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This article focuses the emergence of and need for alternative governmentality and Kurdish non-state justice under a conflicted and authoritarian state. It analyses how and why Kurdish *de facto* judges operate and negotiate prevailing power relations, illustrating the practice of the Kurdish alternative court system before 2000, and the development of local justice in Kurdish towns and cities after 2000. The article maps out the diverse and varied scene of Kurdish parallel justice procedures and mechanisms. The gendered demands and activities of key actors and beneficiaries are analysed, and relations, tensions and political rifts beyond the actual court procedures explored. The article sheds light on the different obstacles and challenges facing women and men under local justice, while also paying attention to ethnic and religious diversities. In this article, the examination of the state and understanding the everyday life of regular people are mainly based on direct ethnographical accounts.

Keywords: Kurdish law, conflict, alternative justice, women's court, Turkey

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When I was appointed to a position in this city by the government, my family and I were very upset. We did not want to come here. I even considered quitting so as not to come here. We are from the western part of Turkey. We thought it would be very dangerous for us, and the Kurdish people would not be like the people we know. You know! We had our presumptions and thoughts. It has been four years that we have lived here. Actually, people are nice and very hospitable – more so than even our neighbours in the Aegean region [western part of Turkey]. They don't create any problems for us at all; we hardly have any interaction with the people. My colleagues in the western part of Turkey have to deal with hundreds, even thousands, of cases each year, but our court rooms here are empty. Don't get me wrong, probably the people here have thousands of issues, fights, business and family conflicts but they don't come to us. If the police didn't arrest Kurdish political people and activists and bring them in, the courts here would have no cases. People are hospitable but they don't trust us. They always keep their distance. Even my barber and people in my regular tea shop would not tell me much. They are usually very talkative with each other but when I enter, the room goes silent. I think we have deeply lost connection. The division is huge. As state judges, here we are not in charge. They don't even allow us to enable peace between them. They don't trust our peace and judgement. We don't have any power over their daily lives. We don't know what is going on.

We have parallel lives. Nobody tells us anything even for the criminal cases. I feel powerless and useless. In this region, we are just making our own judgements mostly without witnesses or evidences, but just according to police reports. (Turkish judge, Diyarbakır, May 2015)

This article discusses the development of the Kurdish court and justice system in Turkey, and the historical transformation from the military court to the people's court.¹ How Kurdish unofficial judges have practised and negotiated prevailing power relations within the Kurdish political movement before and after the arrest of Öcalan, are important in the process of taking power from an existing nation state and building a new one. By the end of this article, we will have a clearer understanding of where all these Kurdish cases seek justice.

Authoritarian states lose their balance and then their power of judgement. The practice and development of Kurdish courts and judiciary represents the face of the Kurdish movement and alternative govern-

¹ See Tas 2022 for detailed discussion of the Kurdish justice system and alternative governmentality under authoritarian state's structure.

mentality. This was not something which happened overnight; the injustices of the state against Kurdish people and continuing conflict had already disconnected them from the state system. The people had used different methods before, including calling upon tribal and family elders, and imams, as mediators. For this reason, there were many powerful, influential leaders, families and imams in almost every area. After the PKK-led Kurdish movement started in the 1980s, families went to PKK members for some important cases and asked them to be mediators. It was an important power gap and it did not take the Kurdish movement long to make connections with society in this way.

The elimination of the power of tribal leaders, influential families and imams was secured in three ways. First, some of them surrendered their power to the Kurdish movement, accepted its authority and passed on any cases if and when they received them. Second, some powerful elites and tribes collaborated with the Kurdish movement directly and sought legitimacy from the movement to cement power relations and carry out what they were already doing. However, they had to agree to pay regular taxes and report all their actions and developments to the movement. Third, some families, tribes, well-known figures and elites refused to follow any orders from the movement. They collaborated with the state instead, passing on information about the Kurdish movement, and in return they received additional security, support and funding. While the third way was very strong in the 1980s and 1990s, after 2000 the people followed the first and second routes and the Kurdish movement started to institutionalise its judicial system and spread to almost every city, town and village in the Kurdish regions.

1 The Material and Methodology

Based on ethnographic research in Turkey, Syria, Iraqi Kurdistan and Kurdish diasporas in Europe, this article seeks to answer the following four main interconnected questions: How and why is Kurdish parallel justice created? Does parallel justice work effectively? To what extent is parallel justice different from the existing authoritarian state structure? What role does justice play in breaking a state or building a new state and alternative governmentality?

