile justice as a technical issue where calculation resides at its core. The inquiry of the 'risk factors' by the newly assigned juvenile-specific juridical staff appeals to formalising otherwise legally (formally) undefined domains such as personal characteristics and living conditions of children. Bureaucratization (specifically with the means the social workers holds) makes those new assessment arenas available and transferable to legal language within technical terms. To do so, it needs fixable meanings for identifiable 'risks' and 'social dangers' that are referred to in the CPL. As Rose (2004) nicely articulates: The governenance 'becomes only possible through discursive mechanisms that represent the domain to be governed as an intelligible field with specifiable limits and particular characteristics, and whose component parts are linked together in more or less systematic…This is a matter of defining boundaries, rendering them within visible, assembling information about that which is included and devising techniques to mobilise the forces and entities thus revealed' (p. 33).

As the risks and dangers are erected in technical terms, they are made into commensurable domains to account for their solution/elimination within the same frame.[51] In other words, 'the efficient measures' for preventing the 'risk factors' demands calculating and 'calculation requires in turn that processes to be governed be characterised in technical terms. Only then can specific interventions be devised.' (Li, 2007, p. 6) As the government in Foucault's sense of the term pertains not only disposing things but calculating its 'right' manner for specific finalities, interventions become the kinds that experts have to offer. Expertise knowledge specialised on juveniles along with the technical superiority of the bureaucratic officialdom grounds the efficiency of governing. Social workers particularly, as the ones who imbricates bureaucratic legal expertise and non-legal (psychology, pedagogy, social service,etc.) expertise, forge the marks of this technical effectiveness. That is also why significant growth in their numbers comparing to the increase in other juvenile-specific juridical staff can be interpreted more efficient in terms of permeating the (discourses of) technicality within JJS.

3.3 Social workers: Reconciling intimacy and legal formalism

As the legal codes of the CPL facilitated the discourses and instruments of technicality in the field of JJS, social workers are being assigned with a particular role due to their expertise. Proliferation of social workers in the juvenile courts and Juvenile High Criminal Courts, corresponded to solid undertakings to implement the 'efficient mechanisms' of 'eliminating the risk factors' that cause crime and victimhood. Situated at the junction of legal and non-legal knowledge, their expertise put in circulation whole another set of technical means by appealing to psychology,

[51] For the account of how the social workers assess the risk factors see p.

pedagogy and social services. It is through Social Inquiry Report (SIR) that they convey after interviewing the children and sometimes children's family, that their social and psychological expertise are included in the legal proceedings which was rarely the case before the CPL. By examining the children's 'psycho-social traits', they provide suggestions of 'protective-supportive measures' directing also children to medical and rehabilitative institutions.

The ways in which social workers articulated in the legal complex have particularities due to their field of knowledge that is defined beyond judiciary. They comprise of the people whom discipline is psychology, pedagogy, social service, psychological counselling and guidance, sociology, education or family and consumer science. Accordingly, they mostly undertake the juvenile court's rehabilitative vocation and the interest in the welfare of neglected and offending children along with the punitive sanctions.[52] In relation to other actors of JJS and the repressive apparatuses of law, social workers are marked by their distinct congenial approach to children given their profession.

This can be traceable by dwelling on how they conceive their own position within the new legal frame. The initial assertion of the social workers in the juvenile courts and Juvenile High Criminal Courts concerns their assignment in the legal process as the 'non-juridical' agents. After this claim, the statement follows: 'As you know we are not subjected to the Ministry of Justice but to the Ministry of Family and Social Policy'[53]. Thereby, their distinct terrain 'separate from jurisdiction' is being institutionally confirmed. Yet further this distinctness is manifested for them in their intimate attitude towards children and their pedagogic stance. A psychologist

[52]Ever since its emergence as a separate unit within legal domain, Juvenile Courts (in different parts of the world), appeared with this interest as try to delineate in the previous chapter. (McCallum, 2007) the CPL appeals to this trait attributed to Juvenile Courts by emphasising the role of social workers.
[53] This a general statement that is repeated several times in different ways during my interviews to reiterate their distinct position in the legal proceedings.

who works as a social worker in a juvenile court tells about her relationship with the children as follows:

> I don't stand aloof from children. I mean, like I said, they ill-treat these children in prisons, the judge ill-treats, the prosecutor ill-treats, they have been already spent the whole night with the police. Usually, they are being left thirsty and hungry, they are being handcuffed - supposedly handcuffing is restricted. I take the child and ask her whether she needs something, whether she is hungry, you know, whether she is thirsty or not. And I try to explain her that I am not the judge or the prosecutor. I try to clarify that the report I prepare is for her own good.[54]

While every other actor who works as part of the punitive apparatus in this legal arena ill-treats and horrifies the children for them, they interpret their own approach as 'humane'. Social workers demand from the police or gendarme to untie the handcuffs for the interview that is going to be conducted is expressed frequently.[55] Most of the time an intimate (mesafesiz) relationship is attempted to be formed, and it is reflected in the meetings as offerings of cigarette, tea, water, etc. and also as a form of 'sincere chat'. A colleague who is working in Juvenile High Criminal Courts describes the nature of conversations he has with children as 'interactive chat in which we laugh and have fun'[56]. 'To create a common realm between' says another pedagogue working in juvenile court, 'one needs to be like a child while engaging with the children'[57]. These manners in which social workers address children in juvenile courts come forth as a significant site that posit their difference from rest of the actors in the JJS. Intimacy, sincere chat, drinking tea, laughter, fun, creating a

[54] 'Ben mesafe koymuyorum çocuklarla. Yani şöyle koymuyorum; o çocuklara dediğim gibi hapishanede kötü davranıyorlar, hakim kötü davranıyor, savcı kötü davranıyor, polisle zaten bütün geceyi geçirmis oluyor. Aç susuz oluyorlar genelde, kelepçeli oluyor - kelepçe yasağı var güya -. Alırım çocuğu ve bir ihtiyacı var mı diye sorarım, aç mıdır, hani susuz mudur ve ona hakim ya da savcı olmadığımı anlatmaya çalışırım. Onun iyiliğine bu raporu hazirladığımı izah etmeye çalişırım.'
[55] Although handcuffing the children is forbidden, 'there exist a gap in the law' as one of the social worker said, that allows handcuffing in the situations where there exists the risk of escape. Since verifying the 'lack of risk' is needed in that respect, cases that are stated as the exceptional in the legal texts becomes the general practice.
[56] 'Karsilikli sohbet edip gulup, egleniyoruz'
[57] 'Ortak bir zemin oluturmak icin cocukla cocuk olmak gerekiyor.'

common world, all these are presented as the indicators of their non-coercive position.

Not just in the account quoted above but in all my interviews with the social workers in juvenile courts, their attempt to explain to the children that the conversation they would have would be 'independent of the offence' and would be 'for their own good in any case', is reiterated. This caring and nurturing attitude is accompanied by the desire 'to know them', which is reflected in questions mainly about family, school, friends and their neighbourhood. The message that the social worker will look out for their needs is also reflected. Concomitantly, social workers elucidate not just their approach to children but also their tasks that are unrelated to the penal proceedings. A social service expert describes their role in conducting the interviews as 'ones that make children think'[58] and a colleague of his adds, 'That is to say, we help children to question the crime'[59]. Subsequently, the expected result of the interview with the children is said to be 'gaining insights'.

The task of the social workers, though posited as a philanthropic enterprise furnished with intimacy and sincerity, is substantially ingrained in the legal technical process. Social workers, as the legally defined experts on psychology, pedagogy, social service, etc. build up non-legal forms of knowledge in the juridical domain. Their non-legal expertise is introduced in the legal forum and becomes the crucial discursive constituent of the juvenile courts while being generated by the legal forum itself. They diverge from the punitive means and the actors of JJS, and still produce juridical knowledge. That is why sustaining the formal/legal attitude is always a concern. In a training seminar on interview techniques, a clinic psychologist working in the forensic institution warns, 'forming a certain relationship with children is very

[58] 'Düşündürmeye başlıyoruz çocuğu'
[59] 'Yani suçu sorgulamasına yardım ediyoruz'

crucial but ‘one should stick to her role’ since the underlying aim is to obtain juridical information without traumatising’[60]. Here the role is not only referring to the psychological or social expertise that embodies certain social authority with its diagnostic gaze, technical efficacy and claim to truth in the form of norm; it also pertains to a legal occupation/task, which produces knowledge that is to be employed by and function within the law.

Subsequently, juridical translation of the interviews that the social workers conduct with children become a Social Inquiry Report (SIR). Acquired information is presented to judges in the form of these reports that necessitate formalising the ‘intimate’ interaction and conservation between in technical terms. These reports, both in terms of their content and form, have a particular structure. They are expected to be composed of two parts: ‘evaluation’ and ‘intervention’, apart from the formal information regarding the children. A handbook prepared for social workers indicates that the ‘SIR will be operational as far as the past (‘evaluation’ part) sheds light to the future (‘intervention’ part). While incorporating the past, a SIR should entail the content to regulate one’s future with respect to the ‘child’s interest’.’ (Sosyal Calışma Görevlileri Eğitim Programı, 2011, p. 173).[61] The evaluation part must consist of the information concerning the crime, personal characteristics of the child, information regarding the family, environment, school, work, peer relationships and conclude with the assessment regarding the ‘emergence and control of the crime’.[62] The intervention part, on the other hand, ought to include the social workers’ suggestions regarding the things that need to be changed, the intervention

[60] ‘Çocukla bir bağ kurmak önemli fakat ‘rolden çıkılmamalı’, sonuçta asıl amaç çocugu travmatize etmeden hukuki bilgi almak.’

[61] ‘SIR’de geçmiş (‘Değerlendirme’ bölümü), gelceğe (‘müdahale’ bölümüne) ışıkk tutabildiği ölçüde işlevsel olacaktır. Bir SIR, geçmişi içermekle birlikte ‘çocuğun yararı’ açısından onun geleceğini de düzenleyebilecek bir içeriğe sahip olmalıdır’

[62] For the children who are not offending and defined as the ‘ones in need of protection’ only, it relates to the victimhood.

degree and the evaluation of the existing practices (if there is any).[63] This information is to be obtained by interview and observation methods where social workers seek 'to know' children and which at times are expressed as their distinct sincere relationship. As Dicle Koğacıoğlu (2011) points out, however, while translating these sincere and informal intercourses in and around the courthouses to legal documents, founding formalism of law is resuscitated: 'Documents that are products of these multi-layered formal and informal interactions are written in a language that performs the archetype in written form of Weberian Western formal legal rationality' (p. 196). Social workers' operation within legal domain in a way reconcile certain form of intimately articulated interaction and legal bureaucracy but without abandoning the technicality that is both required for the legal formalism but also intrinsic to their area of expertise.

3.4 Social workers: Experts for assessing the risks

The knowledge of evaluation and the path for intervention that the social workers create with the SIR operate at several levels. The SIR initially produces juridically valid knowledge concerning the social background and psychological state of children and draws its relationship to crime and/or victimhood. This knowledge on the one hand becomes the ground to suggest certain 'protective and supportive measures' for the children. These measures involve health, education, care, housing (specially for pregnant ones) and consultancy precautions and appeal to relationships with other state institutions.[64] On the other hand, it alludes and sometimes explicitly

[63] For a study that provides detailed illustration of the ideal model of SIR see Sevda Ulugtekin's Cocuk Mahkemeleri ve Sosyal Inceleme Raporlari, 2004, pp. 107-115.
[64]Health measure mostly suggests drug treatment or can be an advice to visit a doctor in the case of serious illnesses. Education precaution is for the ones who dropped out from compulsory schooling and aims to provide the child with a profession and a job. Care and housing measures involves placing

outlines the social worker's opinion on the criminal liability of children between 12 and 15 years of age. The juvenile judge is legally obliged to demand the SIR for children who are in this age range according to the CPL. For the others, it is up to judge to request this report.[65]

The crucial question emerges as what social workers mean by the 'social and psychological state' of the children that demand certain measures and should affect their criminal liability. This question brings in the technical means that they employ with respect to their expertise in psychology, pedagogy or social service embedded also in legal formalism. For the offending children, the question of 'how the child abetted into crime?' is answered through detecting certain 'risk factors'. 'We get to the roots of the crime'[66] says one social worker and points to drugs, migration, family negligence, lack of education, poverty, and psychological disorders as the prominent social and psychological risks. In a similar vein, the same risk factors are depicted as the trademarks of a child in need of protection. These traits, loaded with economic, ethnic, and social bearings, can be further expanded by the social workers. Yet within their evaluation, the risks mentioned are starkly associated with 'environment' or 'culture', encompassing family, neighbourhood and friends. The 'environment' in which the children grow up and the social relationships embedded in this environment are addressed as the indicator of another 'normality'. The assessment of risk factors also takes place within this differently identified

---

children to official or private dormitories, foster homes and other institutions depending on availability and content of the case. This suggestion also necessities interviewing with the family members and/or visiting their house if it is possible. Lastly, consultancy refers to the guidance of the children concerning to their education and other problems, and also guidance of the ones who are responsible for the children. These measures are suggested for both 'child in need of protection' and 'the child abetted into crime' ((although their applicability specifically for the children who also bears the 'security measures' (involving arresting, house of detention and Centre for Protection, Care and Rehabilitation depending on the age and the range of the 'criminal act') changes substantially.))

[65] I will elaborate how the assessment of criminal liability that takes place for this uncertain age interval within competing forms of judgement in the next chapter.

[66] 'Suçun kökenine iniyoruz.'

'normality' that interchangeably refers to family, neighbourhood and friends. A social worker in one the juvenile courts explains the assessment process as follows:

> What we do implies not the mental state but the social…This means that if the child's mother and the father is a thief too, thievery is not a crime for this child. Or, if the marriage age is 15 within their environment, eloping with a girl who is sixteen is not considered crime, because in his environment this has been normalized.[67]

In a similar line, another social worker points to specific neighbourhoods to explicate the 'cause' of the crimes:

> There are specific neighbourhoods. Tarlabaşı you see, Hacıhüsrev and so, these places…Well, it is a little nasty to say this but these places are obvious, I mean. The families raise their children as thieves and in that environment, there is always thievery. As a matter of fact, when there is no thievery, if there is someone who can't manage to steal, it is said that she is unskilled. I mean this is a culture, as we despise thievery, they are despised for not stealing. Because there is the lack of education, I mean not having any fundamental education, there is no conscience development. It is normal…When someone looks away, what she takes becomes hers. I mean there is no concept of 'it is yours' …What do you expect from the child who is raised here.[68]

The 'culture' that the informant speaks of, like the environment and family that, as the former informant also points to, implies the sets of relationsships that children inhabit. Their families are diagnosed as socially and morally dysfunctioning, and their neighbourhoods as composed of these families who are unable to provide the education that will breed individuals with a conscience. Reasons for criminal deeds and victimhood are being made intelligible through assigning social impairment to families and neighbourhoods in which another set of norms operate. Neighbourhoods

[67] 'Yaptığımız iş zihinsel olarak değil daha çok sosyal anlamda..Bu da şu demek çocuğun annesi babası da hırsızsa, bu çocuk için hırsızlık suç olmuyor ya da o çevrede evlenme yaşı 15 ise, 16 yaşında bir kız kaçırmak bu çocuklar için suç kabul edilmiyor, çünkü onun sosyal çevresinde bu normalleşmiş birşey.'

[68] 'Yani belli yerler var. Tarlabaşı işte, Hacıhüsrev falan buralar, hani bunu söylemek şey biraz ama oralar belli yani. aile çocukları hırsız olarak yetiştiriyor ve bu çevrede hep hırsızlık yapılıyor hatta hırsızlık yapılmadığı zaman, yapamayan varsa o yeteneksiz işe yaramaz olarak deniliyor. Yani bu bir kültür, nasıl bizlerde mesela hırsızlık yapmak ayıplanıyor, onlar da yapamamak ayıp. çünkü eğitim yok. yani en temelden hiç bir eğitim görmemiş, vicdan gelişimi yok. Normal, onlar öteye baktığında aldığı onun olur. yani 'senin o' kavramı yok, bu benim de senin aldıkların, görmedim, ya onlarda o kavram var. orda yetişen çocuktan ne bekliyorsunuz.'

and families, or the 'culture' in that sense, become the marks of risk itself that encapsulates drugs, migration, lack of education, poverty and other potential dangers.

Like the families and neighbourhoods, friends of the children are depicted as reasons for the crime and victimhood. 'It is a commune there, I mean, is it possible to explain to the child that this [using cannabis] is crime, if the child does not use it she will be cast off by her peers anyway',[69] says one social worker, and a colleague of hers adds 'Children won't be better off when you leave them [by themselves]. The child sees her friends in the street, nothing matters except her friends. Why? Because she gets the cannabis from them, and she finds help from them'[70] Hence, while children's friends engender the collectivity that empowers them in a way, relationships among them are also denoted as 'risk factors'.

Conceptualizations of risk factors become the entry points to make intelligible the alterity of neighbourhood, family or culture. Lack of morality and education or underdeveloped conscience as attributes of children abetted into crime, are being attached to those risk factors which translate as an economically and socially determined position of the children. Defining and assessing risk factors in that regard serve to communicate the differently identified worlds through which they are made articulable for the governmental domain. Furthermore, problems and solutions co-emerge from this governmental assemblage within the same technical frame. As one of the social workers in the only KBRM of Istanbul states, they have a 'course of action' to restrain and regulate the risks. In his words,

> This course of action concerns administering risks, that is to say, when we say to a child that we want her to attend school regularly, and when I asked the

[69] 'Bir komün var orda yani mümkün müdur o çocuga suçtur bu diye anlatıcaksın, e o çocuk onu [esrar] kullanmazsa akranlari dislayacak onu bir kere.'
[70] 'Çocukları da bıraktığın zaman daha iyiye gitmez yani. Sokakta cocuk arkadaşarını görüyor, arkadaşları dışında birşeyin önemi yok. Niye, çünkü esrarı onlarda buluyor, yardımı onlarda buluyor.'

> teacher or the school principal, 'does she come to school and get out from school on time?', if she spends her pocket money that is given for her personal needs and not save it for buying drugs, if she regularly goes to her meetings at the Bakırköy Psychiatry Clinique and uses the medication that is prescribed to her by them, she is sticking to the course of action that we set.[71]

School attendance, the 'right' way of using money, keeping away from drugs, and psychiatric monitoring mentioned here are a few criteria that appoint deviances calculable and technically administrable. These practices of social work as 'human technologies', as Rose calls it (1991, p. 92), are organised to obtain certain outcomes in terms of human conduct. The terms of prospected interference to the conduct of children are carried out as reform, efficiency, education, cure or virtue that instigate 'technologies of the self'. By same token, 'it [the interference] directs analysis to the technical forms invented to produce these outcomes - ways of combining persons, truths, judgments, devices and actions into a stable, reproducible and durable form.' (Rose, 1991, p. 92). Assessing and deliberating on what is identified as risk in this way not only makes the social and psychological (or any human difference) technical. Accordingly, they make and need to make certain bodies and lives available for to qualify, measure, appraise, order and hierarchise.

Detection of risks that are fixed to social relationships of children (whether within neighbourhood, family or friends) and 'administering' those risks through calculable criteria, indeed, serves to make the terrain of juvenile justice predictable and manageable. As the preamble of the CPL and the discourses of social workers operating in JJS entail, emphasis on the 'risk factors' and the elimination of those risks can be seen as the implementation of actuarial techniques in governing the

[71] 'Bu yol haritası riskleri yönetmekle alakalı, yani okuluna düzenli devam etmeni istiyorum dediğimiz zaman bir çocuğa ve ben öğretmenimi okula, okul yöneticileriyle görüşmeye gönderdiğimde çocuk vaktinde okula geliyor, vaktinde okuldan çıkıyor mu. kendisine verilen parayı, harçlığı kendi kişisel ihtiyaçları için kullanıyorsa, bunları biriktirip bir madde temin etme girişimine bulunmuyorsa, düzenli olarak bakırköy'deki psikiyatri kliniğinde görüşmelerine gidiyor ordan kendisine verilen ilaçları kullanıyorsa bizim çizdiğimiz yol haritasına bağlı kalmıştır.'

subjects. Actuarial techniques in the workings of power by many scholars (Simon, 1988; Ewald, 1990) testified to the prevention and risk-spreading for the dispersal of social control. For them this indicated a novel modality within power regimes that works in a pre-emptive manner and which can be differentiated from the detection of risks for corrective interventions. Nevertheless, I do not claim that JJS in Turkey with the recent CPL and its emphasis on 'risk assessment' is an accomplished instance of this form of power. One cannot appoint collectivist risk management within the existing JJS as part of a global trend of more efficient technology of power. Rather, actuarial techniques launch technical discursive add up in the uneven and partial power modalities that makes the classification among the children formal and subtle.

3.5 Protection and the shield of the state

As mentioned above, risks identified by the social workers serve to deliberate on both the culpability of crime (only mandatory for the ones between 12 and 15)[72], and the need for protection. Although the discursive manner of referring juvenile as the 'victim' is maintained for all, the CPL strictly defines the scope of childhood categories in legal terms distinguishing 'child in need of protection and 'child abetted into crime'[73]. Accordingly, the child in need of protection is the one 'whose physical, mental, moral, social and emotional development and personal safety is in danger; who is neglected or abused; and who is a victim of crime.' Child abetted into crime, on the other hand, is the one 'who is investigated and prosecuted due to an allegation of a deed that is defined as crime by the law or for whom the security measures are

[72] See Chapter 4 for the assessment process of children's will between 12 and 15 by the social workers and also by forensic practitioners.
[73] CPL 2005 No. 5395 (25876): 3

decided because of the committed deed.' Risk assessment for children is carried out for both of these categories that specify their eligibility for state 'protection' and the manner in which this 'protection' can be executed. 'Protection' here, amounts to measures of health, education, housing and consultancy as defined in the CPL but also to the measures that should be taken for those who are adjudicated with security measures by the court, including detention houses.

As the juvenile courts rendered beyond the imposition of rules, they accentuate protecting children in 'right' manner, which entails knowing and calculating. On the one hand, the subject of protection that is at issue here holds on to the notion of childhood premised on a universal singular being, as I tried to delineate in the second chapter. In line with this right-bearing abstract legal subject which the law rests upon, unified articulation of children within the JJS conceals gendered, racial, economical, sexual differences and norms operating within. In this homogeneous conceptualisation of children in the CPL, the child is posited as the 'victim', whether she is abetted into crime, injured by crime or in danger. In thuis way, addressing the 'child in danger' and 'dangerous child' within the same discursive frame that unites the care and custody becomes possible. That is also why the Ministry of Family and Social Policy is being integrated to the Ministry of Justice with the CPL that allies the apparatuses of assistance and repression.