Didier Fassin argued that “critique, under its multiple forms, is inherent to the anthropological project ... [which] is more than ever needed in times laden with worrying spectres” (Fassin 2017, 4). The context of the present anthropological and socio-legal research is a fieldwork investigation examining how authoritarianism creates revolt and how alternative governmentality and justice are seen and practised in conflicted environments. The anthropology and politics of stateless people and societies have been discussed in several important works, stemming back to *Anthropology and Modern Life* by the early American anthropologist Franz Boas (Boas 1917). Studies like *Weapons of the Weak: Everyday Forms of Peasant Resistance* and *The Art of Not Being Governed* by James C. Scott (Scott 1985; 2010), are important foundations. In this article, the examination of the state and understanding the everyday life of regular people are mainly based on direct ethnographical accounts.

In my previous work (Tas 2014; 2016), I discussed the value and practice of pluralism from the Ottoman Millet system and the current UK state perspective. Both cases had soft, flexible and pluralistic approaches where minority practices were welcomed to some degree and space was made for them. However, when we look at the centralised, hard or authoritarian state perspective, the picture is different. There is almost no space or tolerance for different ethnic and religious practices, such as under the Turkish authoritarian regime, where parallel state structures become almost a necessity. Given the limited literature available on alternative justice and governmentality of the Kurds in the Middle East and its diaspora, my work engages with social, legal and political actors, and intends to capture the personal experiences and accounts of different individuals and communities.

Between 2015 and 2019, I have carried out sixty-two interviews and five focus group discussions in Turkey (Diyarbakır, Mardin, Kars and Istanbul) in addition to carrying out eighty-five interviews and ten focus group discussions with Kurdish community members in Germany and the United Kingdom. I have also completed fifty-five interviews with Kurdish people closely connected to the Kurdish political and national movement in Rojava and Iraqi Kurdistan (in total 202 interviews, and fifteen focus group discus-

sions). My ethnographic research based on participant observation has allowed me to observe and analyse everyday lives, practices, interactions and tensions between ideology and empirical realities.

As Linda Tuhiwai Smith (2008) argues, without decolonising methodologies, it is not possible to establish any new, valid and scientific knowledge about oppressed minorities and indigenous people. As Keane (2015) states, ethnographic evidence problematises and challenges the established psychological and sociological perspectives of knowledge, which then creates a distinctive ethics of recognition of truth and human dignity.

2 The Power of the Judiciary

The judiciary is one of the main arenas where the alternative sovereignty is established and also seized, not just by powerful local elites, but also the state.² It is almost the only service that the PKK-led Kurdish movement has provided to its people in the last four decades, whilst the Kurdish people have sacrificed almost everything for the success of the movement, including their lives. The judiciary and the courts are where the Kurdish movement is able to observe and control each and every individual and group, as well as the economy, investments and taxes. It is also able to establish authority by the use of punishment and violence, and to grant amnesty.

The local community and parallel institutional structures are the basic foundations of the Kurdish movement and state-building process. The development of institutions and the judiciary is an ongoing and evolving process. Although the Kurdish alternative justice system seized power from the state for the functionality of their judiciary and created a new attitude and sovereignty, this has also brought new challenges. Aside from Rojava (northern Syria), Maxmur Refugee Camp (Yilmaz 2016) and the Sinjar Mountains (Iraqi Kurdistan), there is not much space safe from state security for Kurdish institution-building to be carried out openly. Most Kurdish court and judicial activities in Turkey operate invisibly and secretly. These institutions are not just limited to Tur-

key; the Kurdish diaspora has also introduced its own system and selected its own alternative judges, as I discuss in detail in my earlier work (Tas 2013a; 2013b; 2016).

Aside from my research on the London Kurdish community, I have followed the conflict and alternative justice process in Kurdish cities in Turkey (Mardin, Diyarbakır, Kars, Istanbul), but also in the diaspora, especially Germany. I participated in and directly observed the general and women's court processes. While Kurdish communities in the UK find a pluralistic environment and some level of tolerance from the state to carry out their activities openly, including Kurdish court processes, and even some level of connection to or interaction with the state forces and institutions (Tas 2016), the situation for the Kurdish community in Germany is not much different than in Turkey when it comes to alternative court practices. The community representatives and judges in the informal court system in the UK do not try to completely substitute the role of the state because of the state's tolerant approach towards diverse communities. They transfer some cases, especially criminal ones, to the state when necessary. However, these self-limitations do not occur in Turkey or Germany.