Yet this unified subject to be protected is also being divided by the diagnostic mechanisms of social workers, medical institutions and/or forensic practitioners that serve to assign the particular/right form of measure. Initially, the Turkish Penal Law categorised the available security measures for children with respect to their age which indicate their capacity of being prone to acquisition.[74] For the children under

[74] Turkish Penal Law 2004 (5237) : 31/20

12 there can be no prosecution and penalty, for the children between 15 and 18 reduced penalties are executed, and for the children between 12 and 15 there occurs an assessment process to identify whether the child has the criminal liability or not. This 12 - 15 age group is 'evaluated by the experts in terms of their ability to understand the meaning and consequences of the crime committed with respect to one's physical, mental and psychological condition', and security measures are decided accordingly.[75] Yet protection and supportive measures can be applicable to all and evaluated by the social workers in terms of the risk factors that I discussed above. After the decision of the court, the CPL designates that the inspection and surveillance of children should proceed until the 'need of protection' vanishes.

Again, the assessment process to evaluate the need of protection under the state institution is needed and a social worker in KBRM of Istanbul states:

> I cannot make a decision by just looking at your story, your narrative. What are your strengths, what are your weaknesses, your process under state protection? Because this is a shield. Are you in need of this shield or not, this must be decided. You put on this shield, if you don't need this shield anymore and you need to be delivered back to your family, then those initiatives will be at work.[76]

Along with the need for persistency in assessing the juveniles within state institutions, the social worker's account suggests how the protection of state is recognized. As the 'shield' that is put on the child's body, state protection is depicted as the power that partakes in and supersedes the sovereignty of family. Family and state are both held responsible for children but it is the state that is able to provide the solid and impervious shield which can subrogate the protection that the family lacks. The particularity of the state's protection, which is identified as 'shield' here, and

[75] Ibid.

[76] 'Yani ben sizin sadece hikayenize bakarak, öykünüze bakarak, karar alamam, sizin güçlü yönleriniz ne zayıf yönleriniz ne, sizin devletin koruması altındaki süreciniz?.. çünkü bu bir zırh. Bu zırha ihtiyacınız var mı yok mu. Bunun kararının verilmesi lazim. Bu zırhı giydiniz, buna artık ihtiyacınız yoksa o zırhın çıkması ve aileye teslim edilmeniz lazımsa o zaman o girişimler var.'

which at times the family is devoid of, invokes again the alleged rational technicality that the modern state preponderantly possesses. Appealing to the Weberian understanding of bureaucracy once more, but this time with reference to Derek Sayer's (1991) suggestion can be noteworthy. Instead of the predominantly used 'Iron Cage' translation (that is *Stahlhartes Gehäuse* in German), Sayer proposes to use the word 'shell' (which also translates as *Gehäuse* as in a snail's shell). The difference is asserted by him as the following; 'A cage remains an external restraint: unlock the door, and one walks out free. This Gehäuse is a prison altogether stronger, the armour of modern subjectivity itself. Dependency on 'mechanized petrification' has become an integral part of who we are.' (1991, p. 94). So the bureaucratic domination not only concerns the confinement to any institution per se but to be subjectivized in both senses of the term. Recalling Foucault's deliberation at this point, in relation to conceptualisation of Weberian bureaucratic 'shell', provides the means to recognize this broader and pervasive method of power. In Foucault, this modality of power is embodied in a discipline that utilises the 'normal template' in various dispositions. It is a diagram of power that maps the efficient reshaping of individual conducts employed at different levels in accordance with the established norms constituted by regimes of truth. (Foucault, 1998) It thereby goes beyond state and state apparatuses, but the ways in which the state's intervention for the 'delinquent child' is recognised implies the intensification of an efficient means to deploy such power in the hands of the state, though it is not the only locus.

The state here does not just permeate the family with the claim of protecting children but it subsequently undertakes the paternal form of power endowing supremacy for governing them to 'better' protect them. The notion of the gradual transfer of sovereignty over the children from family to state institutions and its

social expertise is not new (Donzelot, 1979). Ever since its constitution, juvenile courts have been articulated as a symptom of the remaining paternal character of sovereign power. It is still considered by some as 'one of most developed efforts in our political culture to affirm the relationship between paternity and sovereignty in a manner consistent with modernism and democracy' (Simon, 1994, p. 3). Furnished by the expertise of social workers, the 'shield' of state protection implicates the solicitude that is endued in a rigid and encompassing manner. The CPL, in that regard, can be articulated as a modernist form of paternalism that gives the state the prerogative to identify the 'interest' of children and the way in which this 'interest' can be realised in a scientific and rational manner.

Tied to the victimhood of the subjects, the paternal character of power indeed resides in the masculinist logic of protection through which subjects are produced as dependents (Berlant, 1997; Young, 2003). Analogous to masculine protector of the household, the relationship between the state and its citizens is conveyed with affection and care that disguises the concurrent instillation of domination. Protecting children from the detected 'risk factors' - which are actually associated with their social collectives - and 'social dangers such as crime', appeal also a moral response of gratefulness for the shield that children's bodies carry. As Young (2003) points out, this masculinist protection logic validates 'a more authoritarian and paternalistic state power, which gets its support from the unity a threat produces and our gratitude for protection' (p. 2). CPL's enhancement of protection discourse accompanied by the risks and dangers that constantly ought to be monitored paves also the way for the subtle legitimation of this kind of power. It is through assessing and classifying the children in the 'right' manner for the 'correct' form of protection that new channels of erecting paternalism as an efficient technique become possible.

3.6 Conclusion

Deliberation on the vocation and operation of social work in juvenile courts can be traced back to the nineteenth century, when it started to expand in Europe. For Donzelot (1979), the novelty of social work resided in '[T]he increased attention to the problems of children, a consistent revision of the old attitudes of repression or charity, the promotion of a boundless educative solicit, more concerned with understanding than with the application of judicial punishment, replacing charity's good conscience with the search for effective techniques' (p. 97). The stress that the CPL in Turkey puts on social work and the ways in which social workers position themselves still pertain to the imprints of this knowing and educating children as the effective technique for preventing crime. It is this feature endorsed by their intimate/sincere attitude by which they differentiate themselves from the repressive and punishing apparatuses associated with the other actors of JJS. Unlike the juvenile judge, the juvenile prosecutor, the juvenile lawyer, and the juvenile police, social workers try to understand children, to make them think, and to question the crime with the aim of regulating their conduct.

It can be rightly argued that the social work integrated into the juridical mechanism endows disciplinary means that target and invest in the lives and bodies of children as the 'shield' of the state encompass. [77] The expansion of the number of social workers in juvenile courts triggered by the EU Harmonisation process expands the domain of the commensurable that can find its correspondence in legal language.

[77] Problematization of the overall well-being of the individuals together with moderating their behaviours by the social experts has been accounted as one of the salient disciplinary technique. Deriving from Foucault's elaboration on the emerging forms of power with advert of modernity, social and psychological expertise becomes precisely the new technology of power aimed to correct the deviant's behaviour (1991a). Diminishing visibility of coercion, argued by him, ensued a broader and pervasive method of power embodied in discipline that utilises the 'normal template'. It is a diagram of power, (biopower), that maps how efficient reshaping of individual conducts employed in different levels and produce norms that go beyond state and state apparatuses.(1998)

Children who are subjected to the juridical apparatus now concurrently become the targets of scientific investigation and objects of psychological, social and moral evaluation. These evaluations made by social workers are incorporated into the juridical domain as a new body of knowledge informing the mechanics of discipline. Regulating and correcting the human potential in this way weaves governing practices that functions through normalising instruments (Foucault, 2002, p. 57). 'Coming to the courthouse, being exposed to the actors and their procedures, both for the child in need of protection and the child abetted into crime, amounts to what Foucault calls the 'dividing practices' of disciplinary power (1982). The subject is divided in itself ('What are your strengths, what are your weaknesses') and differentiated from others (being abetted into crime or solely in need of protection, being prone to acquisition or not, education degree, use of drugs, etc.) through certain evaluation techniques. It is for Foucault the objectivizing of subject in both senses of the term that produces subject as the power's effect. That is to say, producing the subject as the object of knowledge and the object of intervention in which power 'makes' them as the instruments of its exercise (Foucault, 1991a, p. 170). Producing computable knowledge about children, determining other potential factors culpable in children's lives and providing measures targeting that concern the norms rather than repressive legal sanctions.

Social work as a specialized field in the legal complex is nonetheless entitled with legal formalism. It is the legal frame that not only legitimises this disciplinary mechanism but composes its procedures, the level of intervention and the degree of their authority. Furthermore, their operation can incite 'rationally grounded' paternal forms of authority in which the discourse of protection that the law leans on embodies concealed domination mechanisms. One way to make sense of the

insistence on social work in the juridical domain can be seen in this educative/pedagogic attitude, as Donzelot (1979) puts it 'as an extension of the judicial, a refinement of its methods, an endless ramification of its power' (p. 98). However, inquiring how the change made with the CPL gained substance and was practiced along with the sovereign effects of law can elucidate the negotiations among the different workings of power.[78] The further articulation of disciplinary techniques with juridical operations and the decision-making process in the law abides contradictory, ambiguous, competing forms of judgement since they are not fully formed modalities working coherently in tandem (Golder and Fitzpatrick, 2009). Juvenile courts become the conjunction of amplification of 'rational bureaucracy', disciplinary investments, actuarial techniques and paternal forms of power which are not mutually exclusive. What remains further is the repressive and coercive effects of law that accompany them and which will be elaborated in the following chapter. Still, what I want to reiterate here is the investments prompted to the techniques of production of normality and disciplinary manner of power in the legal arena. These investments - though they have changing the degree of effectivity - rendered out the dissemination of technicality within the JJS both in terms of the field of expert knowledge that social workers appeal but also broadening bureaucratic relations among the juvenile-specific officialdom and institutions. In this way, disciplinary means and normalising judgments are being fuelled within the governmental assemble along with the persistence of punitive apparatuses.

[78] This point constitute the main line of analysis in the following chapter.

CHAPTER 4

GENERATIVE FAILURES AND 'DEVELOPING' THE VICIOUS CIRCLE

4.1 Introduction

Discerning the Child Protection Law (CPL) as a governmental intervention in the realm of the JJS stimulated by the EU negotiation process brings further enquiry: 'What happens when those interventions become entangled with the processes they would regulate and improve?' (Li, 2007, p. 27).[79] From this question, throughout this chapter I will delve into how the CPL gained substance and is practiced, along with the existing way of conducting things. While being designated as a sign of 'developing' the JJS, the ratification of this legal reform led to a severe bureaucratic fortification furnished with the discourses of and practices for protecting juveniles. This happened by appealing to the Western model with its claim of universality and supposition of inevitable betterment. Yet as Ferguson (1997) reminds us '"Development" insistently formulated as a benign and universal project, has been the point of insertion for a bureaucratic power that has been neither benign nor universal in its application' (p. 267). In other words, interventions fashioned as developments such as the CPL, bear the unforeseen and the unacknowledged in the process of its implementation, and in terms of its effects/outcomes.

Existing problematizations in the field provide entry points to trace not only what the CPL and more broadly the JS fail to do, but instead what they actually do. On the one hand, discourses of failure that point to the system's inability to deliver juvenile-specific rehabilitative and reparative justice extends with the

[79] This is a question that Li asks in relation to the developmental projects concerning landscapes and livelihoods carried out in Indonesia and which are by him analysed as governmental interventions through out his book; *The Will to Improve: Governmentality, Development, and the Practice of Politics* (2007)

'dysfunctioning' of law enforcement/implementation. On the other hand, surrounded by the technical mediums for better governance, the 'effective' operation of punitive apparatuses is not only maintained but intensified. The dramatic increase in the accusations, incarceration, and sentencing of children after this law was enacted[80] is accompanied by comments that cast the JJS as factitious, talking about its 'pseudo existence' or 'as if' functioning. These denoted and ongoing issues and concerns are mostly associated with various deficiencies. Here, I attempt to do something else and look at the existing problematizations from a different angle that is not labeled by the terms 'lack' or 'deficiency', such as the commonly mentioned lack of bureaucratic efficiency specific to juveniles or the technical inadequacy. In this way, I will be avoiding the discourses of 'underdevelopment', and instead attempt to pave the way for problematizing the aspired model itself with its institutions, concepts and practices. (Gupta, 1995) One may also consider taking the existing problematizations as a way of demystifying the technical manifestation of both the law, and the operation of the social workers who largely undertake the vocation of 'protection' within the field of law. However, my aim is not simply to find out what is beneath the 'technicality' so as to assess the 'real' meaning of 'development' in JJS, but to account for the set of profound effects of the intervention in the engagement with established practices.

In the course of sketching out the operation and effects of this 'as if' and 'pseudo' existence of the JJS that connects representation and conduct, one focus of this chapter is to seek how the dispersed notion of 'protection' is carried out in penal courts. Along and beyond the contradictory depiction of protecting and punishing, I will be addressing their ways of entanglement in the existing JJS. The other major

[80] Government's internal audit report in 2011. Retrieved from: http://www.icdenetim.adalet.gov.tr/raporlar/yayinlanan_rapor/2012-3.pdf

focus is the assessment of criminal liability; for this, I specifically engage with what is left as an undetermined zone for deciding criminal liability in the legal codes. This particular age range of 12-15, illustrates different faculties of knowledge operating within the process of constituting the legal fact about the existence of criminal liability. Competing and conflicting forms of judgment in that regard elucidate the workings of science, or what the law regards as science in relation to the 'rational formal closure' of the legal field. This especially turns out to be a key matter after the modification in the distribution of epistemological authorities carried out with the CPL.

With the help of these focal arguments, I aim to evoke the contradictory, ambiguous and conflicting spaces within the legal complex, which is usually articulated as a coherent system of rule. By the same token, mapping the constellation of different truth claims associated with different modalities of power becomes possible. Decisions of law that administer the coercive punitive means alongside ways of 'protecting' work in tandem with the normative investments made in the disciplinary mechanisms of 'protection'. As I indicated at the beginning of this study, I do not take governmental intervention as a consistent strategy of biopolitics that renders efficient social engineering while targeting the life, conduct, and well-being of children that causes expulsion of the law's sovereign effects. As Li (2006) nicely puts it, 'Powers associated with sovereignty are not subsumed within government; they coexist in awkward articulations, presenting contradictions' (p. 17). It is because neither the disciplinary power nor the sovereign power of law are fully formed modalities of power that works for the same goal, (Fitzpatrick, 2013, p. 59), their transactional zones are worthy to ponder upon.

4.2 Protection in penal courts

Ever since the ratification of the initial law concerning a separate JJS (Law on the Establishment, Duties and Adjudication Process of Juvenile Courts, 1979 no. 2253), juvenile courts in Turkey qualify as penal courts. Contrary to the aspired models in 'the West', they remain to be defined as such and not as part of civil courts. This characteristic of juvenile courts in Turkey, manifests itself considerably in the practices carried out, and consequently in the problematizations regarding the deficiency of the system. Sustaining the penal form arises as something conflictual regarding the rudimentary emphasis of the CPL in the child-specific codes, procedures and practices that ought to diverge from the adult criminal proceedings. Considered against the 'reforms' and the official protection discourse disseminated through the CPL, insistence on the criminal court structure for juveniles engenders one of the prominent issues of problematisation for the ones who consider this system incompetent.

In relation to this appointed controversial situation, one of my informants who works in the Juvenile High Criminal Court states:

> The judge leading the juvenile court says that 'This court is a Criminal Court, not a rehabilitation centre. I am not obliged to pass [protective and supportive] measures. If the child commits a crime, s/he pays the penalty, the reason why s/he committed the crime does not concern me.[81]

In a similar vein, another informant reiterates the enduring penal mechanisms 'even' after the the Child Protection Law:

> Even the CPL is something new, it only started being settled and a great number of judges in no way understand this system. For them there is only the crime and the punishment, that is all! Because the children are still being tried in penal courts, not in the civil courts or in the courts specific to the children. It is the same system with a different name. We again have the

[81] 'Çocuk mahkemesinin başındaki hakim diyor ki burasi Ceza Mahkemesi, burası iste rehabilitasyon merkezi değil, ben bu çocuga [koruyucu ve destekleyici tedbir yazmak zorunda değilim, çocuk suç işlerse cezasını çeker, niye suç işledigi beni ilgilendirmez…'

> judge, her robe, the child and the advocate in the trial… Juvenile courts are penal courts and they share the same design. There is still the judge wearing that doojigger. That is because, in Turkey, we can only change the *title of* this kind of regulation. We cannot experience changes in the content and we go through these processes very hard for some reason.[82]

The changing 'title' of these courts, specifically with the CPL, invoked the means to implement what can be termed as welfarist approaches to the penal complex (Garland, 1985). Psy-interventions in the forms of supportive-protective measures and prohibition assistance are endorsed by social workers to pave the way for the healthy upbringing and education of children. As I tried to illustrate in the previous chapter, they evaluate certain risk factors to prompt their regulation and the elimination of those risks. Through these processes, social workers' intercession is articulated as an endeavour to make children question the crime by themselves as an effective way to incorporate the offending ones back into society. In this way, the new 'title' implied a diversion from juridical/penal proceedings to a certain extent for managing children at other state institutions such as reformatories, education houses, and rehabilitation centres.[83] 'Protection', which appears in the title of this recent law, corresponds to the different channels of dealing with 'child abetted into crime' as well as endorsing the apparatuses for the 'child in need of protection'. However, as is the case with penal courts, juvenile courts and indeed Juvenile High Criminal Courts, retain punitive measures as the main enforcement that the JJS holds. The way the

[82] 'ÇKK bile yeni, daha yeni yeni oturmaya basladi ve bir çok hakim tarafından asla hiç bir şekilde anlaşılmayan bir sistem. Onlar için hani suç vardır ceza vardır, bitmiştir! çünkü çocuklar hala ceza mahkemelerinde yargılanıyor, bir hukuk mahkemesi ya da çocuklara özel bir şey değil. Aynı sistem sadece ismi değişik. Yine hakim var, yine cübbesi var, yine duruşma salonu, yine çocuk, yine avukat… Çocuk mahkemeleri ceza mahkemeleridir ve ortam da bir ceza mahkemesi dizaynındadır. Hakimi yine vardır işte yine üzerine o zımbırtıyı giyer. O yüzden sadece biz Türkiye'de bunları *başlık* olarak değiştirebiliyoruz. İçerikte çok değişimi kolay yaşamıyoruz, süreçleri çok zor atlatıyoruz nedense.'

[83] Diversion in Juvenile Delinquency literature refers to the direct inducement to social assistance services without being expose to criminal justice system. For an extended overview of the features of diversion as an alternative to Juvenile Courts in USA case see *Instead of Court: Diversion in Juvenile Justice* Lemert, E. M. (ed.), 1972.

actors of the courts are organized, along with the spatial-material configuration[84], maintains the components of adult criminal proceedings. Concomitantly, it is hard to distinguish the practices carried out in these courts in which punishment resides as the underlying implementation, although the emphasis is on protection and rehabilitation in the discursive frame.

On the one hand, the inability to diverge from the adult criminal court practices is being linked to the problems of law enforcement, which stems from the lack of technical instruments and officialdom in both the investigation and prosecution processes. Throughout Turkey, not every existing police station has a juvenile police unit or a juvenile prosecutor, as advised in the CPL. Juvenile courts, which have to be established in every city according to the law, exist today only in Ankara, Istanbul, Izmir and Trabzon (Çoban, 2016). On the other hand, various defects in the implementation of the CPL endure in the existing juvenile courts and juvenile-specific units of law enforcement offices. Among these, there is the presence of gendarmes in hearing rooms with children, executing cell confinement to children, and not informing the children and their families during legal processes, etc.[85] These issues are seen as practices that are against what the law sets forth. Indeed, keeping track of deficiencies in the law enforcement processes induces an acknowledgment of the violation of rights that are supposed to empower children in certain ways. However, the existing juvenile courts, as part of the penal court system, can be elaborated beyond the problems of procedural correctness and law implementation. In this way, the focus can be shifted from being or not being against the law, to what

[84] Although the law of Juvenile Courts instructs spatial separation of these courts from others, after the recent constructions of Palaces of Justice especially in the big cities, Juvenile Courts have been incorporated to these gigantic establishments.

[85] For a detailed documentation of the problems in law enforcement process regarding JJS, see ÇaÇav's Report on Juvenile Justice System, March 2015. (Çocuk Adalet Sistemi Sorun Tespit Raporu)

is being made possible within the law, precisely in the space between the law as a textual form and its application. This will allow one to discern the matter in question not as a mere lack of bureaucratic efficiency or technical incompetency.

The decisions of juvenile judges and juvenile prosecutors for the child abetted into crime in the existing juvenile courts provide cogent points to illustrate the entanglement of protection and punishment. The CPL sets protection and supportive measures as the foremost practice for every juvenile, and punishment (i.e. any form of incarceration) is maintained only as the 'last resort'.[86] While prosecutors are encouraged to initiate these measures, juvenile judges are equipped with the prerogative to adjudicate the protection and supportive measures that social workers and prosecutors suggest. As I have tried to sketch out in the previous chapter, with the CPL, the discourses of protection and rehabilitation are accentuated and are accompanied by technical means and bureaucratic amplification. Nonetheless, surrounded by the media of intervention for 'regulating' children's behaviour, punitive and repressive apparatuses have been never more effective. This can be accounted for by the existence of prosecutors who do not instigate protective and supportive measures or propose them to judges.[87] Yet how does one explain the fact the dramatic increase in verdicts of conviction and incarceration, specifically after the enactment of the CPL. Table 1 is taken from government's internal audit report in 2011, can be helpful to observe this in quantitative terms.

[86] Child Protection Law, 2005 (4)
[87] ÇaÇav's Report on Juvenile Justice System, March 2015, p. 6. (ÇOCUK ADALET SİSTEMİ SORUN TESPİT RAPORU)

Table 1. Quantity of Cases in Juvenile Courts and Juvenile High Criminal Courts

Year	Cases in the year	Total cases,including transfers	Cases adjudicated	Cases resulting in a conviction (including prison sentences)	Cases resultin in a prison sentence	Cases resulting in acquittal
2001	5,206	14,627	8,331	1,684	51	490
2002	5,371	11,747	3,770	2,029	59	762
2003	21,576	29,591	5,243	3,305	116	1,197
2004	35,448	59,862	24,579	8,031	627	3,314
2005	52,767	88,821	46,047	18,869	251	2,437
2006	60,125	104,400	46,999	5,155	1,614	5,707
2007	33,906	91,719	40,148	12,377	2,465	8,137
2008	35,906	85,232	44,796	15,058	3,353	9,414
2009	40,687	82,660	45,829	24,205	5,728	15,660
2010	47,386	85,543	42,976	24,785	5,950	16,586
2011	49,792	93,225	49,914	28,306	6,386	21,158

Retrieved from: http://www.icdenetim.adalet.gov.tr/raporlar/yayinlanan_rapor/2012-3.pdf, 2016

In this table, we see an immense increase in numbers, which concerns not only the children who were put in trial (that may have been caused by the increase in juvenile courts) but more importantly the rate of the conviction and incarceration for the ones who stand trial. As one of the lawyers who is frequently involved in these cases states, unlike the cases in civil law, judgements of the penal courts are contingent to the *kanaat* (or evaluation, opinion) of the judge. This 'kanaat' involves the particular reception and application of the existing legal frame.[88] Decisions that are increasingly made for conviction and incarceration of children, resuscitate the penal structure of these courts. Although the protective and supportive measures such as health, education and consultancy can be applied formally, along with punishments

[88] I will inquire how the 'kanaat' of the judges is being shaped with respect to competing forms of judgement and what becomes the persuasive facticity within the legal forum in the following section.

for the ‘child abetted into crime’, the the coercive and repressive apparatuses of law become the prevailing outcome of the cases. Crucially, this predicament is maintained by holding onto protection as the founding principle and correlates with the increase in juvenile-specific bureaucratic officialdom.

This seemingly contradictory situation is also being substantialized by the proceedings of protective and supportive measures, not only for the ones who are incarcerated but also for the ones who are directed to other state institutions. For the ones who are directed to other state institutions, the Protection Care Rehabilitative Centres (KBRM), which is for children who are involved in crime but who are not put in a house of detention, are seen as congruent with the form of detention houses. One in Istanbul for instance that is located in the outskirts of city is described by a lawyer as ‘peculiar closed world’ in which interaction with the outside world is extremely limited. Beyond their ‘non-functional’ existence as one of the protective and supportive measures, another social worker announces the confining structure of these institutions. She states:

> As I mentioned, to be placed in a dormitory [as a protection measure] is quite a different case. Ağaçlı [the KBRM in Istanbul] is not a place for rehabilitating children. It is a place where homeless children, children who are homeless and who got involved in a crime that does not require a prison sentence, are put together just to prevent them from draggling other children…. I mean we have to save that child too but what are we going to do after saving; we will direct her to the [child protection] dormitory, which dormitory? Ağaçlı. We go back to where we started you see, we go around in a vicious circle really.[89]

The vicious circle that she refers to is being preserved within lawful mechanisms that incorporate the application of protective and supportive measures. While protection

[89] ‘şöyle dediğim gibi yurda verilmek bambaşka bir durum. Yani Ağaçlı [KBRM in Istanbul] çocukların rehabilite edildiği bir yer değil. Orası diğer çocuklara aman bulaşmasınlar diye, evi olmayan çocukların, evi olmayan artı suça karışmış ama cezaevi gerektirmeyecek çocuklarların - beraber tutuldugu yer…Yani orda o çocuğu kurtarmak da gerekiyor aynı zamanda ama kurtarıp ne yapıcaz yurda vereceğiz, yurt hangisi Ağaçlı. yine en başa dönüyoruz, yani bir kısır döngü etrafında dönüyoruz biz aslında.’

and punishment are depicted as two very different responses of law, protection measures converge with what is identified in legal code as its alternative. Therefore, the law's decisions for protection also bear the imprints of penal form both in the discourses and practices of the JJS, in which children can be rendered as ones 'who need to be saved' from this kind of protection too. For the ones who are in detention houses, on the other hand, measures of health, education, consultancy, etc. cannot in practice be pursued within the existing JSS.[90] One of my informants who is working in the Juvenile High Criminal Court describes how the protective and supportive measures are carried out for the children who are adjudicated incarceration as:

> So-called, they are supposedly being carried out. I mean [children] are being directed to psychologists who are working in the Ministry of Family and Social Policies. [Psychologists] go and set out a plan, they go to a meeting for the second time and that is all. I mean they are pretending.[91]

Even if the procedural correctness is sustained, proceedings bear a 'so-called' existence 'as if' involving rehabilitative and supportive practices. I would argue that the pseudo being - that implies an inconsistent appearance of protection in penal courts - is not a misleading and illusive frame but an operational breach. The effect of this 'as if'-ness points to an unforeseen cooperation of what is designated as protecting and punishing in practice.[92] The use of protection discourse is neither merely the blueprint of the JJS nor the particular way it is practiced. It is only a fallacious law enforcement. Legally carried out measures of protection with its

[90] Various reports of lawyer's association and NGOs indicate these problems (CaCav, Youth Re-autonomy Foundation of Turkey, Oz-Ge-Der, Retrived from: http://www.ozgeder.org.tr/projeler.php?id=309), in parallel with my informants.

[91] 'Sözde, sözde oluyor. Yani, [cocuklar] işte Aile ve Sosyal politikalar bakanlığında çalışan psikologlara yönlendiriliyor. [Psikologlar] gidiyor işte bir plan hazırlıyor, ikinci sefer gidiyor görüşmeye ve tamam. Yani 'mış'çasına davranılıyor.'

[92] It is important to reiterate that I do not take what is referred in the legal system as protection as the opposite of punishing and bearing a less 'effective' modality of power. As Foucault (1988) and various feminist critiques (Brown, 2002; Young, 2003; Babül, 2015) manifest, 'protection' entails the appearance of benevolent and gentle exercise of power that nevertheless potent in its effects. Yet, I am interested in their different workings to account multifaceted ensemble of power in the context of JJS.

discourses and practices are being associated with penal forms. This happens in terms of both the penal structure of protective measures and the ‘so-called’ character of protection in the penal formats.

As Koğacıoğlu (2011) notes for another legal domain in Turkey, there always exist shifts and slippages between representation and conduct, and to draw on these ‘enables [us] to generate a way of understanding both for the West and the non-West as different assemblages and different proportions of techniques and discourses of governmentality, sovereignty and discipline’ (p. 191). Shifts and slippages in pursuing protection in penal courts not only set the proportion of protecting and punishing and imply a different scope of disciplinary and sovereign effects of power. But they also institute the collaboration of these two differently identified practices in a way and form this assemblage where different modalities of power negotiate and are being cinched into a knot, to use Ferguson’s (1997) metaphor.

4.3 Assessment of criminal liability: Facts of law and facts of science

Dwelling on the process in which the ‘kanaat’ of the judge is formed for ‘the child abetted into crime’ further reveals the ‘formal rationality’ of punitive decisions. Assessing and presenting opinions concerning criminal liability of children by non-legal experts becomes a crucial stake in that regard. Expertise reports given by forensic practitioners and social workers intervene in the legal forum and impact the terms of proceedings specifically for the children who are between 12 and 15. Involvement in this kind of knowledge in the decision-making process of the judges appeals to a particular formulation of facticity within the juridical domain that employs these facts as scientific means. The interwoven relationship of science and

the law within juvenile courts, however, not only manifests the utilisation of scientific means by the law but also engenders zones of conflict. Within the extensive literature on the relationship of science to law, various similarities are drawn among these distinctly identified domains in terms of their submission to 'disinterestedness', 'objectivity' and 'impartiality'. It is also argued that these two fields are considerably discordant in terms of their tasks (Jassanoff, 1995). By the same token, their formulation of 'fact' and 'objectivity' through which each claims truth (or at least its representation) suggests substantial divergences (Latour, 2004). Considering the entangled relationship and possible challenges they pose to each other, expertise in the juvenile courts attests conflicts and correspondences between different explanatory logic and types of judgment.

Inquiry into children's criminal liability pertains fundamentally to a categorisation according to their cognitive and social development, and which are fixated at age intervals. As I outlined at beginning of this study, this development scale finds its juridical correspondence as the degree of ability to understand the meaning and consequences of one's own deeds and their social connotations. Accordingly, the Turkish Penal Code indicates in Article 31 that the children not having attained the full age of 12 who do not have criminal responsibility cannot be subject to criminal prosecution; only certain precautionary measures can be considered. For the children who have attained the age of 12 but who have not yet completed the age of 15, the law states that they 'do not have the ability to perceive the legal meanings and consequences of their offence, or to control their actions are not responsibie for such criminal behaviour. However, security precautions specific to children may be adopted for such individuals. If a person has the ability to apprehend the offence she/he has committed or to control her/his actions relating to

this offence, then such person may be sentenced'. For children who have attained the age of 15 but have not yet completed the age of 18, the existence of criminal responsibility is partly accepted and punishments are abated.[93]

Experts are involved in determining the criminal liability that the law puts forth as above at two levels. On the one level, medical professionals are asked to conduct skeletal age diagnosis to identify the bone age when there is 'reason to doubt' the person's chronological age. This procedure in turn appoints the age range of a person so that the penal sanctions based on the existence of criminal responsibility can be directly set as the law indicates. Secondly, for the 12 and 15 age intervals, another set of examinations is used. The Turkish Penal Code upholds this ambiguous age range for the existence of criminal responsibility. A juvenile judge is designated as the one who decides on the criminal responsibility of a child. However, for this age interval, the code calls for the investigation of the symptoms of 'imputability' (isnat yeteneği), that is 'being able to understand the meaning and consequences of the deed, and being able to direct one's conduct'. This assessment is said to be pursued 'by experts with respect to the children's family relationships and social-economic conditions, along with her psychological state and education background.'[94] Two different fields of expertise operate here: forensic practitioners composed of medical doctors, and social workers. They both present expertise reports to judges that convey their own inferences regarding 'the child abetted into crime'. Both the investigation of chronological age and the determination of being prone to acquisition for a crime illustrate the engagement of law with what it regards as 'science' and 'scientific fact', which unravel how this engagement in turn pertains to the construction of legal fact.

[93] Turkish Penal Code 2005: 31(1)(2)(3)
[94] Turkish Penal Code 2005: 31(1)(2)(3)

4.3.1 Bone age diagnosis and the rigidity of legal fact

The determination of bone age is pursued exclusively by the medical professionals of forensics. The Greulich & Pyle Atlas is the predominant method used by forensics in Turkey and in other countries. It was specifically developed for use in the paediatric context. Paediatric development and use of this method involved the study for composing an atlas of hands' skeletal maturation which represented the ideal skeletal characteristics for one's age. (Altınay, 2009). This U.S.-based study selected white, non-malnourished, healthy, middle-class children to constitute the ideal skeletal health from which deviations can be assessed. Collected radiographs, therefore, are used to measure the malnutrition of children from different classes or ethnicities. In the forensic context, the use of this procedure in cases of doubt about a person's chronological age entails the comparison of radiographs with the ideal images. But in the legal terrain, this medical procedure designates not the deviations from the ideal type but evidence of the person's exact age. Paediatric use of Atlas of Skeletal Maturation of the Hand provides the scientific tools to appoint and classify the ones who fall outside the ideal norm, which is based on a particular class and ethnicity. Employment of this already politically loaded practice as a scientific tool for forensics applications legalises the normativity, whereby the ideal is set as the sole 'objective' criteria to decide the age of a person. Subsequently, a diagnosis that relied on this ideal constitutes the most valid evidence of criminal liability apart from the ones in a transitory stage of development, which is indicated as the 12-15 age interval.

The way in which the law and science are aligned in the diagnosis practice assigns a distinctive notion and use of facticity. Recalling the divergence that Latour

(2004) draws concerning the formulation of facts in scientific and legal domains helps to recognise the law's striving for a straightforward closure. As he states, 'The 'facts' in a legal file constitute a closed set, which is soon made unquestionable by the sheer accumulation of items, and to which it soon becomes unnecessary to return' (Latour, 2004, p. 89). In science, however, for Latour (2004) 'the difference consists entirely in the possibility that a theory, if it is a good one, has to be able to generate the fact by a process of retro activation' (p. 90). In a similar vein, regarding the skeletal age diagnosis method that forensics use, various changes and modifications have taken place in the medical sphere. New methods have been developed, aiming to formulate a representation of an average instead of an ideal and for reducing the error margins and inner inconsistencies, which are relatively high compared to the others (Altınay, 2009). However, these changes, modifications, incorporation of alternative methods or the inquiry for the 'best/efficient/advanced' method to find out the 'true' age of a person are not the pursuit of the legal domain. That is to say, after the practitioner's report is presented to the judge, the medical diagnosis becomes part of the 'closed set' which is settled by the decision of the judge who implements the legal procedure. In this way, the medical investigation of skeletal age through a particular method, which is just one facet of biological age diagnosis studies, becomes one of the sources of rigidity and stableness of a legal fact. Let alone the irreversibility of the legal fact that is posited, the juridical judgment freezes the adversary methods and their possible varying outcomes that are inhabited in the scientific field.

Forensics' skeletal age diagnosis for 'children who are abetted into crime' that leads to the establishment of a legal fact is indeed situated in the wider process of what Keenan and Wiezman (2012) identify as 'forensic turn' in legal

investigations. As they outline, after the forensic analysis of Mengele's skull in 1979 for the investigation of war crimes, the entrance of the 'thing' in the courtroom gained centrality in the expression of truth claims. Techno-scientific procedures that produce material evidence posit the validated and reliable reference for the construction of facts above the official documents and witnessing. Nevertheless, Keenan and Wiezman (2012) underline how this 'object' in legal proceedings is not actually exempt from uncertainties, ambiguities and human anxieties (p. 13). The science of 'forensics' by them is defined as the dynamic relationship among the object, the interpreter of the object (mediator), and the forum. The object/thing that is introduced in the legal forum thereby does not provide the direct stable/fixed fact on its own but is exposed to multi-layered relationships between the object, the mediator and the forum.

Skeletal age diagnosis conducted by forensics also bear relationalities that surround and exceed the 'thing' that is presented. A case that is referred to as 'exceptional' by the juvenile courts in Turkey can elucidate this point further. Ogun Samast, who stood trial for killing an Armenian-Turkish journalist and human right activist Hrant Dink in 2007, was 17 years old according to his official ID. This meant that his penalty would be abated. The official state document that shows his age was also accompanied by the witnesses that testified to his date of birth. Yet the court required an age assessment from forensics due to the political significance of the case. The political implication of the case concerned not only the ultra-nationalist rationalisations that were expressed before and after the assassination but the state officials' possible association with the deed that pointed to relationships with 'deep state'[95]. It was soon revealed that Samast was only the gunman in the assassination

[95] Hrant Dink was under prosecution for violating Article 301 of the Turkish Penal Code and denigrating Turkishness. He had received regular death threats before, and his assassination involved

that was planned by a group of people that involved wider networks. This legal investigation is still being monitored by various political circles as well as human rights activists on national and international levels. The legal case therefore bears a myriad of struggles in and outside the courtrooms. The examination of the age of gunman pursued within this context extends the scope of the legal forum. The initial diagnosis made by forensics confirmed the age of Samast as 17. Yet the court asked for another assessment in which forensics used combined methods and designated his age as 19, including an explanation that says 'At times, it is known medically that the bone age of a person can be assessed greater than her real age due to the effects of hormonal, nutrimental or genetic factors. Accordingly, it is expressed unanimously that evaluation of the mentioned person's real age by the court is convenient.'[96]

In the face of these conflicting forensics results, the court made its decision based on the first diagnosis. The significance, however, resides in the court's need to amplify the scientific ground of its decision by asking a secondary investigation of the suspect's age. Being a case that is monitored by the public on several grounds, the political agenda that comes to the fore intervened in the legal forum. That is to say, the legal forum required the presentation and rationalisation of itself on more 'solid' bases that can be provided by the forensic science. The use of different methods to identify the age and the attached scientific explanation works to substantiate the decision of the court by cultivating its reliability and validity. What can be demarcated as material evidence, i.e. the bone age, therefore is being moulded by the legal forum in a sense, while also forging the decision-making process. Again,

---

various cover-ups leaning on largely what is designated as 'state secret'. For a detailed legal account of the case see Nedim Şener (2009) Dink Cinayeti ve İstihbarat Yalanları (The Dink Murder and The Lies of the Intelligence)

[96] 'Bazen, kemik yaşının hormon, beslenme veya genetik gibi faktörlerin tesiri ile kemik yaşının gerçek yaşa göre büyük çıkabileceği tıbben bilinmekle adı geçenin gerçek yaşının Mahkemenizce değerlendirilmesinin uygun olduğu oybirliği ile mütalaa olunur.' Retrived from: http://www.gazetevatan.com/nufusta-17-kemik-yasi-19--154810-gundem/

the ‘valid’ and ‘reliable’ closure that is attained by law entailed the appropriation of scientific means in which (scientific) facticity is framed by the legal forum itself.

4.3.2 Production of guilt within the undetermined zone

The question of facticity in the legal complex gets more intricate in identifying the criminal liability for children who are between 12 and 15. Since the legal code does not directly ascribe whether the child is prone to accusation or not for this age group, forensic practitioners’ and social workers’ expertise needs to be operative. Along with forensics, the CPL made social workers eligible to ‘evoke’ other culpable agents that might lead children abetting into crime. It is this terrain that complicates the process of immediate closure that the law seeks to achieve by a firm decision. By emphasising social workers’ role within the JSS, the CPL foregrounded another explanatory logic by adding a further interpretation level that social workers present. In relation to this current conducts, the CPL also induced challenges and confusions with respect to the former practices.

Examination of ‘farik mümeyyiz’[97] (compos mentis or power of discernment) is the repealed practice that was conveyed solely by forensic practitioners. ‘Farik’ and ‘mümmeyiz’ are terms peculiar to Turkish legal text that are synonymous, meaning ‘one who can distinguish good from evil, right from wrong’. In practice ‘farik mümmeyyiz muayenesi’ is used to refer to medical doctors’ inspection of children’s power of discernment by psychiatric analysis to detect any psychiatric syndrome, mental health or mental level. However, the issue of being ‘farik mümeyyiz’ has its own history of dubiousness regarding what it ‘actually’ means.

[97] ‘…there can be no penal sanctions ordered when they are decisively not ‘farik mummeyiz’. If the child distinguishes (fark) and discerns (temyiz) the deed as a crime, penalties will be carried out as below’ (…farik ve mummeyiz olmadiklari surette haklarinda hicbir ceza tertip olunamaz. Eger cocuk fiilin bir suc oldugunu fark ve temyiz etmis ise sucunun cezasi asagidaki sekillerde indirilir.) is the exact phrase in the changed sub-clause of the law 765 of the Turkish Penal Code.

Varying interpretations and contestations among legal professions were followed by changes in legal texts. Specifically, the phrase of 'being able to recognise and discern the deed as crime' prompted disputes among legal professionals on the basis of incorporating the ability of understanding the 'social value' of the deed.[98] This legal confusion is accompanied by and is reflected in modifications of legal texts starting from the introduction of juvenile courts into the judicial system in Turkey. For instance, a draft law in 1989 referred to it as the ability 'to understand the unjust trait of the act and behave accordingly' (eylemin haksızlık niteliğini anlaması ve buna gore hareket edebilmesi). Another draft in 1992 defined it as the ability 'to comprehend the social value and consequences of the deed and behave according to these evaluations'(fiilin toplumsal değerini ve sonuçlarını kavrama ve bu değerlendirmelerine uygun davranabilme) and in 1997 'whether or not the child understands the unjust trait of her act and whether or not she has the moral and psychological maturity to behave accordingly' (çocuğun eyleminin haksız niteliğini anlayip anlayamadigini ve buna gore hareket edebilmesi icin gereken ahlaki ve ruhi olgunluğa sahip olup olmadığı) becomes the articulation of criminal liability for the children.[99]

Including the 'ability to understand the social value' and then transforming it to 'moral and psychological maturity' in canonical texts implied changes in how the

[98] On the one hand, there are some legal professionals defending that 'ability to recognise and discern the deed as crime' refers simply 'knowing that an act is a crime or not' and it is a deliberate exceptionality for children considering the doctrine of 'not knowing the rule can not be an excuse'. On the other hand, some other legal professionals assert the need to interpret this phrase together with the ordinance of 'before the application of the penalties and security measures children must be evaluated by the experts in terms of their ability to understand the meaning and consequences of the crime committed with respect to one's physical, mental and psychological condition'. By that, going beyond the simple identification of crime and juridical grasp of an act, the 'social value' of a deed comes forth as the underlying principle. Hence, being prone to acquisition for these legal experts requires one's ability to comprehend the social value of a deed and ability to act accordingly. (Atilgan, A. and Umit Atilgan, E. 'Cocuk Haklari Paradigmasi ve Cocuk Ceza Yargilamasina Hakim olan Ilkeler Acisindan Turkiye'deki Duzenleme ve Uygulamalarin Degerlendirilmesi (rapor)' p.66-7

[99] Ibid. p.67

subject of the law who can bear guilt is imagined. While the ‘social value’ appealed the social context beyond the recognition of a deed as crime, ‘moral and psychological maturity’ specified this ability based on the imbrication of rules of conduct with scientific connotations. However, along with these competing definitions of being ‘farik mümmeyyiz’ to date, the authorised interpretation of the legal corpus endured in testing the cognitive abilities of children. Hence, despite the (symbolic) struggle of varying juridical definitions and interpretations, the culpability of children was examined by this singular practice conducted by forensic practitioners. Subsequently, judge’s decision rested largely upon or was substantiated by these medical reports as the sole non-legal expertise.