In Turkey and also in Germany, the community has to deal with almost all conflicts secretly, including criminal cases, passing sentence without any connection with the state. For example, the London Kurdish court files are stored at their community centre, not hidden 'like guns or diamonds', but the community approach is different when they live under centralistic or authoritarian rules and oppression. In June 2019, the head of the Kurdish court in Germany described the way they deal with cases in Germany:

The German state representatives and their attitudes towards our communities are not much different than the Turkish state. If they see these files, I will go to jail for a long time. I don't commit any crime here. I resolve people's conflicts when they ask me to do so. They come here. But the state sees this as a big crime, and these files can be used as the evidence of crime which the state would claim against us. We hide these like guns or diamonds. If we know that there will be a search by the state police, we will burn these files but nothing else.

While Germany is a federal state and Turkey claims to have strong local governments, the mentality of governmentality and functionality of these two states

² For the discussion of different cases and perspectives of alternative justice, see also, Walzer 1983; Cotterrell 1992 and 2003; Rawls 1999 and 2001; Menski 2006; Sezgin 2014 and Grillo 2018.

is still very centralistic and they have similar institutional attitudes towards some minorities. Their approaches may allow Germans and Turks to follow some practices differently and to have a degree of societal self-regulation in different corners of the country, but this does not mean it welcomes and tolerates diversity,³ including pluralistic approaches as we can see in the example of the UK.

Alternative justice – the creation, practice, implementation, control and monopoly of power – is an important tool for community building and the creation of an alternative sovereignty. While the main approach of the local alternative court does not make everybody happy, it makes nobody unhappy. Everybody is somewhere in between, trying to find a compromise. This has increased respect for the Kurdish movement and brought them more cases. All types of conflicts and disagreements are dealt with by the local Kurdish courts, including criminal, family, inheritance, social, marriage and divorce cases. Judicial power means having the power to collect taxes, to provide security, and to influence and shape people's daily lives and attitudes.

The Kurdish movement sees itself as the representative of the whole Kurdish public and claims a right to pass judgement against people but again for the will of the people. The structure of the judgement, punishment and level of fines varies from region to region, group to group and member to member. However, there are some basic rules that cannot be challenged and should be followed by all members, and these are the foundation of Kurdish basic law. From the beginning of the movement, between 1980 and 2000, the party members based their judgements in the name of the party and for the Kurdish people.

These two foundations have been the main moral grounds and regulators of people's lives – the political, legal and moral stand of the Kurdish authority. Later, especially after 2000, gender equality and respect for diversity (for those who recognise the authority of the party) were included as the third and fourth main grounds for the judgement. The party symbols and Öcalan as the founding leader have con-

stituted other important codes, values, moral and ethical grounds which cannot be challenged by members. Rules are imposed and justified, and societal reasoning and public order is carried out under these codified values. The people who don't follow and support these basic ground rules are seen as enemies or traitors.

Different methods and actions by different members have affected people's relationship with the movement. For example, a case could more easily be resolved by a moderate member of the party with a peaceful agreement. However, a similar case, especially one dealt with by dogmatic and conservative members of the party, often takes a harsher approach and one or both sides may be heavily punished.⁴ While some people become more critical, leave their village or town for a big city, and collaborate with the state forces or alternative power holders, other members increase their support and connection with the movement. Members' understanding of local people, their culture and relations plays an important role. For that reason, while the Kurdish movement has not allowed any member in a position of power to stay in one place for a long time, it has also made sure that judges are from their local area when they move their local representative members around. The system is similar to that of state governors or the military; they keep moving and transferring, and one member doesn't usually remain in one role or region for more than three years. The aim is to avoid increasing the power of individual members and creating the risk of them becoming their own authority locally. A similar rule applies to Kurdish mayors and MPs; they are rotated after one or two terms maximum.

4 Justice after 2004

After the capture of Abdullah Öcalan, the founder and leader of the Kurdish Workers' Party (PKK), by the Turkish intelligence service, in Nairobi, Kenya, on 16 February 1999, the Kurdish movement experienced a serious crisis and divisions occurred. After a few years of chaos, the Kurdish movement began to establish a new structure and politics and strengthened its unity.