Within the existing legal frame after the introduction of the CPL, what is referred tp as the social and psychological inspection of children gained further juridical support for assessing criminal responsibility. The judges needed to take into consideration not only the forensics examination but also the Social Inquiry Report before deciding on the criminal responsibility for children in the age range of 12 and 15, which is defined in the CPL as ‘the ability to perceive the legal meaning and consequences of her deed and to orient her behaviours according to the deed’ (işlediği fiilin hukukî anlam ve sonuçlarını algılama ve bu fiille ilgili olarak davranışlarını yönlendirme yeteneği) (CPL 35/1) A social worker explicates this change regarding their increased role as follows:

> ‘Farik mümeyyiz’ and the situation with the new legal code is very different. First of all, we need to clarify this point. ‘Farik mümeyyiz’ indicates only whether the child is mentally normal. Because the forensics doctor understands the issue still like that, she does not care about the social life of the child. Now the legal code has changed to ‘ability to direct one’s own behaviour and considering its consequences’. ‘Farik mümeyyiz’ meant only whether the child was mentally normal or not, and that is why our role has

> increased. That is to say, the social environment and living conditions of the child have become much more important in indicting a criminal.[100]

As for the ones who inquire about the 'social life' of children, criminal liability for social workers pertains to the discernment ability of children and its relationship to the offence with respect to children's social environment and living condition. As I described in the previous chapter, identifying and detecting certain risks by and large constitute the SIR that is presented to judges. While the 'commune' (komün), 'environment' or 'culture' attest to the risk factors, social workers assess the 'will' of the children (iradi davranış) who are abetted into crime in relation to the identified risks. The 'will' of the child who migrated to a 'risky' neighbourhood, for instance, can be described by a social worker as such:

> How did the child manage the adaptation when she first moved to the neighbourhood? Did she get assimilated or did she adapt? If there is a case of assimilation, incorporation into the existing circumstances, then there are some questions regarding her wilfulness. Yet if there is adaptation, that is to say, if she is able to produce knowledge based on her awareness of the total risks, then there is the possibility of a wilful act.[101]

The will here is defined in relation to children's responses to a risky environment. It is the ability to recognise the risks and make sense of those factors that lead to determining the existence of one's will. However, determination of 'the will' through risk factors and children's relationship to them within technical terms is not an unequivocal and fixed practice among social workers. While one social worker

[100] 'Farik mümeyyizle yeni yasadaki durum çok farklı, ikisi çok farklı. İlk önce bunu hani izah etmek lazım. Farik mümmeyyiz sadece ve sadece zihinsel olarak bu çocuk normal mi demek. Adli tıp doktoru bunu hala böyle algıladığı için çocuğun sosyal hayatına hiç önem vermiyor. Şimdi o yasa değişti, 'davarnışlarını yönlendirebilme ve sonuçlarını kestirebilme' olarak değişti. Farik ve mümmeyyiz sadece zihinsel olarak yeterli mi demekti o yüzden bizim rolümüz çok arttı. Yani çocuğun sosyal çevresi, çocuğun yaşam şartları çok daha önemli oldu suç işlemede.'

[101] 'Göç ettiği mahalleyi ilk girdiğinde işte adaptasyonu nasıl sağlamış, asimile mi olmuş adapte mi olmuş? Asimilasyon varsa, varolan duruma eklemlenmekse o zaman irade davranış soru işareti. Ama adaptasyon varsa, yani bütün risklerin farkında olup kendine yeni bir bilgi üretebiliyorsa, o zaman iradi davranış olma olasılığı vardır.'

utilizes analytical distinctions of assimilation and adaptation to evaluate whether the deed involves children's will, another can explicitly state:

> Up until now I have never said that [it is a wilful act] … Oh! The child is perfectly good, she deliberately planed this deed! Such a thing is never possible because she is a child. That is to say, she cannot think like an adult. This is what we have to make clear.[102]

Whilst social workers employ categories like 'moral development', 'cognitive development', and psychological diagnoses such as 'antisocial personality disorder', or 'frustration tolerance', the evaluation of discernment ability and the will is bound to the interpretation of cases. A case provided by one of my informants can illustrate and further depict other possible interpretation zones along with the technical risk assessment discourses:

> For instance, a child comes here because of motorcycle theft. He is one of the children who was sent by the prosecution office. At that point I ask: why? What does he think he will get by stealing that motorcycle? Does he have any gain in stealing it? To him, as he says, the gain is to be able to go around as he wishes, or with his girlfriend or to be able to rent the motorcycle to his friend and then to use the rent money to pay the internet cafe bill. At some point, if the motorcycle theft is evaluated like this, then one should think about the possibility of the existence of his will, I mean to think about the criminal responsibility. But if you have another opinion concerning the theft crime, which is usually this; the situation of the families is due to the injustices in the distribution of income, the reflection of this to the children, and the reflection of this in the relationships among family members, the intention and the effort of the child to form his own truths by himself, and the need to be loved, the need to be respected. You can say he committed motorcycle theft for these reasons too. This too is an interpretation.[103]

---

[102] 'Hiç demedim bugüne kadar [iradi davranistir]… Oo süperdir çocuk, bunu planlayarak isteyerek yapti! Böyle birşey mümkün değil, çünkü çocuk o. Yani bir çocuk yetişkin gibi düşünemez. Bunu anlatmak gerekiyor.'

[103] 'Örneğin bir tane çocuk sıklıkla mesela motor hırsızlığı sebebiyle geliyor. Savcılıktan gelen çocuklardan biri. Şimdi soruyorum; niye? O motoru çalmakla ne elde edeceğini düşünüyor? Herhangi bir kazancı var mı? Ona göre işte benim kazancım diyor dolaşmak, kafama göre dolaşabiliyorum diyor, veya kız atkadaşımla birlikte dolaşabiliyoruz veya başka bir arkadaşıma kiralıyorum, o parayla da internet kafeye gidiyorum diyor. Şimdi bazı noktalarda, motorsiklet hırsızlığını eğer bu şekilde değerlendiyorsa, irade olma ihtimali düşünülmelidir, yani ceza sorumluluğu düşünülmelidir. Ama eğer hırsızlık suçuna dair senin başka bir fikrin varsa ki genelde o şudur; işte gelir dağılımındaki adaletsizlik sebebiyle ailelerin içinde bulunduğu durum, bu durumun çocuklara yansıması, aile içi ilişkilere yansıması, çocuğun kendi başına kendi doğrularını oluşturma gayesi, çabası ve ihtiyaçlar;

Interpretation here poses the significant question of how to include 'the social', to what degree and through which terms. 'Injustices in income status' that brins in wider structural inequalities into the picture or mere 'personal gain' can be presented as different explanations of the same case. These differing ways of delineating the discernment ability and the existence of will further instigate varying political and moral responses that challenge the obtainment of a clear-cut legal account. That is to say, social workers and their field of inquiry in practice extend the space of interpretation within law. To account for those interpretative spaces in the legal frame in turn opens a series of indeterminacies that law needs to deal with. At this point, to grasp the ways in which the legal fact is constituted in juvenile courts regarding criminal liability necessitates considering the practices of forensic practitioners as the other accompanying non-legal expertise and their conflictual interaction with that of the social workers.

The expertise report provided by forensic practitioners continues the legacy of 'farik mümeyyiz' and functions as the decisive force in the assessment of criminal responsibility. Former practices of examining 'farik mümeyyiz' (examining the mental health, mental level and detecting psychiatric syndrome) and the forms of judgment attached to them persist despite the CPL's stress on the role of social workers. On the basis of the method that each profession employs and their differing modes of inquiry, social workers and forensics also have disparate authority and effect in the juridical field. When I asked how their method of inquiry differs from that of the forensics professionals, to a psychologist working in the Juvenile High Criminal Court our consversation follows as below:

---

sevilme ihtiyacı, işte saygı görme ihtiyacı. Bundan dolayı bu motosiklet hırsızlığına girişti de diyebilirsin. Bu da bir yorum.'

Social worker: First of all, ours are not questions in classical sense. For example, what does the forensics branch office ask? It asks a mathematical operation, asks something concerning social life and something about the country. If [the child] can answer these, [the forensic practitioner] says she has sufficient cognitive abilities and has criminal liability. We examine this more on the basis of the event. If a child comes here because of sexual assault, does the child know what exactly sexual abuse is, what sexual abuse means? What is a sexual act, what is a sexual relationship? Do you have any friends in your social life of the opposite sex, how is your relationship with them, what do you do with them? I mean concerning the characteristics of their age…Criminal responsibility should be investigated with respect to the connection between the 12-year old's general social position within society and the crime. And for this and this reason, the child has criminal responsibility or does not have criminal responsibility - I am the only one who writes this in an explicit way. The law (the Child Protection Law and Law on Establishment, Duties and Procedures of the Juvenile Court) forbids us to this, it says you shouldn't write but there is also Criminal Court Law and it says you can write it. I mean it is confusing and there I am a law unto myself, I write it directly. I mean, if I say I saw it, and when it contradicts with the forensics' unit, what does the judges do; they send it to the Forensics Institution.

Me: How is the process there?

Social worker: Forensic Institution is more like…They do the IQ [test], then they have a talk with the child about her daily life, like 'where you go', 'what do you do?', 'what is your occupation', etc. Social relationships plus IQ…and then they say criminal responsibility exist or not.

Me: How do they examine their social relationships, like the way you do?

Social worker: It is not as detailed as ours. It is a lot more superficial and they don't proceed on the bases of the crime. More precisely, let's say the plunder crime, they don't examine the founding factors of the plunder crime, they don't make children question the crime. They ask for example; 'how is your relationship with your mother?', 'do you tell everything to her?' or 'do you do your homework that your teacher assigned?', 'what happens when you don't do the homework that your teacher assigned?', it is the cause and effect relationship…I mean they look at the cause and effect relationships before they associate the children with crime. If they are fine and the IQ is normal or close to normal, then there is criminal responsibility.

Me: Does it contradict the reports that you prepared?

Social worker: Generally, it contradicts.

Me: And the judge [decides on the basis of whose report]?

Social worker: Forensics.[104]

The dialogue above is an illustrative example among others that points to the conflicts between the two different expertise fields in the juvenile courts of Istanbul. While the social workers associate their profession with in-depth detailed analysis providing a wider perspective that includes 'the social' and its relationship to the deed, forensic examination is referred to as a shallow generic procedure not only by the social workers but also by various lawyers. A conversation that I had with a lawyer and a social worker is again illustrative:

Me: How does the forensics unit prepare the report?

Lawyer: Like I said [they ask] three questions whoever comes to them. Like 'who is the prime minister?', 'who is this', 'who is that'…When they get two or three normal responses [they give the 'farik mümmeyizdir' report] …they are *doctors*.

[104]'Social worker: Ya herşeyden önce klasik anlamda soru değil bizim sorduklarimiz. Mesela Adli Tıp Şube Müdürlüğü neyi sorar? Işte bir matematiksel işlem sorar, bir sosyal hayata dair birşey sorar ve ülkeye dair birşey sorar. Bunlara cevap verebiliyorsa [cocuk], [adli tipci] yeteri kadar bilişsel duzeyi gelişmiştir, [ceza ehliyeti]vardır der. Onu biz daha çok olay üzerinden inceliyoruz. Şimdi eğer bir çocuk bize cinsel istismardan geliyorsa, mesela tecavüzün tam olarak anlamını biliyor mu, ne demektir tecavüz etmek? İşte cinsel eylem nedir, cinsel ilişki nedir? işte sosyal hayatında karşı cinsten işte arkadaşların oldu mu, onlarla nasıl bir iletişime sahipsin, neler yapıyorsunuz? Yani kendi yaş özellikleriyle… 12 yaşındaki bir çocuğun genel anlamdaki sosyal, toplum içerisindeki durumu ile asıl suç arasındaki bağlantı üzerinden işte ceza sorumluluğu araştırılmalıdır. Ve ya şu şu gerekçelerledir ki - bunu bir tek ben yazıyorum - ceza sorumluluğu vardır veya ceza sorumluluğu yoktur gibi kesin bir dille. Yasa bunu engelliyor, yazma diyor ama CMK var, CMK da yaz diyor. Karışık yani orda ben bildiğimi okuyorum, doğrudan yazıyorum.Yani gördüm diyorsam, adli tip birimiyle celisiyorsa, hakimler ne yapıyor, adli tıp kurmuna göneriyor.
Me: Orda nasıl bir süreç oluyor peki?
Social worker: Adli tıp kurumu daha…Bir IQ [testi] yapıyorlar, ondan sonra çocukla biraz sohbet ediyorlar gündelik yaşamıyla ilgili, işte 'nereye gidiyorsun', 'neler yapıyorsun', 'hangi işle uğraşıyorsun', vesaire. Sosyal ilişkiler artı IQ… ve suc sorumlulugu vardır yoktur diyorlar.
Me: Sosyal ilişkilerini nasıl inceliyorlar, sizin yaptığınız gibi mi?
Social worker: Bizimkiler kadar detaylı olmuyor. Çok daha yüzeysel oluyor ve suç odaklı gitmiyorlar. Daha doğrusu hani mesela yağma suçu diyelim, yağma suçunun temelini oluşturan faktörleri incelemeden, onları sorgulattırmıyor çocuğa. 'Annenle aran nasıl?' diyor mesela, 'herşeyini anlatır mısın' diyor ona, veya 'öğretmenin verdiği ödevi yapıyor musun', 'öğretmenin verdiği ödevi yapmazsan ne olur', neden sonuç ilişkileri..Yani bir suçla ilişkilendirmeden neden sonuç ilişkilerine bakıyor. Uygunsa, IQ da normal veya normale yakınsa ceza sorumluluğu vardır.
Me: Sizin yazdığınız raporla çelisiyor mu peki?
Social worker: Genelde çelisiyor.
Me: Peki hakim [kimin raporuna gore kakar veriyor]?
Social worker: Adli tıp.

> Social worker: Excuse me but they don't know shit.
>
> Lawyer: They have their thing anyway…they already have the eligible (*makbul*) things, right.
>
> Social worker: What we can do here is only stating that 'her insight is improved', 'the intent to repeat is lessened'. For instance, can they [forensics] read her eyes? what is it that they [children] don't put in words? Does she repeat or not? [105]

These 'doctors' that use 'simple surveys' are treated as superficial by other fields of knowledge operating around the juvenile courts. Forensics practitioners, immanent to their profession, 'cannot read the eyes' of the children as social workers claim to do. In turn, forensics reports end up almost always with the affirmation of criminal liability. The reason of this, according to the social workers, is the 'narrow techniques' that the forensics use. Nevertheless, in the legal proceedings it is these 'doctors' that own the 'makbul' (or desirable, approved) means. Therefore, we cannot just point to the divergent modes of inquiry and their outcome, it must be emphasised that the effects and authority of these expertise within the juridical field have an asymmetrical position. The preference for forensics' way of producing knowledge is manifested in the legal arena with a striking statistic: 'nearly 100 percent of the children who are in the 12 -15 age range needing inspection are said to have the criminal culpability'.[106]

---

[105] Me: Adli Tip Birimi, nasıl rapor hazirliyor?
Lawyer: Dediğim gibi yani uc tane soru [soruyorlar] onlar karşılarına gelene. Işte 'başbakan kim', 'o kim', 'bu kim'… iki uc tane normal cevap alınca [farik mummeyyizdir raporu veriyorlar]… *doktor* bunlar.
Social worker: Ya çok afedersin bir boktan anlamıyorlar
Lawyer: şeyleri var zaten onlarin… *makbul* şeyleri var zaten, tamam mı.
Social worker: Bizim burda yapabilecegimiz tek; 'iç görüsü gelişmiştir', 'bir daha yapmaya kasıt eksilmiştir demek'. şeyi mesela onun gözlerinden okuyor mu [adli tip]? Orda [cocugun] anlatmadiği ne var? bir daha yapar mı yapmaz mı?'

[106] Atılgan, A. and Atılgan, E. U. (2009). The Evaluation of the Regulations and Application on Children's Rights Paradigm and Prevailing Principles of Juvenile Justice in Turkey (Çocuk Hakları Paradigması ve Çocuk Ceza Yargılamasına Hakim Olan Ilkeler Açısından Türkiye'deki Düzenleme ve Uygulamaların Değerlendirilmesi). Ankara: Joint Platform of Human Rights Report (İnsan Hakları Ortak Platformu Raporu) p.61.

In his sociological inquiry of the juridical field, Bourdieu (1987) states that: 'The practical content of law which emerges in the judgment is the product of a symbolic struggle between professionals possessing unequal technical skills and social influence' (p. 827). The content of law in juvenile courts for the demarcated ambiguous zone - that needs to be inspected by different experts- is generated by the judge's acceptance of the forensics' explanation. These judgments, which are the products of the struggle between unequal technical skills and social influence also regenerate the terms of the struggle. As long as the psychological and cognitive inspections carry medical bearings as done by the psychiatrists' who are employed in the forensics department, they constitute potent and credible statements regarding the criminal liability of the children who are in dispute with law. Psycho-social traits that are conveyed by the social workers, on the other hand, are far from constituting a valid evidence that can directly have an impact on the case. In that way, social workers' granted role in the process of determining criminal liability is limited mainly to opinions and suggestions for protective measures. While some social workers, as quoted above, announce explicitly the question whether the children have criminal liability or not, relying on the confusion that the legal texts pose, their sphere of influence is fundamentally bound by the judge's decision, which prioritises forensics.

The 'unequal technical skills and social influence' of these different fields of knowledge stem, on the one hand, from the 'materiality' that the forensic science can offer. While speaking about their profession in juvenile courts, a social worker said to me in a resentful way: 'What does the justice system look for at the end; unequivocal evidence, clean-cut evidence that is obtained. It seeks to attain concrete things.' (Sonuçta adalet sistemi neye bakar, mutlak delile bakar, net elde edilmiş

delile bakar, maddi şeyler elde etmeye çalışır.) In line with what Keenan and Wiezman (2012) refer to as the increasing authority of the 'thing' in the courtroom, the scientific mode of reasoning that partakes in the juridical field is dominated by forensics. Although it is not always the object per se, forensic science in juvenile courts can deliver specific test results such IQ scores and diagnosis for psychiatric disorder due to the profession's prerogative. However, what this justice system considers material and lucid evidence cannot be provided by the social workers within the existing reasoning of law. Social workers, by way of situating the deed within a psychological and social frame to a certain extent, expands the domain of the commensurable. As I tried to sketch out in the previous chapter, neighbourhood, family and friends are being assessed as risk factors along with the increased psychological analysis. Even so, the risk factors that are identified and elaborated in the reports about social factors include more undetermined abstract variables when compared to the forensics' way of examination. Social workers' reports proliferate the potential agents that might share the culpability with the legal subject and open up calculable yet interpretative realities about the cases. Jasanoff (1995) reminds us that the legal system's persistent commitment is that the 'trial is an occasion for locating the truth rather than for choosing between alternative constructions of possible realities' (p. 52). In line with this persistent commitment, practices in juvenile courts tend to conceal the areas of uncertainty and conflict so as to achieve a closure. This happens in terms of deciding on the effective mode of inquiry - that is, the forensics - but also deciding this effectiveness on the basis of eliminating any equivocacy that might arise from the social workers' inspections. As Latour (2004), would say, this evident pattern in judgements of juvenile courts manifests the law's

striving for a ‘closure nothing more transcendent than a simple end to the discussion’ (p. 109).

The preponderance of forensics expertise in the courts’ decision, on the other hand, is rooted in customary procedures. The examination of ‘farik mümmeyiz’ conducted by forensics has existed from the time juvenile courts were established until 2005, and although it has been repealed, behaviours of the actors and procedures within the judicial field are patterned through this practice. If we go back to Bourdieu, one should take notice of the process of constitution and reaffirmation of certain traditions within the field of jurisdiction as an imperative that sustains the field itself. As Bourdieu (1987) explains, ‘The functioning of juridical field tends to impose the effect of closure, visible in the tendency of judicial institutions to produce specific traditions, in categories of perception and judgment…’ (p. 834). In a different vein, cultural assumptions and custom fill in legal facts in various ways, as Rosen (2006) invites us to think. It is also noted by Koğacıoğlu (2011) that science is adopted by law to increase the authoritative weight of these assumptions and customs.[107] If we acknowledge that the legal complex itself acquires certain customary and cultural patterns that structure the way of conducting things, then the employment of forensics science in law can be understood as the law’s tendency towards the familiar forms of perception and judgment albeit the scientificity. Therefore, the juridical field’s own customary procedures are crucial, and do inform the practices carried out, particularly in responding to changes within the law. The inclusion of social workers and their field of knowledge into the new regulations of

[107] In her studies on legal articulation of honour crimes in Turkey, she points to how scientificity becomes the bearer of the commonsensical public truth within the legal domain: ‘Science as performed here exists not to arrive at new questions, facts, or conceptual links but to reaffirm the commonsensical notion of a specific culture as the phenomenon that causes the ‘problem of honour crimes’’ (2011, p. 182)

the CPL is being exposed to the legal field's resistance to embrace the relatively new and different episteme.

However, it is not sufficient to tie the authority of forensics to customary practices that validate materiality within the courtrooms. The ways in which these practices became established concern also the peculiar constitution of the Forensics Institution in Turkey's context. From the beginning of the Republic, the Forensics Institution of Turkey has been directly subordinated to the Ministry of Justice. Although the Institution comprises physicians and has a close relationship with medical schools, forensics practitioners are not associated with the Ministry of Health. Further, strict hierarchies within the institutions and affiliations with the high cadres of judiciary render forensics in Turkey as the 'official expertise reserve' of the jurisdiction (Can, 2014, pp. 27-28). Inquiring about the workings of the Forensic Institution on torture cases in Turkey, Başak Can (2014) underlines 'effectiveness' of forensics' epistemology for the denial of excessive state violence. She notes that 'All that is personal, social, as well as systematic, is avoided in reports' (p. 41) and this is made as part of the aspired impartiality, neutrality and objectivity.[108] The significant point she asserts is that this specific (aperspectival and idiosyncratic) way of producing knowledge is intrinsic to the operation of the Forensics Institution and that bureaucratic hierarchies serve to sustain this epistemology within juridical bounds. The tension between forensics practitioners and social workers in juvenile courts, fundamentally pertains to these institutional bearings of forensics as the 'official expertise'. The forensics' report legitimacy can also be sought in historical

[108] For a detailed analysis of the Forensic's epistemological operationalisations see. 'Chapter 1: Regime of Denial and Forensic Epistemologies in Cases of Torture in Post-1980 Turkey' in Basak Can's *State-making, evidence-making, and claim-making: The cases of torture and enforced disappearances in post-1980 Turkey* (Unpublished PhD Thesis) Retrieved from http://repository.upenn.edu/dissertations/AAI3668096

constitution of the Forensic Institution as the official and the formal domain to produce ‘extra-legal knowledge’ for the legal fact.