³ For reference to legal diversity and plurality in Europe, see also, Menski 2006; Shah, Foblets, and Rohe 2014; Kotter et al. 2015; Rohe 2019; Viellechner 2020.

⁴ See, Tas 2022 for detailed discussion of four different types of believers (dogmatic, passive, moderate and liberal/critical) and their judgements.

New institution- and state-building processes took place.

The Kurdish movement moved from retributive justice to correctional justice after 2000. Each local authority was given the power and support to establish and develop its own local court and justice system. Since then, the selection of judges and the court process has been separated from the guerrillas' daily activities and battles. However, the local process still has to follow the party's structure and authority. There are members of the movement who are in a position to inform on all processes to their superiors, but they do not take part in any of them actively and directly if it is not necessary. These powerful representatives usually work as agents of the Kurdish movement, and they mostly get their information from the councils and judges who are locally known and respected. They then report regularly to their superiors, the central authority. These representatives are not from their local working area and are only appointed for a limited time before they are moved on to another place. With this rotational positioning, the movement makes sure that the member does not get too involved with the local culture and traditions and adhere to their role and responsibility to the central authority.

I was told by several members of the Kurdish movement that one of the aims of the process based on the election of judges is to take a lesson from previous mistakes and actions.⁵ Aside from building a possible Kurdistan state institution, making good connections with the people, reaching diverse groups, following local values, institutionalising the process of judiciary and increasing people's respect and trust have been important reasons for the new judiciary system. The election of council members and judges is important as a way to maintain gender, ethnic and religious equality and representation. The purpose is to broaden societal inclusion, to encourage historically neglected groups to support the movement, and to extend the authority and power of the movement beyond close members and supporters.

Gender representation and quotas is also a factor when deciding who is going to be a judge.⁶ According

to my research findings, the local council members are elected by members of the community for two- and four-year terms depending on the need of the locals and individual circumstances. But not all members are elected. Around 40 per cent of council members are appointed by the central authority for a similar term. The council members elect board members and create different committees (such as a women's committee, mosque committee, economic committee, justice committee, local youth committee). The executive power of each local council is shared between a male and female as co-presidents. Each board, including the local justice committee, also have co-spokespersons. These boards and their work are observed by the party's local representative and central authority. The local councils and different branches should always follow the principle of the party's code and conduct.

The local committee establishes its own agenda, releases statements and organises meetings, publications and media. It has regular meetings but is also obliged to meet outside the regular arrangement as and when necessary. It has an obligation to implement its agenda on time, monitor all activities of its boards and inform the central authority. Aside from the selection of judges, it also approves members for its local security process. These security officers are usually taken from local militias and members of the youth organisation, recruited 'voluntarily'. As well as dealing with direct or indirect conflict with the state and helping the main guerrilla forces, the local armed security forces implement all local decisions which are made by the local councils and boards, and protect the properties and lives of local people. Article 67 of the Social Contract of the Democratic Federalism of Northern Syria, which can also be described as the

⁵ See, Tas 2016 for detailed discussion of the election process of Kurdish judges in different locations.

⁶ See, Al-Ali and Tas 2021 for Kurdish women's struggles with gender equality, from ideology to practice.

constitution of the PKK-led Kurdish movement⁷, states that:

The democratic justice system solves the problems related to justice and social rights through peoples' participation and self-organisation. The vision of justice is based on the moral principles of the democratic society. It aims at building a society which adopts a democratic approach and vision and ecology that believes in the freedom of women and societal life and organises itself on the basis of democratic society. Justice is served through social participation and the organisation of democratically formed local units.

The justice system has also different boards and branches: justice offices, investigation committees, reconciliation committees, women's justice council and general justice council. All these branches and their members are elected by the general councils. The methods and work of these boards are different but they are interlinked and inform each other. A Kurdish mayor stated in September 2016:

A democratic state has equal law for all and equal justice. Has this been served by the state we live in? No! Then Kurds have to create their own system. Justice offices are in every part of our regions now. We have huge demand from our people. We even had to open a justice office at our municipal building. Apart from other things, my colleagues and I are serving justice to our people. Many municipalities which are run by Kurdish mayors have to respond to this demand.

Every district, town and city has its own justice office, which is the equivalent of a local court, and receives all kinds of complaints. These offices can be located at the community centre, local party office or one of the rooms of the Kurdish-led, political-party-run mayor's building. Justice council meetings, court processes and decisions take place at these offices. The members work voluntarily and are selected from respected, socially accepted and trusted members of the councils.

After any complaints or applications, the members of the investigation committee conduct a detailed investigation of the case, collect evidence, talk with different sides, reveal the crimes or conflict, and help

judges to make decisions.⁸ The members of the investigation committee are also members of the local de facto security forces, who have a similar role and responsibility to the state police.

The reconciliation committee works closely with different neighbourhoods, and is committed to solving conflicts at as early a stage as possible. They take the initiative as needed, even during the night, and go to the place or people in dispute, to talk to them directly. They are supported and escorted by the Kurdish local militia and security forces if necessary.

Women's courts have been very successful and effective especially for limiting violence against women, stopping early-age marriages and increasing the equality and role of women within society and the movement. The women's council deals with a variety of issues, especially for those who do not want to discuss their cases in front of a general, mixed court, or who prefer the involvement of female councils (judges). Crime, especially 'honour' crimes against women and men, is on the increase. These types of crimes have now become more visible since the intervention by Kurdish women's movement. The female councils aim to eliminate this kind of violence. For example, 35-year-old Semsiyê Alak had a love affair in Mardin in December 2002 with 55-year-old Halil Acilga. It was an 'honour' case. Both Halil and Semsiyê were stabbed and stoned to death by Semsiyê's brothers and father. She was four months pregnant at the time. Halil was killed on the spot. His throat was cut after he had been knifed and stoned. Semsiyê's baby died as a result of her knife injuries. Semsiyê struggled to survive for a further six months, but she died in May 2003. Her family did not accept her body. A Kurdish female activist explained, "We could not save her from her family, but we took responsibility for her body and buried her with respect."

In 2015, there was another similar case in the same region. The Kurdish women's organisation got information in advance this time and managed to stop the crime. I found out during my field research and investigation of the Kurdish court files that they contacted the family first not to take any action against their daughter. They also contacted the local militias

⁷ See Tas 2022 for detailed discussion of the organic and ideological connection between PKK-led Kurdish Movement and also YPG movement in Syria. The Social Contract of the Democratic Federalism of Northern Syria was established on 29 December 2016 which represents the ideological foundation of the PKK and its leader Öcalan. For the Social Contract of the Democratic Federalism of Northern Syria, see: <http://vvanwilgenburg.blogspot.com/2017/03/social-contract-of-democratic.html> (last accessed 10 August 2021). See also Allsopp and van Wilgenburg 2019 and Tas 2022.

⁸ Kurdish local judges also talk directly with parties and try to resolve conflicts quickly if and when it is necessary.

and sent a few of them to the women's family to talk to her elders. The family were afraid of militias. Strong persistence from the members of the women's organisation stopped the family from putting their daughter in danger. However, the women's organisation did not trust the family and did not want to take any risk, so they asked the local Kurdish mayor for help, to provide a safe place for the woman to stay away from her family. Her life was saved. The state was not involved during any of these processes.

The role of the Kurdish movement, women fighters and also the creation of women's councils have influenced many families and stopped them from punishing their women. As a result of such a development, young men and women have also become more outspoken and are pushing for change. In May 2015, a member of the women's council in Mardin told me:

We managed to destroy the power of the state in our region. It was the main power behind our families' patriarchal system. We are now dealing with our families and their understanding of honour. To beat families is harder than to beat the state but we are almost there.

In September 2015, a member of Kurdish women's movement explained in Diyarbakır:

We try to go to different villages and towns to spread our education and to include many women and children. We use local languages and talk to them directly. We want them to be aware of their options. Kurdish courts and our militias exist to protect them. We have individual and also family meetings. We get a lot of support from the young members of families. They are also part of the Kurdish movement and pushing for change.

The general justice councils are made up of male and female members from different social and ethnic backgrounds, especially in diverse areas where there is mix of ethnic groups, such as Mardin and Kars. They work as judges and they supervise and organise work between different branches. They also help to build the alternative judiciary system, arrange coordination and collaboration between different local justice offices, and provide regular reports to their superiors and the central authority. The justice system, the court, the committee members and especially judges represent the social face and reputation of the Kurdish movement.