4.3.3 Adjudicating epistemology and fostering formalism

At stake here is the force of law that governs the constitution and operation of what is demarcated as non-legal knowledge in various stages. Law, both as the written code and the judge’s decision, defines and delimits the scope of inferences that these expertises can render. Experts in the juridical domain are positioned in a very peculiar way in this regard. Their restricted conduct neither resembles scientific research that enables the constant renewal of discussions (as with the skeleton age diagnoses practice) nor bears the same authority of the judge, who has the power to say the last word. On the one hand, as Latour (2004) says, ‘When the expert scientist is given the power to decide or not decide, he is lent the regalia of a mode of sovereignty that belongs exclusively to law’ (p. 108). Yet this regalia is distributed unequally among the different fields of expertise, as I discussed above. Subsequently, the validity level of the knowledge delivered by the different fields of expertise diverges from the authority of the judge (and law) and it is the law (and judge) that decides the validity of the different expertise in the course of obtaining the legal fact.

At this point it is worthwhile to explore the contingent historical course of the relationship between the notion of legal fact and scientific fact. Shapiro, who studies the concept of ‘fact’ in the English intellectual and cultural domains from the 16th to the eighteenth century, points to the wide range of its application in law, history, media, natural and social sciences. What she notes is crucial for understanding how the ‘matters of fact’ were initially referred to alleged human acts based on the

judgments and beliefs within the legal domain. Instead of an established truth, a 'fact' was perceived as something to be contested which can be proved to be true, doubtful or false. The courtroom in that sense becomes an epistemological space that determines the 'truth' of something by site-specific rules (which include the witnesses and/or documents). Shapiro then, elucidates how the notion of 'fact' as it is used in the scientific domain was developed with reference to the well-established concepts and procedures of law. The traveling of the concept of 'fact' to the domain of natural sciences and its utilisation in that domain alters the very notion. As she illustrates, the facts that needed to be proven in the sixteenth century are transformed into the reflection of the things that are already proven as something implicitly manifesting the truth. The notion of the 'fact' with its new connotations comes back to the legal domain wrapped in scientific expertise, as in the case of assessing the criminal liability of children. The interconnected history of law and science with regard to 'facts' is very important for rethinking how, among the differing and mostly conflicting fields of expertise, law operates as the authority that decides on the valid expertise, i.e. the valid 'fact'.

The law's appropriation of extra-legal knowledge and making of straightforward conclusions by leaning on that knowledge brings in the question of the law's autonomy. Within the extensive literature, the autonomy of the legal domain briefly refers to competence of law to generate its own conditions of existence. This is denoted by some critics as an amazing trick, that is, the trick by which 'law rebuilds itself in mid-air without ever touching down' (Fish, 1993, p. 171). Law has the image of an autonomous field of reasoning, with its internal codes, protocols and self-sustaining values. This image also becomes one of the imperatives that constitute it with an overarching presence and force. (Bourdieu, 1987). Theories

of autopoesis on the other hand, following largely Luhmann (1985) and Teubner (1993), assert legal domain as a self-reproducing system that interferes but also depends on other autonomous subsystems of society. This point of view is helpful to recognise the 'epistemological creativity of law' whereby extra-legal fields of knowledge such as medicine, pedagogy, psychiatry, etc. are being transmuted into the legal format. In other words, taking autopoesis of law seriously leads us to see 'the ways that law shapes the world that it then claims to adjudicate' (Valverde, 2003, p. 6) So, what this implies is not just the mere *use* of the facts as evidence claims, but law's competency of *producing* knowledge. For example, in the case of competing judgements regarding the criminal liability, what exceeds the medical assessment of forensics and psycho-social inspection of social workers is indeed the decision of law. The judgment may rest upon the forensics' explanatory logic; however, it becomes a legal practice by constituting a certain form of knowledge in the very process of using it, and concomitantly moulding certain perceptions in which the interpretative psycho-social realities are deflected and obscured. Therefore, in the case of the children who are to be examined in terms of their will and criminal liability, the social and psychological context is detracted from the objectification that the legal decision would offer. Thus, the ways of pursing medico-legal practices do not only adhere to the claims of truth on the basis of the things known, but also conceals other knowledges and practices in the technicality involved in the procedures.

However, in the light of Valverde's (2003) criticism we could agree that autopoesis theories bear the misrecognition of the legal domain as a coherent subsystem of society with an epistemic unification. Instead, we should trace the distribution of different epistemological authorities within the legal complex that

reveals the partial, incomplete and conflicting forms of knowing that are nevertheless juridically grounded and maintained within. Specifically, after the enactment of the CPL, we see the legal articulation (substantiation) of facts which are rather disregarded forms of knowing/ways of knowledge (episteme) embodied in the task of social workers. Yet the interference made by the CPL is not a mere discursive add-up but instead prompts legally defined technical means, institutional relations and practices that operate within JJS. Therefore, the social workers and their field of knowledge comprise not the claim of truth that is merely failed to be considered. Their field of knowledge constitutes part of the legal complex that can negotiate with the different forms of judgment, although it is customarily negated. Furthermore, this negotiation and also the negation are productive in terms of cultivating particular perceptions on the one hand, and the formalisation activity of the juridical on the other. Putting it differently, the authorised way of translating the social world into the juridical domain forms a particular knowledge or way of knowing things (perception), and its principled procedure distinguishes it from any naked exercise of power.

Despite the formalization inherent in any legal activity, law in the form of a judge's decision appears to override everything else, as one of my informant states: 'Everything that is done here relies on the discretion of the judge. Everything that is done in courts, gathered evidences, everything… If the judge says it is unnecessary, she can ignore the [our] reports' (Burda yapılan herşey aslında hakimde bir takdir oluşturma amacıyla yapılıyor. Mahkemede yapılan herşey, toplanan deliller, *herşey*… Hakim derseki eğer gerek yok, görmezden gelebiliyor da [bizim] raporlari…) Still, the 'everything' that he refers to is mobilised in a certain way to constitute a legal fact. Along the adversary procedures and expert opinions, the legal

system achieves a closure and furthers this closure by sustaining its 'image as a forum for arriving at the truth'. (Jassanoff, 1995) Following Bourdieu's notion of the legal field, van Krieken (2004) notes a significant paradox: 'the extensive juridical discretion needs to be *disguised* to maintain the recognition of law *as* autonomous, its arbitrariness and indeterminacy has to remain invisible' (p. 15). Both forensics and social workers as part of the legal decision making process, although their differing degrees of authority function within this system that depends on the above-mentioned disguisement. They are called formalising agents in Bourdieu's terms, which contribute to making the decision of the court more subtle.[109] Furthermore, the very relationships within the unequal distribution of epistemological authority itself emanate as the productive force for the formalisation of law. This in turn substantiates the neutrality and universality claim of the law by relying on the existence of competing judgments and by its 'grounded' decision in the face of these different knowledge assertions.

4.4 Conclusion: Partial knowledges, partial powers and 'developing' the vicious circle

As different epistemes with different authorities are articulated and sustained in the legal complex, so do the differently identified modalities of power. By refraining from the thesis of scientification and technicalization of law as well as from attributing an inner essence to law that constitutes a world of its own, we are able to see the constellations of different knowledge claims and power. The relationship between the increase of crime-punishment pivotal in JJS and the newly proliferated

[109] To account the 'grounded' signification of law he notes that one 'need[s] to recover the profound logic of juridical work in its most specific locus, in the activity of formalisation and in the interests of the formalising agents as they are defined in the competition within the juridical field and in the relationship this field and the larger field of power.' (1987, p. 842)

agents of technical management is not directly a casual one. Yet in the escalating interest for governing children and the ways in which it is pursued with partial effects of competing forms of judgment, conflicts and ambiguities stand out as productive of the persistency of the legal field.

The interest in children who are in need of protection, as in the case of the 'children abetted into crime', can be seen as the unavoidable subjection to the proceedings of the criminal court. The children are registered in the justice system and confronted by the police force, the prosecutor, the judge, the forensic practitioner, social worker and all other actors of the system. Therefore, their status of 'victimhood' and 'need' also need to be examined, evaluated, documented and filed. It must be emphasised that particularly the children who are classified as abetted into crime have more difficulty getting through and pulling themselves away from the system. A social worker in the juvenile court calls them the 'subscribers of the court' (abone olanlar) for whom the courthouse appears as their 'second home', where one can see children napping or sleeping with their pillow in the waiting room. For another colleague, the place is a vicious circle that depicts the very functioning of the legal mechanism;

> Once a child gets involved in crime, you should forget about that child, because she or he is now part of the machine. I did not see anyone who is able to get out of it. We, the agents of the courts, ruin the child's psychology even more after he or she is put in the process. For one thing, the child comes into a courthouse, deals with the police, everyone insults, demonises the child, labels him or her, another label comes from the school, the family breaks away from the child for a while. Now we just devastate the child's psychology again. It is now harder for them to get out.[110]

[110] 'Bir kere cocuk suca bulatiktan sonra, unut artik o cocugu, cunku o mekanizmaya girdi bir kere. Ben daha cikani gormedim. Bir de bu sürece soktuktan sonra çocuğun psikolojisini daha da berbat ediyoruz biz. çocuk bir kere adliyeye geliyor, polisle muhattap oluyor, herkes aşşağılıyor çocuğu, etiketliyor, okulda bir etiket yiyor, ailesi zatene ilişkiyi böyle belli bir süre kesiyor. şimdi çocuğun psikolojisni yine mahvettik. Cikmasi artik daha da zor oluyor.'

The potent account above presents by and large how the law constructs its subjects in this case. ‘Devastation of children’s psychology’ and the stigma that the law induces end up reproducing both the delinquency of the child and also the legal ‘machine’ itself. The officer in Kafka’s (2009) celebrated story *Penal Colony* explains the operation and efficiency of the machine that writes law on the bodies of the convicted: ‘You have seen how difficult it is to decipher the script with one’s eyes; but our man deciphers it with his wounds.’ (p. 84). In juvenile courts it is not through the physical wounds per se, but law writes itself upon subjects. Labels, insults, and demonizing emanate as the marks that the legal system carves on children. The law inscribes itself upon their social body that forms the stain which indicates their presence as being part of the law. The exit-less functioning of these courts in that sense are the very same mechanisms that produce and sustain the existence of law.

The developmentalist discourse of the CPL within this frame can be interpreted as ‘developing’ the objectification of the legal subject who becomes part of the ‘machine’. The designated intentions of the CPL to better mark and to better calculate, together with what it fails to do, endows the constitution of a particular legal subject. Appealing to Nietzsche’s articulation of objectivizing processes, we can expound the notion of the generated legal subject that is at issue here. In outlining the genealogy of moral and rational subject of modern legality, Nietzsche points to the emergence of a human with a key ‘prerogative to promise’. It is the will’s memory, in his terms, that is situated in between the statement of the ‘original ‘I will’, ‘I shall do’ and the actual discharge of the will, its *act*’ (Nietzsche, 1997, p. 36). Since the techniques of mnemonics involved in the constitution of the ‘real memory of will’ initially composed of the ‘torments, sacrifices and horror’, it is the social codification of experience that temporalizes the self to remember. It is not

altogether different from Kafka's account that one learns to decipher the legal script through her wounds. The memories of pain that make one conscious and make certain acts 'unforgettable', actually engenders the moral meanings and prevailing norms. The subject who is entitled to promise, who posits certain control over the future, is accordingly conditioned to learning: 'to distinguish between what happens by accident and what by design, to think causally,…in all, to be able to calculate, compute – and before he can do this, man himself will really have to become *reliable, regular, necessary*, even in his own self-image, so that he, as someone making a promise is, is answerable for his own *future*!' (Nietzsche ,1997, p. 36). Therefore, the constitution of this kind of human animal who learns to reckon coincides with the origins of responsibility that requires making her orderly, uniform and accordingly calculable and predictable.

Juvenile courts in that sense can be considered as places designed to teach as well as to learn how to be a 'responsible being', which consequently makes the subjects quantifiable and comparable. Within the same process of fabricating the responsible subjects that can be accountable, subjects are instilled with the ability to bind their own future deeds. It is only this 'responsible' subject (the subject who is able to make a calculation and a subject who can promise) would be able to bear the 'guilt'. Following Nietzsche, Valverde (2005) also notes that 'the calculating subject of liberal political thought is itself produced (as an entity that can be counted and counted upon others) by the same process that constructs the world of interpersonal obligation as predictable and measurable' (p. 75). Social workers and all other protection codes and means enhanced by the CPL in juvenile courts reinforce the 'morality of custom' and the 'social straitjacket' that broadens the objectifiablity and predictability of subjects. Concurrently, the very terms of the legal mechanisms are

equipped with a whole set of calculable items of agenda and an expectation of answerability for the future. That is also why the juvenile court's undertaking is designated more and more as breeding conscientious and morally mature children: 'The Juvenile Court of Law and the Juvenile High Criminal Court of Law are not only places for crime and punishment, they are the places to foster the development of children's conscience and build up their moral maturity,' says a social worker. Investing in subjects' becoming moral and conscious individuals in that way (who ought to learn reckoning with respect to the existing norms), social work assists the punitive means that are not abandoned.

In concluding this chapter, I would argue once more by emphasising that it would be inadequate to present juvenile courts as merely dysfunctional in some aspects of law enforcement. 'Governance is always a practice of bricolage,' says Valverde (2005, p. 77). The governance of children in juvenile courts comprises power relationships with diverse logical sequences and abilities that are put together. Marking the children without providing ways of pulling themselves out of the system and holding them back in criminal codes, producing them as 'subscribers of the court', investing in their morality, point to an unforeseen cooperation of normalising powers with the punitive means. Beyond the concurrence of repressive and disciplinary measures, there arises a significant alliance between them. Power here does not only pass through subjects and sometimes fails to accomplish moulding of their conducts, but also stains them and makes them available for the palpable effects of sovereign power. As Fitzpatrick (2013) nicely expresses: 'Even as law retains its mediated dependence on powers of normalization and even as the "counter-law" of such powers "becomes the effective and institutionalized content of the juridical forms" (1979a, p. 224), law and powers of normalization "find themselves" in a

mutually generative complex' (p. 55). In the case I have discussed here, the institutionalised content is the imperative of protection that invests in the predictability of children within the JJS, enhancing the power of normalization. On the other hand, decisions of law that may be positioned against the means of protection as in criminal liability assessment and problematizations of the penal convictions are accompanied and further generated by these powers of normalization. As feminist critique has also taught us, these seemingly paradoxical workings of incoherent and multifaceted ensembles of power modalities can be fashioning the vehicle of massive domination as well (Brown, 2006, p. 191).

CHAPTER 5

CONCLUSION

The Figure 1 is a photo which was taken right after what is being termed as ‘the failed coup attempt’ that occurred in Turkey on 15 July 2016.

Figure 1. Police officers stand atop tanks abandoned by Turkish army soldiers with a child in 2016 (Photo credit: Burak Kara / Getty Images, Retrieved from: https://www.theguardian.com/world/gallery/2016/jul/16/attempted-coup-in-turkey-in-pictures)

Being one of the salient moments in Turkey’s political history, the coup attempt mobilised the riot police forces accompanied by the people pouring onto streets for stopping the military forces associated with the coup. The profound long-term repercussions of this event are yet to be seen. The immediate aftermath, however, attested various ways and mediums to display ‘the power of people’, ‘the national will’, ‘democracy’, etc. as pronounced by the government, who made considerable

use of visual material. The photo above belongs to that visual repertoire. Yet this specific photo represents an affective dimension. It concerns the state's alleged power of providing 'a shield'[111] for the children that can be drawn from the touch of a riot police. The image not only indicates the act of laying claim to future promises that are attached to the body of childhood. But in relation to that, it testifies to an epitome that nails the notion of childhood to power in wider terms, thus circulating this alliance further.

There are indeed myriad ways and means to articulate how the notion and the subject of childhood are immersed in thinking about power. Throughout the thesis, I have sought to put forth one of the ways of delineating this relationship. Juvenile courts in Turkey, with the enactment of the Child Protection Law (CPL) in 2005, yield a particular fragment of this relationship in the legal domain. This facet that I have tried to explicate from the perspective of legal arrangements does not deal with the evident set of legal sanctions. As I argue, the specific subject of childhood in the juridical realm posits a particular definition of the 'child question' and present solutions within the same frame that make use of different extra-legal knowledge claims. Therefore, I instead attempted to track the workings of law after the CPL, in relation to the changing forms of expertise and authorities, explanatory frames and technologies operating within JJS. The CPL that is wrapped as the 'reform' in that regard, affected governing techniques and the law's relationship to children. Its impacts were not in line with what the official discursive objective set forth as the ideal: the elimination of risk factors, rehabilitation of children instead of punishment and 'bringing them back in society'. Yet by increasing the bureaucratic formalism,

[111] 'Shield' of the state as I tried to elucidate in Chapter 3 indicates an encompassing form of power that operate through care and concern for the subject. As the 'shield' that is put on children's body, the subjects are produced as dependents but further subjection here suggest pervasiveness of power that encapsulates and shapes the very subjects.

technical means and calculable domains did initiate a set of effects. It is this relationship between the effects and the calculated plan that has enabled me to trace the negotiations of different modalities of power that target children.

I started this study by dwelling on the notion of temporality in an attempt to understand the conceptual and theoretical bearings of the denoted 'improvement' in the child law. Before coming to terms with what the CPL entailed, one needs to consider the idea of legal progress concerning the specific category of childhood. As I tried to illustrate in Chapter 2, the developmental regime as the dominant temporal framework emanates the theoretical grid that brought together the constitution of the category of child, and the initiation of legal changes along with the law's invariant order. On the one hand, developmental paradigms in childhood studies generate the scientific grounding of the incomplete subject of childhood while appointing certain necessary supplements. The supplements are assigned, on the one hand, in relation to the normative understanding of the self-possessed individual that is taken by these paradigms as a model. On the other hand, compliance with social conventions are also posited as necessary supplements for the incomplete children that should be filled. Thereby, the children as incomplete subjects to be governed are constituted in line with the designated linear path, and both substantiated with the scientific knowledge claims of these paradigms. On the other hand, a developmental regime constitutively partakes in thinking about the legal domain itself. As I have discussed, the law's omni-temporal representation and the changes made within - which can be seen as contradictory - are settled through the idea of progress. I tried to illustrate this on the basis of the 'birth' and 'development' of juvenile courts in Turkey. Juvenile Courts specifically are signified as the benchmark of civilisation, which helps to position Turkey along the line of progress. Therefore, 'child concern' and its

legal articulation come forth as the sites where both the ‘growing up’ of the child and the law are administered, by relying on the same discursive frame of ‘development’.

Following this, Chapter 3 addressed the case of the CPL, which is set as the reform in accordance with the EU harmonization process of Turkey. While this ‘child welfare and protection oriented act’ is performed for the Western gaze, it reconfigured the governance of the children. In that regard, the bureaucratic technicality comes to the fore as the prominent terrain to induce the modification in the discourses and practices. Thereby, throughout this chapter, I outlined the increasing bureaucratic officialdom, institutions, and intensification of the relationships between them and the assignment of new tasks that were initiated by the CPL. Specifically, there is a proliferation of social workers who undertake the rehabilitative and protective vocation of the juvenile courts. Their newly assigned tasks of assessing risk factors that allegedly affect the determination of criminal liability expanded the commensurable domain to include he children’s psycho-social state. By the same token, their solicitude towards children is accompanied by translating children’s social, economic and political position into risk factors. In turn, along the disciplinary mechanisms adopting actuarial techniques, the paternal power of the state is also presented within a calculable format under the care and rehabilitative facilities. As I argue throughout the chapter, the changing emphasis in discourses and practices serves to render the terrain of juvenile justice predictable and manageable. The conceptual apparatuses of the official thinking and technical means that are set in motion reconcile the normative apparatuses with legal formalism. Nevertheless, while I take the CPL as a governmental intervention, I do not claim there is an efficient, coherent and complete form of biopower that works through state’s bureaucratic channels. Rather, the contentious material effects of the

CPL can be traced within their entanglement with the existing conducts that it aims to regulate.

Chapter 4 dealt precisely with this relationship. I explored the relationship between the established practices and the substantializing of the CPL that inserted new stress on bureaucratic technicality and social work's expertise knowledge. By taking the existing problematisations regarding the JJS as entry points, I intended to depict the (in)compatibility of protection and punishment within the juvenile courts involving ambiguous, contradictory and conflictual practices. For that, I focused on two interrelated points that portray the effects of the JJS's 'factitious presence'. The persistency of the penal courts with their practices and procedures is one salient predicament for the aimed 'protection' in the JJS. In relation to that, operationalisation of protection procedures converges with the means of punishment. This cannot be explained by the lack of juvenile-specific bureaucratic means and efficiency. Rather, technically and formally accurate proceedings of protection cooperate with the penal format. This compatibility of protection and punishing, then, serves the increase in convictions, accusations and incarcerations. The other focus of this chapter was the determination process of criminal liability within juvenile courts that appeals to the relationship between scientific and legal fact. The extra-legal knowledges comprise the forensics and social workers that operate extensively within this domain and induce competing forms of judgments. As I argued in this chapter, the power of normalisation that is associated with these non-legal knowledge claims does not operate in a homogeneous way and leads to conflicts between forms of expertise as well as alliances. The tendency of legal judgement to appropriate the explanatory schema of forensics on the other hand (whether due to customary legal practices or the unequal distribution of

epistemological authority) largely leads to the assignment of criminal liability. The significance here resides partly in the law's prerogative of adjudicating an epistemology and appropriating this non-legal knowledge claim as part of substantialising its own facticity. Further, the very competing knowledge claims become the formalizing agents of the juridical domain. These lead to the reconciliation of the power's pervasive method of operating within the increasingly calculable domain, with the law's force to decide. The compatibility of the law's punitive decisions and disciplinary mechanisms present this governmental intervention as productive in that sense. Putting it differently, the increased bureaucratic network and calculability of the subjects attach the subjects to the legal mechanism as part of its persistence, whereas it does not provide the means for the subjects to pull themselves out.