The number of judges also varies from region to region, but there are usually between five to eight for a city with an average population size. While sometimes one judge deals with a small and easy case

alone (supervised and monitored by one of the local area representatives), at least three judges will be involved in a complicated and difficult case. The immunity of members of councils and judges is guaranteed when they serve justice. The local area representatives and judges are supported, their security is guaranteed and their social justice decisions are implemented by the local militias. However, judges are judged and their decisions are also challenged by the movement's high justice council.⁹

The central authority decided that economic self-support is the main criteria of these local councils and social justice. Any additional money, donations and income from fines are usually transferred to the central authority. The regular reports of all activities are one of the main responsibilities of co-presidents. This is the one of the indicators of the institutionalisation of the work. The aim is to create a state-style system.¹⁰ The problem with this self-support is that in some local councils judges may push people to pay high fines or involuntary donations, especially for business and criminal cases. Aside from increasing tensions and damaging trust, it can also increase

⁹ Article 68 of the Social Contract explains the principle of social justice: (1) Social justice is considered a basis for the organisation and self-protection of society. It depends on solving social problems related to justice in the villages, neighborhoods and district communities. It solves problems by means of dialogue, negotiation and mutual consent. (2) Actions which harm social life and environment are considered a crime. When a crime is committed, victims have the opportunity to defend their rights. Society shall have the right to assess the damage, criticise and give suggestions, and participate in decision-making. (3) Punishments shall aim to rehabilitate guilty people, force them to repair any damage which they created, develop awareness, and correctly integrate them back into society. (4) Regarding the problems related to people, groups and social segments, they shall have the right to form justice mechanisms and develop special solution methods provided that they do not contradict the social contract or basic human rights. (5) Regarding issues related to the general interest and security of all people and groups, they are settled in justice systems which represent the whole society. (6) Special female organisations and equal representation of women are essential for justice and its institutional activities. Women-related decisions are dealt with by female justice systems.

¹⁰ Most of the members of Kurdish movement in Turkey and Syria who I have interviewed for this research believed that while the PKK and Kurdish political movement in Syria and Turkey reject Kurdish statehood because of the current political atmosphere, ideologically and practically they work to create their own statehood. See also Al-Ali and Tas 2018 and 2021.

nepotism and a culture of bribery, creating new injustices and favouritism. I have observed that the central authority is aware of some of these problems and for that reason their local area representatives observe the judges very closely, inform the central authority regularly and dismiss judges if they think it necessary.

If one side takes their case to the Kurdish court, especially in Kurdish regions, there is not much option for the other side to refuse to go to court, or not to accept the judgement made by the court. It is a state-like system in that someone cannot just dismiss any call or judgement from the state, but has an obligation to follow the structure and obey decisions. The Kurdish court has similar powers and processes. If there is an application against an individual then they will follow or be forced to follow the process and the outcome of the process. Otherwise, they would be excluded from the community and the movement sees them as an enemy of Kurds and collaborator of the state.

The documented filed evidence shows that formal written applications from individuals are still limited, especially during processes with people in the Kurdish regions of Turkey.¹¹ The aim is not to create any direct evidence that state forces could find and then use to punish individuals. The details of the cases and processes are deliberately untraceable. The complaint is usually oral, the process is usually oral and the decision is made orally and is told directly to the parties in person or by phone. One or more members usually visit the location of the case, which can be a house, community centre, mayor's office or an arranged place outside the inhabited areas. They invite the parties concerned, listen to their complaints and make decisions there, face to face. The parties are usually given some weeks or months to pay if it is a fine, or are just made to shake hands and promise not to have any further conflicts if the crime is minor.

¹¹ In the diaspora, especially in the UK, the written and signed document is used for the application of the court process and also the final agreement between parties. See, Tas 2013a, 2013b and 2016 for Kurdish alternative court practices in the diaspora, in the UK specifically. See, also Tas 2022 for detailed discussion of the Kurdish alternative politics and parallel judiciary practices in Turkey and also in Germany.

The documenting process usually takes place when the local commanders report to their superiors. In this report, they give information about the number of cases, the kind of cases and processes, and the results they have achieved in their local areas. It is also documented who followed and who did not follow their decisions, what kind of cases were resolved easily, and what kind of cases need to be dealt with by the central authority. Particularly if there is a conflict between powerful tribes who support the movement but have a dispute with each other, they can be dealt with by the central authority. They provide detailed information about how much money they collect as fines, donations, taxes or support from local people. The report gives information about the people's relations with the movement, highlights who has a close connection with the state and possibly works as a 'state agent', but also who supports the movement despite all difficulties, torture and harassment from the state. The information about the local activists, politicians, journalist, new militias and fighters are important parts of the report. Operations against state forces, their successes and losses are usually detailed. The need for military, medical and educational equipment, and the transfer and training of some new members is submitted as part of their routine report. This detailed information means that all activities and processes are documented, but only the actual members and the central authority have access to these written records, not the local people or judges.

5 Different Kurdish Laws for Different Cases

While most cases are left to the selected judges to deal with under the supervision of the representative of the central authority, other family, business, criminal, religious and ethnic-related cases that are dealt with by local judges and councils have to follow the directive of the central authority fully. The cases are reviewed and treated differently. I have categorised the structure and divisions of these cases below, according to my direct observations of different Kurdish cases and courts:

Family law. The movement's central authority does not get involved in many cases related to family matters and leaves the main decisions to the local community judges. This approach is followed for several

reasons. First, the central authority and its militias do not want to be part of any family conflicts which could affect their reputation, as has happened in the past. Second, they want to keep the problem local and let local administration have some level of power. Third, they want the inclusion and knowledge of local, societal and family values, which differ from area to area. However, there is still the issue of inheritance, which is the catalyst for many family feuds. Most wealth and assets are registered in the man's name, usually the head of the household; it can be the father or older brother but not the women. Many women still do not feel comfortable asking for full equality and their share. This is not just a problem for Kurdish women locally, but the problem of women in Turkey and the Middle East in general. Many local Kurdish women, activists share such feelings, and even a female lawyer said: "How can I ask for this? Society would name and shame me if I asked for any inheritance from my family." The Kurdish movement in general and judges specifically have not pushed much for this equality. I have seen their soft approach on inheritance matters during their processes. The aim is to resolve one problem at a time and 'honour crime' is seen as the most urgent and important family problem. One of the Kurdish judges in Diyarbakır stated in June 2016:

We are dying every day. Many women are killed. Our first job is to keep society, especially women, alive, and to secure their right to live. After that we will create equal living conditions for them, including inheritance. Without life, nobody cares about inheritance. We need society's help to stop honour crimes and we cannot push all changes in one go. Most families, even modern ones, follow the old traditions when it comes to inheritance.

The Kurdish women's movement and some local judges push for strict punishment when it comes to violence, divorce and the rights of the wife and children. The salary of the husband may be transferred to the wife as a form of punishment. For the implementation of some decisions, guerrillas and local militias play an important role. There are some cases when people do not want to follow the decisions made by the local elected judges. In these cases, guerrillas take over the role and use enforcement to make sure that the rules are followed. They resolve the conflict much

more easily and quickly than the local elected judges, because they have guns and more power.

Criminal law. Kurdish central authority and local militias have full authority and monopoly of power over these kinds of cases. The administrative processes of cases are dealt with by local judges, the parties in conflict are invited for the meetings, but the party's central authority and local area representatives get involved, resolve, punish and enforce justice. However, the elected judges are usually present and the preparation of these cases will be left to local judges in the future, when the autonomy or independence of Kurdistan is recognised. Currently, this does not happen for several reasons. First, the movement wants to show that it has the monopoly on violence and punishment. Second, at a local level people know each other and might have close relationships with both parties and the trust in local judges may be less, which may affect their authority. Third, a case might escalate and turn into a blood feud if it is left to local judges alone. Fourth, the resolution may take longer if the local judges take the initiative alone. Fifth, these cases involve high levels of compensation, changing the living places of some parties and even imprisonment. These kinds of decisions and punishments cannot be made and carried out by the local authority. Heavy punishments, including fines, compensation, re-education and imprisonment, can only be effective if imposed by the strong central authority which is more independent than local judges. Sixth, even though the local judges are (s)elected by the local people, the punishments they impose may not be followed fully, which may then damage the authority of the party and leadership. For example, a man was killed in a revenge crime in the city of Van in 2015. There was already an arrangement between two families. The family which had committed the crime gave their thirteen-year-old daughter to the other family. This was one of the conditions of the peace. The Kurdish militias from Diyarbakır, which is more than three hundred kilometres from Van, heard about the case.¹² They sent a few of their members to Van. They

¹² While most family matters are left to local councils and militias to resolve, this was a complicated criminal case. The aim in seeking help from Diyarbakır was also to stop any revenge and further conflict which would likely take place if left to local members in Van.

took the thirteen-year-old girl from the other family to a Kurdish women's refugee centre in Diyarbakır and settled the conflict with compensation. However, both families were punished with heavy fines for their actions. They were also informed that if any further crimes or forced marriages take place, they would receive harsher punishment.