While sketching out the power mechanisms that operate within juvenile courts after the enactment of the CPL, I tried to refrain from overarching conceptualisations in general. In particular, the analytical distinction between sovereign and disciplinary power that I use from Foucault's work does not indicate coherent and fully formed modalities. In a similar vein, as my fieldwork shows, one cannot appoint efficient governmentalization of the legal complex, either. Extra-legal knowledge is increasingly employed and set in motion to reshape individual and collective conducts. Yet the force of law with its effects does not diminish in significance. Rather, the CPL recasts the governmental realm concerning the children in the legal domain whereby the effects of power's partial forms can be traceable. So instead of detecting and defining the 'new' mode of power, these analytical tools help me to formulate different workings of power and their negotiations. As I tried to illustrate, entanglement of the assessment and classificatory practices with the

constitution of legal judgment is the key issue here. Accordingly, one implication of this study is the call for the concrete analysis of power through exploring the local mechanism. Therefore, it becomes possible to abandon the dichotomies in thinking different modalities of power which are not mutually exclusive.

In a similar vein, I tried abstain from articulating the changes made within the legal domain as merely as expressions of major transformations. The major shift in Foucauldian analysis refers to the alleged transition from sovereignty to discipline; normative workings of law superseding law's coercive effects. But also, as O'Malley and Valverde (2014) point out, 'the supposed "break" from sovereignty to discipline [is] being read as the watershed between the pre-modern and the modern.' (p. 318). Within this frame, the CPL would mean a modernising enactment with its disciplinary and normalising investments. However, I regarded the CPL as an intervention that reconfigures the knowledge/power matrix beyond the pre-given modern/pre-modern duality that subordinates the analysis to developmental paradigms. Thereby, the problematisations within JJS can break away from the discourses of 'underdevelopment' that is pinned by the dsyfunctioning of law and insufficiency of protection. Instead, I tried to show throughout the study how the notions of development and protection themselves are transfigured in Turkey's specific context. Another methodological implication of the study can be put forth in relation to this point. Rather than situating the inquiry within conventional diagrams, the accounting of the power's local forms of materialisation fashions the very analytical tools of this research, which further shows that these dynamic concepts acquire meaning within a particular setting.

Before concluding, I would like to briefly remark on the dominant criticisms of Turkey's legal domain. In public discourses as well as in various academic

studies, Turkey's juridical terrain is represented as malfunctioning, inadequate or merely as an instrument of state power. Here I did not simply disregard these interpretations but I attempted to highlight another aspect of it. By unfolding the dynamics of juvenile courts, I tried to show how a legal institution works, sustains itself and relates to different spheres such as scientific knowledge. Extending the inquiries on the workings of law, rather than composing the chronicles of what they fail to do, may reorient and expand the critical stance. It is precisely for this reason that dwelling upon what is made possible within the unfixed frontiers of law can also be a basis for confronting the existing legal mechanism.

APPENDIX

TASKS OF THE OFFICIALDOMS CONCERNING JUVENILES

1.2 ÇOCUK KORUMA KANUNUNDAN KAYNAKLANAN GÖREV, ROL VE SORUMLULUKLAR

Yerel Yönetimler	1. Korunma ihtiyacı olan çocuğu Aile ve Sosyal Politikalar Bakanlığı'na bildirmek (ÇKK 6). 2. Sosyal çalışma görevlilerinin çalışmaları sırasında kendilerine yardımcı olmak ve çocuk hakkında istenen bilgileri vermek (ÇKK 34). 3. Danışmanlık ve barınma tedbirlerlerini yerine getirmek (ÇKK 45). 4. Haklarında bakım veya barınmaya ilişkin tedbir kararı alınan ve tedbirin uygulanacağı kurum veya kuruluşa teslim edilen çocukların, izinsiz olarak kurum veya kuruluştan ayrılmaları durumunda tutanak tutarak, durumu, en seri iletişim araçları ile kolluk birimine bildirmek, mahkeme veya çocuk hakimine de bilgi vermek (Çocuk Koruma Kanununa Göre Verilen Koruyucu ve Destekleyici Tedbir Kararlarının Uygulanması Hakkında Yönetmelik 22). 5. Danışmanlık hizmeti verecek uzman kişilerin uygulayacakları mesleki çalışmalar ve programlara ilişkin standartları, uygulama esaslarını ve değerlendirme ölçütlerini belirlemek, uygulama usul ve esaslarını oluşturarak birer örneğini il ve ilçe koordinasyon makamları ile merkezi koordinasyonun sekretaryasına göndermek (Çocuk Koruma Kanununa Göre Verilen Koruyucu ve Destekleyici Tedbir Kararlarının Uygulanması Hakkında Yönetmelik 12). 6. Danışmanlık tedbirini uygulayacak uzmanları alanları da belirtilmek suretiyle tedbiri yerine getirmekle sorumlu kurumların taşra birimleri tarafından, il ve ilçelerdeki koordinasyon makamlarına, mahkeme veya çocuk hakimlerine bildirmek (Çocuk Koruma Kanununa Göre Verilen Koruyucu ve Destekleyici Tedbir Kararlarının Uygulanması Hakkında Yönetmelik 12).
Valilik	1. Koruyucu ve destekleyici tedbirlerin eşgüdüm halinde yerine getirilmesini sağlamak üzere kanunda öngörülen tedbir ve hizmetlerin hızlı, etkili, amaca uygun ve verimli yürütülmesini sağlamak (Çocuk Koruma Kanununa Göre Verilen Koruyucu ve Destekleyici Tedbir Kararlarının Uygulanması Hakkında Yönetmelik 20). 2. Tedbir kararlarının yerine getirileceği kurumların yapısı ve özellikleri ile tedbir kararlarını uygulayacak kişileri tespit ederek mahkemeleri bilgilendirmek (Çocuk Koruma Kanununa Göre Verilen Koruyucu ve Destekleyici Tedbir Kararlarının Uygulanması Hakkında Yönetmelik 20).

	3. Kanunun 6 ve 9 uncu maddelerine göre, çocuğun ihbarı ve Aile ve Sosyal Politikalar Bakanlığı'na teslimi ile başlayan süreçte; çocuğun tedavisi ve sosyal inceleme raporu ile benzeri hizmetlerin yerine getirilmesi için mekan ve personel tahsisi dahil olmak üzere gereken tüm tedbirlerin alınmasını sağlamak (Çocuk Koruma Kanununa Göre Verilen Koruyucu ve Destekleyici Tedbir Kararlarının Uygulanması Hakkında Yönetmelik 20).
Muhtarlar	1. Korunma ihtiyacı olan çocuğu Aile ve Sosyal Politikalar Bakanlığı'na bildirmek (ÇKK 6).
Sağlık Bakanlığı	1. Sağlık tedbirlerinin yerine getirilmesini sağlamak (ÇKK 45). 2. Çocukların rehabilitasyonu, eğitimi ve Bakanlığın görev alanına giren diğer hususlarla ilgili olarak Aile ve Sosyal Politikalar Bakanlığı tarafından yapılan her türlü yardım ve destek taleplerini geciktirilmeksizin yerine getirmek (ÇKK 45). 3. İl, ilçe ve merkezi koordinasyona katılmak (Çocuk Koruma Kanununa Göre Verilen Koruyucu ve Destekleyici Tedbir Kararlarının Uygulanması Hakkında Yönetmelik 19, 20, 21). 4. Gerektiğinde koordinasyon toplantılarında alınan tavsiye niteliğinde kararları, genelge veya duyuru halinde teşkilatlarına bildirmek (Çocuk Koruma Kanununa Göre Verilen Koruyucu ve Destekleyici Tedbir Kararlarının Uygulanması Hakkında Yönetmelik 19). 5. Sağlık kontrolü ve tedaviye ilişkin hizmetlerden doğan tüm giderleri karşılamak (Çocuk Koruma Kanununa Göre Verilen Koruyucu ve Destekleyici Tedbir Kararlarının Uygulanması Hakkında Yönetmelik, 14) 6. Sağlık ve bakım tedbirinin birlikte uygulanacağı hallerde, öncelikle suça sürüklenen veya korunma ihtiyacı olan çocuklardan tedavisi gereken ağır ruhsal hastalığı veya madde bağımlılığı nedeniyle fiziksel sorunları olanların rehabilitasyonu için resmi veya özel sağlık kuruluşlarının kurulmasını sağlamak (Çocuk Koruma Kanununa Göre Verilen Koruyucu ve Destekleyici Tedbir Kararlarının Uygulanması Hakkında Yönetmelik 14)
Sağlık Kuruluşları	1. Korunma ihtiyacı olan çocuğu Aile ve Sosyal Politikalar Bakanlığı'na bildirmek (ÇKK 6). 2. Sosyal çalışma görevlilerinin çalışmaları sırasında kendilerine yardımcı olmak ve çocuk hakkında istenen bilgileri vermek (ÇKK 34). 3. Tedbir kararları ile ilgili uygulama planı (çocuğun teslim edildiği ya da teslim alındığı tarihten itibaren en geç on gün içerisinde) ve periyodik olarak (en geç üçer aylık) değerlendirme raporu hazırlamak (Çocuk Koruma Kanununa Göre Verilen Koruyucu ve Destekleyici Tedbir Kararlarının Uygulanması Hakkında Yönetmelik 18). 4. Çocuğun Aile ve Sosyal Politikalar Bakanlığı'na teslim edileceği hallerde, çocuğun ilk sağlık kontrolünü yapmak (Çocuk Koruma Kanununa Göre Verilen Koruyucu ve Destekleyici Tedbir Kararlarının Uygulanması Hakkında Yönetmelik 14). 5. Bulaşıcı hastalığı olan çocukların tedavisini gerçekleştirmek (Çocuk Koruma Kanununa Göre Verilen Koruyucu ve Destekleyici Tedbir Kararlarının Uygulanması Hakkında Yönetmelik 14). 6. Mahkeme veya çocuk hakiminin acil korunma kararı veya koruyucu ve destekleyici tedbir kararlarını vermeden önce çocuğun sağlık durumu hakkında istediği raporu vermek (Çocuk Koruma Kanununa Göre Verilen Koruyucu ve Destekleyici Tedbir Kararlarının Uygulanması Hakkında Yönetmelik 16). 7. Sağlık kurulunca düzenlenen rapora göre toplum açısından tehlikeli olan suça sürüklenen veya korunma ihtiyacı olan akıl hastası çocukların yüksek güvenlikli sağlık kurumlarında korunma ve tedavi altına alınmasını sağlamak (Çocuk Koruma Kanununa Göre Verilen Koruyucu Ve Destekleyici Tedbir Kararlarının Uygulanması Hakkında Yönetmelik 16).

Milli Eğitim Bakanlığı	1. Danışmanlık, barınma ve eğitim tedbirlerinin yerine getirilmesini sağlamak (ÇKK 45). 2. Çocukların rehabilitasyonu, eğitimi ve Bakanlığın görev alanına giren diğer hususlarla ilgili olarak Aile ve Sosyal Politikalar Bakanlığı tarafından yapılan her türlü yardım ve destek taleplerini geciktirilmeksizin yerine getirmek (ÇKK 45). 3. İl, ilçe ve merkezi koordinasyona katılmak (Çocuk Koruma Kanununa Göre Verilen Koruyucu Ve Destekleyici Tedbir Kararlarının Uygulanması Hakkında Yönetmelik 19). 4. Gerektiğinde koordinasyon toplantılarında alınan tavsiye niteliğinde kararları, genelge veya duyuru halinde teşkilatlarına bildirmek (Çocuk Koruma Kanununa Göre Verilen Koruyucu Ve Destekleyici Tedbir Kararlarının Uygulanması Hakkında Yönetmelik 19). 5. Hiç eğitim almamış veya zorunlu eğitimini yarıda bırakmış, zorunlu eğitim yaşını tamamlamış olup haklarında koruyucu ve destekleyici tedbir kararı verilen çocukların; eğitimlerini sürdürebilmeleri, kapasitelerini geliştirebilmeleri, iş ve meslek edinebilmeleri amacıyla gerekli önlemleri almak (Çocuk Koruma Kanununa Göre Verilen Koruyucu Ve Destekleyici Tedbir Kararlarının Uygulanması Hakkında Yönetmelik 13).
Eğitim Kuruluşları	1. Korunma ihtiyacı olan çocuğu Aile ve Sosyal Politikalar Bakanlığı'na bildirmek (ÇKK 6). 2. Sosyal çalışma görevlilerinin çalışmaları sırasında kendilerine yardımcı olmak ve çocuk hakkında istenen bilgileri vermek (ÇKK 34). 3. Tedbir kararları ile ilgili uygulama planı (çocuğun teslim edildiği ya da teslim alındığı tarihten itibaren en geç on gün içerisinde) ve periyodik olarak (en geç üçer aylık) değerlendirme raporu hazırlamak (Çocuk Koruma Kanununa Göre Verilen Koruyucu Ve Destekleyici Tedbir Kararlarının Uygulanması Hakkında Yönetmelik 18). 4. Danışmanlık hizmeti verecek uzman kişilerin uygulayacakları mesleki çalışmalar ve programlara ilişkin standartları, uygulama esaslarını ve değerlendirme ölçütlerini belirlemek, uygulama usul ve esaslarını oluşturarak birer örneğini il ve ilçe koordinasyon makamları ile merkezi koordinasyonun sekretaryasına göndermek (Çocuk Koruma Kanununa Göre Verilen Koruyucu Ve Destekleyici Tedbir Kararlarının Uygulanması Hakkında Yönetmelik 12). 5. Danışmanlık tedbirini uygulayacak uzmanları alanları da belirtilmek suretiyle tedbiri yerine getirmekle sorumlu kurumların taşra birimleri tarafından, il ve ilçelerdeki koordinasyon makamlarına, mahkeme veya çocuk hakimlerine bildirmek (Çocuk Koruma Kanununa Göre Verilen Koruyucu Ve Destekleyici Tedbir Kararlarının Uygulanması Hakkında Yönetmelik 12). 6. Milli Eğitim Bakanlığı ve Çalışma ve Sosyal Güvenlik Bakanlığı ile Türkiye İş Kurumu Genel Müdürlüğü, özel eğitime gereksinim duyan engelli çocuklar için eğitim tedbirinin uygulanmasına ilişkin ilde yapılan faaliyet ve programlar hakkında mahkeme veya çocuk hakimi ile il ve ilçelerdeki koordinasyon makamlarına periyodik olarak bilgi vermek (Çocuk Koruma Kanununa Göre Verilen Koruyucu Ve Destekleyici Tedbir Kararlarının Uygulanması Hakkında Yönetmelik 13).
Sivil toplum Kuruluşları	1. Korunma ihtiyacı olan çocuğu Aile ve Sosyal Politikalar Bakanlığı'na bildirmek (ÇKK 6).

Çalışma ve Sosyal Güvenlik Bakanlığı	1. Eğitim tedbirinin yerine getirilmesini sağlamak (ÇKK 45). 2. Çocukların rehabilitasyonu, eğitimi ve Bakanlığın görev alanına giren diğer hususlarla ilgili olarak Aile ve Sosyal Politikalar Bakanlığı tarafından yapılan her türlü yardım ve destek taleplerini geciktirilmeksizin yerine getirmek (ÇKK 45). 3. Tedbir kararları ile ilgili uygulama planı (çocuğun teslim edildiği ya da teslim alındığı tarihten itibaren en geç on gün içerisinde) ve periyodik olarak (en geç üçer aylık) değerlendirme raporu hazırlamak (Çocuk Koruma Kanununa Göre Verilen Koruyucu Ve Destekleyici Tedbir Kararlarının Uygulanması Hakkında Yönetmelik 18). 4. İl, ilçe ve merkezi koordinasyona katılmak (Çocuk Koruma Kanununa Göre Verilen Koruyucu Ve Destekleyici Tedbir Kararlarının Uygulanması Hakkında Yönetmelik 19). 5. Gerektiğinde koordinasyon toplantılarında alınan tavsiye niteliğinde kararları, genelge veya duyuru halinde teşkilatlarına bildirmek (Çocuk Koruma Kanununa Göre Verilen Koruyucu Ve Destekleyici Tedbir Kararlarının Uygulanması Hakkında Yönetmelik 19). 6. Hiç eğitim almamış veya zorunlu eğitimini yarıda bırakmış, zorunlu eğitim yaşını tamamlamış olup haklarında koruyucu ve destekleyici tedbir kararı verilen çocukların; eğitimlerini sürdürebilmeleri, kapasitelerini geliştirebilmeleri, iş ve meslek edinebilmeleri amacıyla gerekli önlemleri almak (Çocuk Koruma Kanununa Göre Verilen Koruyucu Ve Destekleyici Tedbir Kararlarının Uygulanması Hakkında Yönetmelik 13). 7. Milli Eğitim Bakanlığı ve Çalışma ve Sosyal Güvenlik Bakanlığı ile Türkiye İş Kurumu Genel Müdürlüğü, özel eğitime gereksinim duyan engelli çocuklar için eğitim tedbirinin uygulanmasına ilişkin ilde yapılan faaliyet ve programlar hakkında mahkeme veya çocuk hakimi ile il ve ilçelerdeki koordinasyon makamlarına periyodik olarak bilgi vermek (Çocuk Koruma Kanununa Göre Verilen Koruyucu Ve Destekleyici Tedbir Kararlarının Uygulanması Hakkında Yönetmelik 13).
Aile ve Sosyal Politikalar Bakanlığı	1. Danışmanlık, bakım, barınma tedbirlerinin yerine getirilmesini sağlamak (ÇKK 45). 2. Adli ve idari mercilerden, kolluk görevlilerinden, sağlık ve eğitim kuruluşlarından ve sivil toplum kuruluşlarından gelecek bildirimleri almak (ÇKK 6). 3. Kendisine bildirilen olaylarla ilgili olarak gerekli araştırmayı derhal yapmak (ÇKK 6; Çocuk Koruma Kanununun Uygulanmasına İlişkin Usul Ve Esaslar Hakkında Yönetmelik 5). 4. Koruyucu ve destekleyici tedbir kararı alınması gereken hallerde çocuk hakkında Yönetmeliğin 21 inci maddesine uygun olarak sosyal inceleme raporu hazırlamak, talep yazısı ekinde mahkemeye veya çocuk hakimine sunmak ve raporunun bir örneğini soruşturmayı yapan Cumhuriyet savcılığına göndermek (Çocuk Koruma Kanununun Uygulanmasına İlişkin Usul Ve Esaslar Hakkında Yönetmelik 5). 5. Çocuklar hakkında koruyucu ve destekleyici tedbir kararı uygulanmasını çocuk mahkemesinden istemek (ÇKK 7). 6. Tedbirin kaldırılmasını, süresinin uzatılmasını veya değiştirilmesini çocuk hakiminden talep etmek (ÇKK 8). 7. Çocuğun korunma ihtiyacı içinde bulunduğunun bildirimi ya da tespiti veya hakkında acil korunma kararı almak için beklemenin, çocuğun yararına aykırı olacağını gösteren nedenlerin varlığı halinde, durumun gerektirdiği önlemleri almak suretiyle çocuğu derhal Aile ve Sosyal Politikalar Bakanlığı'na teslim eden kolluktan çocuğu teslim almak (ÇKK 31).

	8. Kendisine intikal eden olaylarda gerekli önlemleri derhal alarak çocuğu, resmi veya özel kuruluşlara yerleştirmek (ÇKK 10). 9. Kolluk tarafından getirilen çocukların derhal teslim alınabilmesi için gerekli önlemleri almak (Çocuk Koruma Kanununun Uygulanmasına İlişkin Usul Ve Esaslar Hakkında Yönetmelik 16). 10. Derhal korunma altına alınmasını gerektiren bir durumun varlığı halinde çocuğu, bakım ve gözetim altına almak; acil korunma kararının alınması için çocuğun Kuruma geldiği tarihten itibaren en geç beş gün içinde çocuk hakimine müracaat etmek (ÇKK 9). 11. Acil korunma kararının süresi içerisinde (en fazla otuz gün) çocuk hakkında sosyal inceleme yaparak, tedbir kararı alınması gerekip gerekmediği hakkındaki görüşü ve sağlanacak hizmetleri hakime bildirmek, gerektiğinde koruyucu ve destekleyici tedbir kararı verilmesini talep etmek (ÇKK 9). 12. Sosyal çalışma görevlilerinin çalışmaları sırasında kendilerine yardımcı olmak ve çocuk hakkında istenen bilgileri vermek (ÇKK 34). 13. Haklarında bakım veya barınmaya ilişkin tedbir kararı alınan ve tedbirin uygulanacağı kurum veya kuruluşa teslim edilen çocukların, izinsiz olarak kurum veya kuruluştan ayrılmaları durumunda tutanak tutarak, durumu, en seri iletişim araçları ile kolluk birimine bildirmek, mahkeme veya çocuk hakimine de bilgi vermek (Çocuk Koruma Kanununa Göre Verilen Koruyucu Ve Destekleyici Tedbir Kararlarının Uygulanması Hakkında Yönetmelik 22). 14. İllerde koordinasyonun sekretarya hizmetlerini yürütmek (Çocuk Koruma Kanununa Göre Verilen Koruyucu Ve Destekleyici Tedbir Kararlarının Uygulanması Hakkında Yönetmelik 20). 15. Tedbir kararları ile ilgili uygulama planı (çocuğun teslim edildiği ya da teslim alındığı tarihten itibaren en geç on gün içerisinde) ve periyodik olarak (en geç üçer aylık) değerlendirme raporu hazırlamak (Çocuk Koruma Kanununa Göre Verilen Koruyucu Ve Destekleyici Tedbir Kararlarının Uygulanması Hakkında Yönetmelik 18). 16. İl, ilçe ve merkezi koordinasyona katılmak (Çocuk Koruma Kanununa Göre Verilen Koruyucu Ve Destekleyici Tedbir Kararlarının Uygulanması Hakkında Yönetmelik 19). 17. Gerektiğinde koordinasyon toplantılarında alınan tavsiye niteliğinde kararları, genelge veya duyuru halinde teşkilatlarına bildirmek (Çocuk Koruma Kanununa Göre Verilen Koruyucu Ve Destekleyici Tedbir Kararlarının Uygulanması Hakkında Yönetmelik 19). 18. Bakım veya barınma tedbir kararı alınan ve ihmal veya istismara uğrayan, psiko-sosyal sorunları nedeniyle uyum sorunu yaşayanlar ile olumsuz yaşam deneyimlerini devam ettirmeleri nedeniyle rehabilitasyona ihtiyacı olduğu tespit edilen çocukların, bu amaçla kurulmuş merkezlerde rehabilitasyonlarını sağlamak (Çocuk Koruma Kanununa Göre Verilen Koruyucu Ve Destekleyici Tedbir Kararlarının Uygulanması Hakkında Yönetmelik 14). 19. Danışmanlık hizmeti verecek uzman kişilerin uygulayacakları mesleki çalışmalar ve programlara ilişkin standartları, uygulama esaslarını ve değerlendirme ölçütlerini belirlemek, uygulama usul ve esaslarını oluşturarak birer örneğini il ve ilçe koordinasyon makamları ile merkezi koordinasyonun sekretaryasına göndermek (Çocuk Koruma Kanununa Göre Verilen Koruyucu Ve Destekleyici Tedbir Kararlarının Uygulanması Hakkında Yönetmelik 12).

	20. Danışmanlık tedbirini uygulayacak uzmanları alanları da belirtilmek suretiyle tedbiri yerine getirmekle sorumlu kurumların taşra birimleri tarafından, il ve ilçelerdeki koordinasyon makamlarına, mahkeme veya çocuk hakimlerine bildirmek (Çocuk Koruma Kanununa Göre Verilen Koruyucu Ve Destekleyici Tedbir Kararlarının Uygulanması Hakkında Yönetmelik 12). 21. İl ve ilçe sosyal hizmet müdürlükleri, korunma ihtiyacı olan çocuklar hakkında basın ve yayın organları ile benzeri iletişim araçlarında çıkan haberleri ve her türlü duyumu ihbar kabul ederek ayrıca bir resmi duyuru gelmesini beklemeden harekete geçerek bunları araştırmakla yükümlüdür (Çocuk Koruma Kanununa Göre Verilen Koruyucu Ve Destekleyici Tedbir Kararlarının Uygulanması Hakkında Yönetmelik 6). 22. İl ve ilçe sosyal hizmet müdürlükleri, çevrelerinde korunma ihtiyacı olan Kurum hizmetinden yararlanamayan çocukları tespit etmek ve gerekli tedbirleri almak amacıyla ilgili kurum ve kuruluşlarla işbirliği içerisinde bulunur (Çocuk Koruma Kanununa Göre Verilen Koruyucu Ve Destekleyici Tedbir Kararlarının Uygulanması Hakkında Yönetmelik 6). 23. Yapılan inceleme sonucu, müracaatçının gereksinim ve aciliyet durumu göz önünde bulundurularak, Kurumun vermiş olduğu hizmet modellerine ya da ilgili kurumlara yönlendirme yapmak (Çocuk Koruma Kanununa Göre Verilen Koruyucu Ve Destekleyici Tedbir Kararlarının Uygulanması Hakkında Yönetmelik 6).
İçişleri Bakanlığı	1. Çocukların rehabilitasyonu, eğitimi ve Bakanlığın görev alanına giren diğer hususlarla ilgili olarak Aile ve Sosyal Politikalar Bakanlığı tarafından yapılan her türlü yardım ve destek taleplerini geciktirilmeksizin yerine getirmek (ÇKK 45). 2. İl, ilçe ve merkezi koordinasyona katılmak (Çocuk Koruma Kanununa Göre Verilen Koruyucu Ve Destekleyici Tedbir Kararlarının Uygulanması Hakkında Yönetmelik 19). 3. Gerektiğinde koordinasyon toplantılarında alınan tavsiye niteliğinde kararları, genelge veya duyuru halinde teşkilatlarına bildirmek (Çocuk Koruma Kanununa Göre Verilen Koruyucu Ve Destekleyici Tedbir Kararlarının Uygulanması Hakkında Yönetmelik 19).
Kolluk	1. Korunma ihtiyacı olan çocuğu Aile ve Sosyal Politikalar Bakanlığı'na bildirmek (ÇKK 6). 2. Kolluğun çocuk biriminin bulunmadığı yerlerde çocukların, gözaltına alınan yetişkinlerden ayrı bir yerde tutulmasını sağlamak (ÇKK 16). 3. Nakiller sırasında çocuklara zincir, kelepçe ve benzeri aletler takılmasını engellemek ve ancak; zorunlu hallerde çocuğun kaçmasını, kendisinin veya başkalarının hayat veya beden bütünlükleri bakımından doğabilecek tehlikeleri önlemek için kolluk tarafından gerekli önlem alınmasını sağlamak (ÇKK 18). 4. Sosyal çalışma görevlilerinin çalışmaları sırasında kendilerine yardımcı olmak ve çocuk hakkında istenen bilgileri vermek (ÇKK 34) 5. Bakım ve barınma tedbirlerinin yerine getirilmesi sırasında ihtiyaç duyulan kolluk hizmetlerinin yerine getirilmesi (ÇKK 45). 6. Hakkında tedbir kararı verilen ve bulunamayan çocuğu bulmak ve ilgili kuruma teslim etmek (Çocuk Koruma Kanununa Göre Verilen Koruyucu Ve Destekleyici Tedbir Kararlarının Uygulanması Hakkında Yönetmelik 22). 7. Çocuğun Aile ve Sosyal Politikalar Bakanlığı'na teslim edileceği hallerde, çocuğun ilk sağlık kontrolünü yaptırmak (Çocuk Koruma Kanununa Göre Verilen Koruyucu Ve Destekleyici Tedbir Kararlarının Uygulanması Hakkında Yönetmelik 14).

Kolluğun Çocuk Birimi	1. Gözaltına alınan çocuklar, kolluğun çocuk biriminde tutulur (ÇKK 16). 2. Nakiller sırasında çocuklara zincir, kelepçe ve benzeri aletler takılmasını engellemek ve ancak zorunlu hallerde çocuğun kaçmasını, kendisinin veya başkalarının hayat veya beden bütünlükleri bakımından doğabilecek tehlikeleri önlemek için gerekli önlem alınmasını sağlamak (ÇKK 18). 3. Çocuklarla ilgili kolluk görevlerini yerine getirmek (ÇKK 31). 4. Korunma ihtiyacı olan veya suça sürüklenen çocuklar hakkında işleme başlandığında durumu, çocuğun veli veya vasisine veya çocuğun bakımını üstlenen kimseye, baroya ve Aile ve Sosyal Politikalar Bakanlığı'na, çocuk resmi bir kurumda kalıyorsa ayrıca kurum temsilcisine bildirmek (ancak, çocuğu suça azmettirdiğinden veya istismar ettiğinden şüphelenilen yakınlarına bilgi verilmez) (ÇKK 31). 5. Çocuğun, kollukta bulunduğu sırada yanında yakınlarından birinin bulunmasına imkan sağlamak (ÇKK 31). 6. Çocuğu suça azmettirdiğinden veya istismar ettiğinden şüphelenilen yakınlarına bilgi verilmemesi halinde, bu durumu tutanak altına alarak soruşturma dosyası içine konulmak üzere derhal Cumhuriyet savcısına bildirmek (Çocuk Koruma Kanununun Uygulanmasına İlişkin Usul Ve Esaslar Hakkında Yönetmelik 16). 7. Personeline, çocuk hukuku, çocuk suçluluğunun önlenmesi, çocuk gelişimi ve psikolojisi, sosyal hizmet gibi konularda eğitim vermek (ÇKK 31). 8. Çocuğun korunma ihtiyacı içinde bulunduğunun bildirimi ya da tespiti veya hakkında acil korunma kararı almak için beklemenin, çocuğun yararına aykırı olacağını gösteren nedenlerin varlığı halinde, durumun gerektirdiği önlemleri almak suretiyle çocuğun güvenliğini sağlamak ve mümkün olan en kısa sürede çocuğu Aile ve Sosyal Politikalar Bakanlığı'na teslim etmek (ÇKK 31). 9. Sosyal çalışma görevlilerinin çalışmaları sırasında kendilerine yardımcı olmak ve çocuk hakkında istenen bilgileri vermek (ÇKK 34). 10. Kolluğun çocuk birimi, suça sürüklenen çocuğun aileye teslimini gerektiren hallerde; çocuğun teslim edileceği veli, vasi, kanuni temsilci veya bakımını üstlenen kimseleri bulamaz ya da bunların çocuğu suça azmettirdiğinden veya istismar ettiğinden şüphelendiğinde bu kişilere teslim edemez. Cumhuriyet savcısının talimatını alarak Aile ve Sosyal Politikalar Bakanlığı'na teslim eder (Çocuk Koruma Kanununun Uygulanmasına İlişkin Usul Ve Esaslar Hakkında Yönetmelik 16). 11. Teslim ettiği çocuğun veli, vasi, kanuni temsilcisi veya bakımını üstlenen kimselerin çocuğa yeterli rehberliği sunamadığı veya çocuğu yeterince gözetemediği hususlarında bilgi edinmesi halinde durumu Aile ve Sosyal Politikalar Bakanlığı'na derhal bildirmek (Çocuk Koruma Kanununun Uygulanmasına İlişkin Usul Ve Esaslar Hakkında Yönetmelik 16) .

Cumhuriyet Başsavcılığı	1. Korunma ihtiyacı olan çocuğu Aile ve Sosyal Politikalar Bakanlığı'na, bildirmek (ÇKK 6: Çocuk Koruma Kanununun Uygulanmasına İlişkin Usul Ve Esaslar Hakkında Yönetmelik 5) 2. Cumhuriyet başsavcılıklarında bir çocuk bürosu kurmak ve 28 inci maddenin birinci fıkrasında öngörülen nitelikleri haiz olanlar arasından yeterli sayıda Cumhuriyet savcısının, bu büroda görevlendirilmesini sağlamak (ÇKK 29). 3. Gecikmesinde sakınca bulunan hallerde, çocuk bürosunun görevlerinin yerine getirilmesini sağlamak (ÇKK 30). 4. Sosyal çalışma görevlilerinin çalışmaları sırasında kendilerine yardımcı olmak ve çocuk hakkında istenen bilgileri vermek (ÇKK 34).
Cumhuriyet Savcılığı Çocuk Bürosu	1. Korunma ihtiyacı olan çocuk hakkında tedbir kararı verilmesini çocuk hakiminden istemek (ÇKK 7, 15; Çocuk Koruma Kanununun Uygulanmasına İlişkin Usul Ve Esaslar Hakkında Yönetmelik 5) 2. Gerektiğinde tedbir kararı verilmeden önce çocuk hakkında sosyal inceleme yaptırmak (ÇKK 7). 3. Tedbirin kaldırılmasını, süresinin uzatılmasını veya değiştirilmesini çocuk hakiminden talep etmek (ÇKK 8). 4. Suça sürüklenen çocuk hakkındaki soruşturmları yürütmek (çocuk bürosunda görevli Cumhuriyet savcısı tarafından bizzat yapılır) (ÇKK 15). 5. Gerektiğinde çocuğun ifadesinin alınması veya çocuk hakkındaki diğer işlemler sırasında, çocuğun yanında sosyal çalışma görevlisi bulundurmak (ÇKK 15). 6. Suça sürüklenen çocuklar hakkındaki soruşturma işlemlerini yürütmek (ÇKK 30). 7. Çocuklar hakkında tedbir alınması gereken durumlarda, gecikmeksizin tedbir alınmasını sağlamak (ÇKK 30). 8. Korunma ihtiyacı olan, suç mağduru veya suça sürüklenen çocuklardan yardıma, eğitime, işe, barınmaya ihtiyacı olan veya uyum güçlüğü çekenlere ihtiyaç duydukları destek hizmetlerini sağlamak üzere, ilgili kamu kurum ve kuruluşları ve sivil toplum kuruluşlarıyla işbirliği içinde çalışmak, bu gibi durumları çocukları korumakla görevli kurum ve kuruluşlara bildirmek (ÇKK 30). 9. Sosyal çalışma görevlilerinin çalışmaları sırasında kendilerine yardımcı olmak ve çocuk hakkında istenen bilgileri vermek (ÇKK 34). 10. Kamu davasının açılmasının ertelenmesine dair kararların saklandığı özel bir karton tutmak (Çocuk Koruma Kanununun Uygulanmasına İlişkin Usul Ve Esaslar Hakkında Yönetmelik 38). 11. Denetim altına alınan çocuklar hakkında verilen kararların tarih ve sıra numarasına göre saklandığı özel bir karton tutmak, çocukların isimlerini ve karar numaralarını gösteren bir liste yapmak ve bu listeleri, çocuk hakkında mükerrer karar verilmesini önlemek için o yerde bulunan çocuk ve çocuk ağır ceza mahkemelerine bildirmek (Çocuk Koruma Kanununun Uygulanmasına İlişkin Usul Ve Esaslar Hakkında Yönetmelik 38). 12. Sosyal inceleme raporu örneklerinin kartonunu tutmak, isme göre listelemek ve listelerin birer örneğini, her ay güncelleyerek aynı yerde bulunan çocuk ve çocuk ağır ceza mahkemeleri ile Cumhuriyet başsavcılığına bilgileri bakımından göndermek (Çocuk Koruma Kanununun Uygulanmasına İlişkin Usul Ve Esaslar Hakkında Yönetmelik 39).

Sosyal Çalışma Görevlisi	1. Görevlendirildikleri çocuk hakkında derhal sosyal inceleme yapmak, hazırladıkları raporları kendilerini görevlendiren mercie sunmak (ÇKK 34). 2. Suça sürüklenen çocuğun ifadesinin alınması veya sorgusu sırasında yanında bulunmak (ÇKK 34). 3. Mahkeme veya hakim tarafından çocuğun sorgusu veya çocuk hakkındaki diğer işlemler sırasında çocuğun yanında bulunmak üzere görevlendirildiğinde, çocuğa bu süreçte haklarını öğretmek, yargılama süreci hakkında bilgilendirmek ve kendini güvende hissetmesi, süreci anlaması ve görüşlerini serbestçe ifade etmesi için ona yardım etmek (Çocuk Koruma Kanununun Uygulanmasına İlişkin Usul Ve Esaslar Hakkında Yönetmelik 13). 4. Bu Kanun kapsamında mahkemeler ve çocuk hakimleri tarafından verilen diğer görevleri yerine getirmektir (ÇKK 34). 5. Çocuğa psiko-sosyal desteği sağlamak üzere gerekli rehberliği yapmak, çocuğun örselenmemesi için gerekli önlemleri almak (Çocuk Koruma Kanununun Uygulanmasına İlişkin Usul Ve Esaslar Hakkında Yönetmelik 18). 6. Suça sürüklenen çocuğun ifadesinin alınması veya sorgusu sırasında adalet mekanizmasının işleyişinden olumsuz etkilenmesini önlemek amacıyla çocuğun yanında bulunmak, çocuğun hakları ile kendisine yöneltilen suçlama dahil olmak üzere yargılama süreci hakkında anlayabileceği bir dilde bilgilendirilmesini sağlamak, korunma ihtiyacı olan çocuklar hakkında da benzeri işlemleri ifa etmek (Çocuk Koruma Kanununun Uygulanmasına İlişkin Usul Ve Esaslar Hakkında Yönetmelik 19). 7. Sosyal inceleme, gözetim ve denetim yapmasını engelleyen durumların ortaya çıkması halinde durumu derhal görevlendirildikleri mercie bildirerek gerekli önlemlerin alınmasını istemek (Çocuk Koruma Kanununun Uygulanmasına İlişkin Usul Ve Esaslar Hakkında Yönetmelik 19). 8. Çocukla ilgili kararların yerine getirilmesinde veya çocuğun kapasitesinin araştırılması ile görevli adli mercilerce tayin edilen uzmanlar dahil olmak üzere ilgili kurum ve kuruluş yetkilileri ile çocuk hakkındaki kararın amaca ulaşmasını sağlamak üzere işbirliği yapmak ve uzmanlık alanına giren konularda görüşlerini bildirmek suretiyle bu kişilere yardımcı olmak (Çocuk Koruma Kanununun Uygulanmasına İlişkin Usul Ve Esaslar Hakkında Yönetmelik 19). 9. İşbirliği yapılabilecek toplumsal kaynakları ve işbirliği olanaklarını araştırmak ve geliştirmek (Çocuk Koruma Kanununun Uygulanmasına İlişkin Usul Ve Esaslar Hakkında Yönetmelik 19). 10. Koruyucu ve destekleyici tedbir kararı verilen çocuk hakkında mahkeme veya çocuk hakimince kendisine görev verildiği hallerde kararın uygulanması, takibi ve denetimine ilişkin inceleme yapmak (Çocuk Koruma Kanununun Uygulanmasına İlişkin Usul Ve Esaslar Hakkında Yönetmelik 19).

Çocuk Hakimi	1. Korunma ihtiyacı olan çocuğu Aile ve Sosyal Politikalar Bakanlığı'na bildirmek (ÇKK 6). 2. Çocuğun anası, babası, vasisi, bakım ve gözetiminden sorumlu kimse, Aile ve Sosyal Politikalar Bakanlığı ve Cumhuriyet savcısının istemi üzerine veya re'sen çocuklar hakkında koruyucu ve destekleyici tedbir kararı vermek (ÇKK 7). 3. Gerektiğinde tedbir kararı vermeden önce çocuk hakkında sosyal inceleme yaptırmak (ÇKK 7). 4. Talep üzerine veya re'sen, çocuğun gelişimini göz önünde bulundurarak koruyucu ve destekleyici tedbirin kaldırılmasına, sürenin uzatılmasına veya değiştirilmesine karar vermek (ÇKK 7, 8). 5. Gerektiğinde hakkında koruyucu ve destekleyici tedbire karar verdiği çocuğun denetim altına alınmasına da karar vermek (ÇKK 7). 6. Korunma ihtiyacı olan çocuk hakkında, koruyucu ve destekleyici tedbir kararının yanında 22.11.2001 tarihli ve 4721 sayılı Türk Medeni Kanunu hükümlerine göre velayet, vesayet, kayyım, nafaka ve kişisel ilişki kurulması hususlarında karar vermek (ÇKK 7). 7. Tedbir kararlarının uygulanmasını, en geç üçer aylık sürelerle incelettirmek (ÇKK 8). 8. Derhal korunma altına alınmasını gerektiren bir durumun varlığı halinde Aile ve Sosyal Politikalar Bakanlığı tarafından bakım ve gözetim altına alındıktan sonra acil korunma kararının alınması için müracaat edilen çocuk ile ilgili talep hakkında üç gün içinde karar vermek (ÇKK 9). 9. Gerektiğinde çocuğun bulunduğu yerin gizli tutulmasına veya kişisel ilişkinin tesisine karar vermek (ÇKK 9). 10. Koruma altına alınmış çocuğun, ailesine teslim edilip edilmeyeceğine veya uygun görülen başkaca bir tedbire karar vermek (ÇKK 9). 11. Gerektiğinde çocuğun sorgusu veya çocuk hakkındaki diğer işlemler sırasında çocuğun yanında sosyal çalışma görevlisi bulundurmak (ÇKK 22). 12. Çocuk Koruma Kanunu'nda ve diğer kanunlarda yer alan tedbirleri almak (ÇKK 26). 13. Koruyucu ve destekleyici tedbir kararlarını tutulacak koruyucu ve destekleyici tedbir kararları defterine kaydetmek (Çocuk Koruma Kanununa Göre Verilen Koruyucu Ve Destekleyici Tedbir Kararlarının Uygulanması Hakkında Yönetmelik 22).
Çocuk Mahkemesi	1. Duruşmanın ve duruşmada hazır bulunma hak ve yükümlülüğünü çocuğun velisi, vasisi, mahkemece görevlendirilmiş sosyal çalışma görevlisi, çocuğun bakımını üstlenen aile ve kurumda bakılıyorsa kurumun temsilcisine bildirmek (ÇKK 22). 2. Çocuğun yararının aksini gerektirdiği durumlarda buna karar vermek (ÇKK 22). 3. Gerektiğinde çocuğun sorgusu veya çocuk hakkındaki diğer işlemler sırasında çocuğun yanında sosyal çalışma görevlisi bulundurmak (ÇKK 22). 4. Suça sürüklenen çocuklarla ilgili davalara bakmak (ÇKK 26). 5. Çocuk Koruma Kanunu'nda ve diğer kanunlarda yer alan tedbirleri almak (ÇKK 26). 6. Sosyal inceleme raporu örneklerinin kartonunu tutmak, isme göre listelemek ve listelerin birer örneğini, her ay güncelleyerek aynı yerde bulunan çocuk ve çocuk ağır ceza mahkemeleri ile Cumhuriyet başsavcılığına bilgileri bakımından göndermek (Çocuk Koruma Kanununun Uygulanmasına İlişkin Usul Ve Esaslar Hakkında Yönetmelik 39). 7. Koruyucu ve destekleyici tedbir kararlarını tutulacak koruyucu ve destekleyici tedbir kararları defterine kaydetmek (Çocuk Koruma Kanununa Göre Verilen Koruyucu Ve Destekleyici Tedbir Kararlarının Uygulanması Hakkında Yönetmelik 22).

Denetim görevlisi	1. Korunma ihtiyacı olan çocuğu Aile ve Sosyal Politikalar Bakanlığı'na bildirmek (ÇKK 6). 2. Tedbirin kaldırılmasını, süresinin uzatılmasını veya değiştirilmesini çocuk hakiminden talep etmek (ÇKK 8). 3. Sosyal çalışma görevlilerinin çalışmaları sırasında kendilerine yardımcı olmak ve çocuk hakkında istenen bilgileri vermek (ÇKK 34). 4. Kararla ulaşılmak istenen amacın gerçekleşmesi için çocuğun eğitim, aile, kurum, iş ve sosyal çevreye uyumunu sağlamak üzere onu desteklemek, yardımcı olmak, gerektiğinde önerilerde bulunmak (ÇKK 38). 5. Çocuğa eğitim, iş, destek alabileceği kurumlar, hakları ve haklarını kullanma konularında rehberlik etmek (ÇKK 38). 6. İhtiyaç duyacağı hizmetlerden yararlanmasında çocuğa yardımcı olmak (ÇKK 38; Çocuk Koruma Kanununun Uygulanmasına İlişkin Usul Ve Esaslar Hakkında Yönetmelik 25). 7. Kaldığı yerleri ve ilişki kurduğu kişileri ziyaret ederek çocuğun içinde yaşadığı şartları, ailesi ve çevresiyle ilişkilerini, eğitim ve iş durumunu, boş zamanlarını değerlendirme faaliyetlerini yerinde incelemek (ÇKK 38, ÇKKKY 25). 8. Alınan kararın uygulanmasını, bu uygulamanın sonuçlarını ve çocuk üzerindeki etkilerini izlemek, tabi tutulduğu yükümlülüklerin yerine getirilmesini denetlemek (ÇKK 38). 9. Çocuğun gelişimi hakkında, üçer aylık sürelerle ve ayrıca talep edildiğinde Cumhuriyet savcısı veya mahkemeye rapor vermek (ÇKK 38, 39). 10. Görevini yerine getirirken gerektiğinde çocuğun ana ve babası, vasisi, bakım ve gözetiminden sorumlu kimse ve öğretmenleriyle işbirliği yapmak (ÇKK 38, ÇKKKY 25). 11. Çocuğa uygulanacak denetimin yöntemini, sosyal incelemeyi yapan uzman veya mahkeme nezdindeki sosyal çalışma görevlisi ile birlikte, görevlendirmeyi takip eden on gün içinde hazırlanacak bir planla belirlemek (ÇKK 39). 12. Denetim planını, mahkeme veya çocuk hakiminin onayına sunmak (ÇKK 39). 13. Tedbir ve denetim kararı ile ulaşılmak istenen amacın gerçekleşmesi için çocuğun eğitim, aile, kurum, iş ve sosyal çevreye uyumunu sağlamak üzere onu desteklemek, yardımcı olmak, gerektiğinde önerilerde bulunmak (Çocuk Koruma Kanununun Uygulanmasına İlişkin Usul Ve Esaslar Hakkında Yönetmelik 25). 14. Çocuğa eğitim, iş, destek alabileceği kurumlar, hakları ve haklarını kullanma konularında rehberlik etmek (Çocuk Koruma Kanununun Uygulanmasına İlişkin Usul Ve Esaslar Hakkında Yönetmelik 25). 15. Alınan kararın uygulanmasını, bu uygulamanın sonuçlarını ve çocuk üzerindeki etkilerini izlemek, tabi tutulduğu yükümlülüklerin yerine getirilmesini denetlemek (Çocuk Koruma Kanununun Uygulanmasına İlişkin Usul Ve Esaslar Hakkında Yönetmelik 25).

Adalet Bakanlığı	1. Her il merkezinde ve ayrıca, bölgelerin coğrafi durumları ve iş yoğunluğu göz önünde tutularak belirlenen ilçelerde Hakimler ve Savcılar Yüksek Kurulu'nun olumlu görüşü alınarak çocuk mahkemelerini ve çocuk ağır ceza mahkemelerini kurmak (ÇKK 25). 2. İş durumunun gerekli kıldığı yerlerde çocuk mahkemelerinin ve çocuk ağır ceza mahkemelerinin birden fazla dairesini oluşturmak (ÇKK 25). 3. Mahkemelerde görevlendirilecek sosyal çalışma görevlilerine ve denetimli serbestlik ve yardım merkezi şube müdürlüğünde görevli denetim görevlileri için adaylık dönemlerinde çocuk hukuku, sosyal hizmet, çocuk gelişimi ve psikolojisi gibi konularda verilecek eğitimin esaslarını belirlemek (ÇKK 32). 4. Sosyal çalışma görevlilerine ve denetimli serbestlik ve yardım merkezi şube müdürlüğünde görevli denetim görevlilerine eğitim vermek (ÇKK 32). 5. Mahkemelere, en az lisans öğrenimi görmüş olanlar arasından yeterli sayıda sosyal çalışma görevlisi atanmasını sağlamak (ÇKK 33).
Türkiye Adalet Akademisi	1. Adli, idari ve askeri yargı, hakim, savcıları ve noterleri ile adelet hizmetlerine yardımcı personelin ve talep halinde avukatların meslek öncesi ve meslek içi eğitimi ve gelişmesi için kurslar açmak; belirli alanlarda uzmanlık programları, seminer, sempozyum, konferans ve benzeri etkinlikler düzenlemek; sertifika ile değerlendirilecek eğitim ve öğretim programlarını uygulamak; hukuk ve adalet alanında ilgili kurum, kuruluş ve kurulların hazırlayacakları eğitim planlarının ve araştırma projelerinin yapılmasına ve yürütülmesine yardımcı olmak (Adalet Akademisi Kanunu, 5).

REFERENCES

Abdülkadir, Ö. (1972). Psiko-biyolojik açıdan, ceza sistemlerinde suçlu çocuk ve ergenlerin durumu ve bilirkişilik durumu. *Adalet Dergisi 63(6-7),* 446-59.

Agamben, G. (2005). *State of exception* (K. Attell, Trans.). Chicago and London: University of Chicago Press.

Ahiska, M. (2003). Occidentalism: The historical fantasy of the modern. *The South Atlantic Quarterly* 102 (2 / 3), 351-379. (special double issue: Relocating the Fault Lines: Turkey beyond the East-West Divide, Spring/Summer). Retrieved from: http://web.b.ebscohost.com/ehost/detail/detail?sid=a16964b0-b521-4b2a-b325-7db0e1f35875%40sessionmgr104&vid=3&hid=116&bdata=JnNpdGU9ZWhvc3QtbGl2ZQ%3d%3d#AN=10193384&db=a9h

Altınay, R. E. (2009). *Bones and justice: ethical dimensions of the use of skeletal age diagnosis for forensic purposes* Thesis (M.A.) Boğaziçi University. Institute for Graduate Studies in Social Sciences.

Aries, P. (1962) *Centuries of childhood: A social history of family life* (R. Baldick, Trans.) New York: Vintage.

Atılgan, A. and Atılgan, E. U. (2009). The evaluation of the regulations and application on children's rights paradigm and prevailing principles of juvenile justice in Turkey (*Çocuk hakları paradigması ve çocuk ceza yargılamasına hakim olan ilkeler açısından Türkiye'deki düzenleme ve uygulamaların değerlendirilmesi).* Ankara: Joint Platform of Human Rights Report (İnsan Hakları Ortak Platformu Raporu).

Babül, E. (2012). Training bureaucrats, practicing for Europe: Negotiating bureaucratic authority and governmental legitimacy in Turkey. *Political and Legal Anthropology Review 35(1),* 30-52. doi: 10.1111/j.1555-2934.2012.01178.x

Babül, E. (2015). The state in training: Human rights translations and encounters with Europe in Turkey (Unpublished Manuscript in Progress).

Balibar, E. (1995). *The philosophy of Marx* (C. Turner, Trans.). London and New York: Verso.

Berlant, L. (1997). *The queen of America goes to Washington City.* Durham and London: Duke University Press.

Bourdieu, P. (1987). The force of law: Toward a sociology of the juridical field *The Hastings Law Journal* 38, July: 805-58. Retrieved from http://derechoycambiosocial.pbworks.com/f/bourdieu%255B1%255D.pdf

Brian L. (2010). Legal formalism and legal eealism: What is the issue? *University of Chicago Public Law & Legal Theory Working Paper (320)* Retrieved from http://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?article=1178&context=public_law_and_legal_theory

Brown, W. (2002). Suffering the paradoxes of right. In Brown, W. and Halley, J. (Eds.) *Left legalism / Left critique.* Durham and London: Duke University Press.

Brown, W. (2006). Finding the man in the state. In A. Sharma and A. Gupta (Eds.) *The anthropology of the state: A reader.* Malden, Oxford and Victoria: Blackwell.

Brown, W. and Halley, J. (2002). Introduction. In Brown, W. and Halley, J. (Eds.) *Left legalism / Left critique.* Durham and London: Duke University Press.

Buck-Morss, S. (1987). Piaget, Adorno, and dialectical operations. In J. M. Broughton (Ed.) *Critical theories of psychological development.* New York: Plenum Press.

Caldwell, R. G. (1961). The juvenile court: Development and some major problems. *Journal of Criminal Law and Criminology 51(5),* 493-511. doi: 10.2307/1141413

Camaroff, J. and Camaroff, J. (2006). Reflections on youth, from the past to the postcolony. In Fisher, M.S. and Downey, G. (Eds.) *Frontiers of capital: Ethnographic reflections on the new economy.* Durham and London: Duke University Press.

Can, B. (2014) *State-making, evidence-making, and claim-making: The cases of torture and enforced disappearances in post-1980 Turkey* (Unpublished PhD Thesis) Retrieved from http://repository.upenn.edu/dissertations/AAI3668096

Carty, A. (1990). Introduction: Post-modern law from a postmodernist perspective. In A. Carty (Ed.) *Post-modern law: Enlightenment revolution and the death of man.* Edinburgh: Edinburgh University Press.

ÇaÇav's Report on juvenile justice system (March 2015). (Çocuk adalet sistemi sorun tespit raporu) Retrieved from http://cacav.net/wp-content/uploads/2015/04/%C3%87A%C3%87Av.-%C3%87AS-Raporu-2015.pdf

Çiçek, N. (2014). Mapping the Turkish Republican notion of childhood and juvenile delinquency: The Story of Children's Courts in Turkey (1940-1990). In E. Heather (Ed.), *Juvenile delinquency 1850-2000: East-West perspectives.* Basingstoke: Palgrave Macmillan.

Çoban, S. (2016). Juvenile justice system in Turkey. *International Journal of Social Science and Humanity 6(5),* 351-5. doi: 10.7763/IJSSH.2016.V6.671

Deleuze, G. (1990). *The logic of sense* (M. Lester and C. Stivale, Trans.). New York: Columbia University Press.

Deleuze, G. (1995). *Negotiations.* New York and Chicester: Columbia University Press.

Deleuze, G. (2014). *Foucault* (S. Hand, Trans.). London and New York: Bloomsbury.

Deringil, S. (2007). The Turks and 'Europe': The argument from history? *Middle Eastern Studies 3(september),* 709-723. doi: 10.1080/00263200701422600

Derrida, J. (1976). *Of grammatology* (G. C. Spivak, Trans.). Baltimore and London: John Hopkins University Press.

Donzelot, J. (1979). *The policing of families* (R. Hurley, Trans.). Baltimore: Johns Hopkins University Press.

Edelman, B. (1979). *Ownership of the image: Elements for a Marxist theory of law* (E. Kingdom, Trans.). London, Boston and Henley: Routledge and Kegan Paul.

Ewald, F. (1990). Norms, discipline, and the law. *Representations 30,* 138-161. (Special Issue: Law and the Order of Culture) doi: 10.2307/2928449

Ferguson, J. (1997). *The anti-politics machine: Development, depoliticization, and bureaucratic power in Lesotho.* Minneapolis, MN: University of Minnesota Press.

Fish, S. (1993). Law wishes to have a formal existence. In A. Norrie (Ed.) *Closure or critique: New directions in legal theory.* Edinburgh: Edinburgh University Press.

Fitzpatrick, P. (1992). *The mythology of modern law.* London: Routledge.

Fitzpatrick, P. (2013). Foucault's other law. In B. Golder (Ed.) *Re-reading Foucault: On law, power and rights.* New York: Routledge.

Foucault, M. (1980). *Power / Knowledge* (C. Gordon, L. Marshall, J. Mepham and K. Soper, Trans.). Brighton: Harvester Press.

Foucault, M. (1982). The subject and power. *Critical Inquiry 8(4),* 777-95. doi: Retrieved from http://www.jstor.org/stable/1343197

Foucault, M. (1988) *Technologies of the self* (L. H. Martin, H. Gutman and P. H. Hutton Eds.). London: Tavistock Publications.

Foucault, M. (1991a). *Discipline and punish: Birth of the prison* (A. Sheridan, Trans.). London: Penguin.

Foucault, M. (1991b). Governmentality (R. Braidotti, Trans.). In Graham Burchell, Colin Gordon and Peter Miller (Eds.) *The Foucault effect: Studies in governmentality.* Chicago, IL: University of Chicago Press.

Foucault, M. (1998). *The history of sexuality* (R. Hurley, Trans.). London: Penguin Books.

Foucault, M. (2002). *Power: Essential works of Foucault, 1954-1984: Vol. 3* (R. Hurley, Trans.). New York: The New Press.

Foucault, M. (2004). *Society must be defended: Lectures at the Collège de France, 1975-76* (D. Macey, Trans.). Picador and New York: Penguin Books.

Garland, D. (1985). *Punishment and welfare: A history of penal strategies.* Aldershot: Gower.

Goktas Y. and Yildiz D. (2008 January). Nüfusta 17 kemik yaşı 19! *Gazete Vatan* Retrieved from http://www.gazetevatan.com/nufusta-17-kemik-yasi-19--154810-gundem/

Golder, B. (Ed.). (2013). *Re-reading Foucault: On law, power and rights.* New York: Routledge.

Golder, B. and Fitzpatrick, P. (2009). *Foucault's law.* New York: Routledge.

Goodrich, P., Douzinas, C. and Hachamovitch, Y. (2005). *Politics, postmodernity and critical legal studies: The legality of the contingent.* London and New York: Routledge.

Goral, O. S. (2003). *The child question and juvenile deliquency during early republican era* (Unpublished MA Thesis). Boğaziçi University Atatürk Institute for Modern Turkish History, Istanbul, Turkey.

İç Denetim Birimi Başkanlığı İnceleme Raporu (Internal Audit Report) (2011). (http://www.icdenetim.adalet.gov.tr/raporlar/yayinlanan_rapor/2012-3.pdf) Retrieved in September 2016.

Greenhouse, C. (1989). Just in time: Temporality and the cultural legitimation of law. *The Yale Law Journal 98(8),* 1631-51. doi: 10.2307/796609

Gupta, A. (1995). Blurred boundaries: The discourse of corruption, the culture of politics, and the imagined state. In A. Sharma and A. Gupta (Eds.) *The anthropology of the state: A reader.* Malden, Oxford and Victoria: Blackwell.

Hanson, K. (2014). Separate childhood laws and the future of society. *Law, Culture and the Humanities 13,* 1-11. (Published online before print April 13, 2014) doi: 10.1177/1743872114529502

Herzfeld, M. (1992). *The social production of indifference: Exploring the symbolic roots of western bureaucracy.* Chicago and London: The University of Chicago Press.

Hirst, P. Q. (1986). *Law, socialism and democracy.* London: Allen & Unwin.

Hunt, A. (1992). Foucault's expulsion of law. *Law and Social Inquiry 17(1),* 1-38.

Hunt, A. and Wickham, G. (1994). *Foucault and law: Towards a sociology of governance.* London and Chicago: Pluto Press.

Jasanoff, S. (1995). *Science at the bar: Law, science, and technology in America*. Cambridge, Mass: Harvard University Press.

Jenks, C. (2005). *Childhood.* London and New York: Routledge.

Kafka, F. (2009). *The metamorphosis and other stories.* (J. Crick, Trans.) Oxford: Oxford University Press.

Keenan, T. & Weizman, E. (2012). *Mengele's skull: The emergence of forensic aesthetics.* Berlin: Sternberg Press.

Keyder, Ç. (2006). Law and legitimation in Empire. In C. Calhoun, F. Cooper and K. Moore (Eds.) *Lessons of empire: Imperial histories and American power.* New York: New Press.

Koğacıoğlu, D. (2011). Knowledge, practice, and political community: The making of the 'custom' in Turkey. *differences: A Journal of Feminist Cultural Studies, 22(1),* 172-228. doi: 10.1215/10407391-1218283

Kurtege, B. (2009). *The historical politics of juvenile justice system and the operation of law in the juvenile court in Istanbul in regard to property crimes* (Unpublished MA Thesis). Boğaziçi University Atatürk Institute for Modern Turkish History, Istanbul, Turkey.

Latour, B. (2004). Scientific objects and legal objectivity. In A. Pottage and M. Martha (Eds.) *Law, anthropology, and the constitution of the social: Making persons and things*. Cambridge: Cambridge University Press.

Latour, B. (2010). *The making of law: An ethnography of the Conseil d'État.* (M. Brilman and A. Pottage, Trans.). Cambridge and Malden: Polity Press.

Lee, N. (2005). *Childhood and society: Growing up in an age of uncertainty.* Maidenhead: Open University Press.

Lefebvre, A. (2009). The time of law: Evolution in Holmes and Bergson. In Braidotti, R., Colebrook, C. and Hanafin, P. (Eds.) *Deleuze and law: Forensic futures.* New York*:* Palgrave Macmillan.

Li, T. M. (2007). *The will to improve: Governmentality, development, and the practice of politics.* Durham: Duke University Press.

Luhmann, N. (1985). *A sociological theory of law.* London: Routledge and Kegan Paul.

Maine, H. (1931). *Ancient Law*. London: Oxford University Press.

Mawani, R. (2014). Law as temporality: Colonial politics and Indian settlers. *UC Irvine Law Review 4(65)*: 65-96. Retrieved from http://scholarship.law.uci.edu/ucilr/vol4/iss1/5

McCallum, D. (2007). Coercive normalization and family policing: the limits of the 'psy-complex' in Australian penal systems. *Social and Legal Studies 16(1),* 113-129. doi: 10.1177/0964663907073452

Mouffe, C. and Laclau, E. (1985). *Hegemony and socialist strategy towards a radical democratic politics.* London and New York: Verso.

Nedim, Ş. (2009). *Dink cinayeti ve istihbarat yalanları* (The Dink murder and the lies of the intelligence) Istanbul: Destek Yayinlari

Nietzsche, F. (1997) *On the genealogy of morality and other writings (Selections from)* K. Ansell-Pearson (Ed.). Cambridge: Cambridge University Press.

O'Malley, P. and Valverde, M. (2014). Foucault, criminal law and governmentalization of state. In Dubber, D. M. (Ed.) *Foundational texts in modern criminal law*. Oxford: Oxford University Press.

Opitz, S. and Tellmann, U. (2015). Future emergencies: Temporal politics in law and economy. *Theory, Culture & Society 0(0),* 1–23 (Special Issue: Governing Emergencies). doi: 10.1177/0263276414560416

Özman, A. (2010). Law, ideology and modernization in Turkey: Kemalist legal reforms in perspective. *Social & Legal Studies 19(1),* 67-84.

Parsons, T. and Bales, R. F. (1956). *Family socialization and interaction process.* London: Routledge.

Pashukanis, E. B. (2003). *The general theory of law and Marxism* (B. Einhorn, Trans.) (Original Print in 1924). New Brunswick and London: Transaction Publishers.

Piaget, J. (2000). *The construction of reality in the child.* Oxon: Routledge.

Platt, A. M. (1969). *The child savers, the invention of delinquency.* Chicago: The University of Chicago Press.

Rose, N. (1985). *Psychological complex: Psychology, politics and society in England, 1869-1939.* London: Routledge.

Rose, N. (1991). Experts of the soul. *Psychologie und Geschichte 3(1/2),* 91-9. Retrieved from journals.zpid.de/index.php/PuG/article/download/103/142

Rose, N. (1999). *Governing the soul: The shaping of the private self.* London and New York: Free Association Books.

Rose, N. (2004). *Powers of freedom: Reframing political thought.* Cambridge: Cambridge University Press.

Rose, N. and Valverde, M. (1998). Governed by law? *Social and Legal Studies 7(4),* 541-551. doi: 10.1177/096466399800700405

Rosen, L. (2006). *Law as culture.* Princeton: Princeton University Press.

Sayer, D. (1991). *Capitalism and modernity.* London and New York: Routledge.

Saysel, A. (1972). Suçlu çocukların iyileştirilmesinde bütünlüğe doğru. *Adalet Dergisi 63(1),* 29-40.

Schmitt, C. (1985). *The crisis of parliamentary democracy* (E. Kennedy, Trans.). Cambridge, MA: MIT Press.

Shapiro, B. J. *A* (2000). *Culture of fact: England, 1550-1720*. Ithaca: Cornell University Press.

Simon, J. (1988). The ideological effects of actuarial practices *Law and Society Review 95,*61-89. doi: 10.2307/3053709

Simon, J. (1994). Power without parents: Juvenile justice in a postmodern society. *Cardozo Law Review 16,* 1363-1426. Retrieved from http://scholarship.law.berkeley.edu/cgi/viewcontent.cgi?article=1223&context=facpubs

Sokhi-Bulley, B. (2011). Government(ality) by experts: Human rights as governance. *Law and Critique 22(3),* 251-271. doi: 10.1007/s10978-011-9091-4

Sosyal Calisma Gorevlileri Egitim Programi: El Kitabi (2011).

Staten, H. (1984). *Wittgenstein and Derrida.* Lincoln and London: University of Nebraska Press.

Steedman, C. (1990). *Childhood, culture and class in Britain: Margaret McMillan, 1860-1931.* London: Virago.

Stoler, A. L. (2002). *Carnal knowledge and imperial power: Race and the intimate in colonial rule.* London: University of California Press.

Terdiman, R. (1987). Translator's introduction. In Bourdieu, P. The force of law: Toward a sociology of the juridical field *The Hastings Law Journal 38,* 805-58. Retrieved from http://derechoycambiosocial.pbworks.com/f/bourdieu%255B1%255D.pdf

Teubner, G. (1993). *Law as an autopoietic system*. Oxford, UK: Blackwell.

Ulugtekin, S. (2004). *Cocuk mahkemeleri ve sosyal inceleme raporları.* Ankara: Turkiye Barolar Birligi Yayinlari.

Valverde, M. (2003). *Law's dream of a common knowledge.* Princeton and Oxford: Princeton University Press.

Valverde, M. (2005). Pain, memory, and the creation of the liberal legal subject: Nietzsche on the criminal law. In P. Goodrich and M. Valverde (Eds.) *Nietzsche and legal theory: Half written laws.* New York and London: Routledge.

Van Kriken, R. (2004). Legal reasoning as a field of knowledge production: Luhmann, Bourdieu and law's autonomy. *Law & Society Annual Meeting Conference*, Chicago, USA. Retrieved from https://ses.library.usyd.edu.au/handle/2123/967

Walkerdine, V. (1993). Beyond developmentalism? *Theory & Psychology 3(4),* 451-469. doi: 10.1177/0959354393034004

Weber, M. (1978). *Economy and society: An outline of interpretive sociology.* Berkeley/Los Angeles/London: University of California Press.

Yazıcı, B. (2012). The return to the family: Welfare, state, and politics of the family in Turkey. *Anthropological Quarterly* 85(1), 103-140. Retrieved from http://www.jstor.org/stable/41427090

Young, I. M. (2003). The logic of masculinist protection: Reflections on the current security state. *Signs 29(1),* 1-25. Retrieved from http://www.jstor.org/stable/10.1086/375708