Business law. If the cases are minor and only concern the immediate family, and if there are no criminal factors, fights, injuries or deaths involved, then the central authority allows such conflicts to be resolved quickly by the local judges. However, if the value of the conflict is high, has some criminal aspect and/or is between different families or tribes, then the central authority follows these cases very closely. It is briefed at every step by judges and local area representatives and makes the final decision. These cases generate the highest revenue and involve large donations from both parties, as well as fines, so it is important that they are monitored and considered carefully.

Religious power and Kurdish justice. These are related to marriage, divorce, business agreements and activities within and between different individuals or religious groups which may have specific religious codes, laws and conditions involved. The Kurdish movement's different local religious authorities, branches and mosques take action and help (s)elect judges in some cases. For example, if the case concerns Yezidi marriages, the Kurdish movement makes sure that the Yezidi local authority and mediation system is involved in the conflict and helps to resolve it quickly. This approach is followed for several reasons. First, most of these cases are family cases and local family values and sensitivities are taken into consideration. As mentioned in the above family law section, the movement encourages the local different religious groups to take responsibility for these cases. Second, in this way, the movement keeps its authority and power over individuals, religious groups and different communities and shows that it can also delegate when necessary. I was told by one of the Kurdish women judges in Diyarbakır in May 2015 that they are aware that there is some conflict of interest between the approach of the religious groups and the approach of Kurdish women's organisations. She continued:

Religion is important. We can no longer let it be used by the state and different religious organisations to influence our people and take them away from us. We made some mistakes in the past by dismissing religious groups. Some of them have also joined our movement and we need to respect their approach even if we don't fully agree. We know that many families are influenced by different religious groups. Our councils and judges co-operate with the different religious groups and their leaders. ... To involve them is also part of the process of changing and modernising them. If we exclude them, then they cannot know about our structure and laws. Our militias observe them all the time, more than the police do.

These practices in the Kurdish regions show that the Kurdish movement does not follow strict secular rules as it does in some parts of the diaspora (Tas 2016). It sometimes sacrifices the priorities of the Kurdish women's organisations for the sake of the religious group, to dissipate any tension and also to expand and increase its popularity and power within these religious groups. This also shows that while the Kurdish movement's power increases and more and more groups join, their earlier leftist secular approach decreases. The movement and its de facto institutions take a more conservative and moderate stance.

6 Conclusion

Kurdish alternative courts and judiciary systems have played an important role in the development of Kurdish state institutions and their power over the people. As summarised by the Turkish judge's account at the beginning of this article, the state's power and legitimacy has been limited with the help and practice of a Kurdish parallel judiciary. The quality, equality and fairness of judgements and court processes have changed and have already been modernised at some level, but development remains ongoing. I have directly observed hundreds of Kurdish court cases in different geographical areas for over a decade,¹³ and witnessed the different judgements on similar cases by different judges and community leaders.

This study has contributed to the wider conceptual understanding of the intersections between alternative justice, new forms of political power, and attempts to address gender-based inequalities, as well as the challenges of creating alternative forms of governmentality amongst minorities. I have widely observed

¹³ See, Tas 2016 and 2022 for detailed discussions of Kurdish cases in different geographical areas.

equal, fair and affordable justice by many Kurdish judges, but I have also noticed some injustices. The findings of the research demonstrate that there is an important gap between rhetoric and everyday practices, when we look into Kurdish gender based norms, real-life practices and justice.

Kurds in the Middle East have created their own parallel justice institutions and military power as a means of forging an alternative sovereignty and gaining political control. Alternative politics is essential for the construction of alternative forms of governmentality when faced with abusive and oppressive regimes. Such alternative structures tend to evolve into de facto parallel state-making processes. The politics of alternative justice is to use alternative judicial and political processes for the purpose of limiting, changing and balancing current social and economic oppressive power bases and mechanisms, but also influencing and creating new forms of sovereignty and political power.

The creation of independent institutions, including autonomous courts, within current state borders, is not just taking place in every city, town and village of the Kurdish regions in the Middle East, but in big metropolitan areas such as Istanbul, and also transnationally in Berlin and London. For Kurds, like many other stateless minorities, transnational mobilisation and links are significant factors in the development of new forms of governmentality, linking diaspora communities with populations back home. The wider Kurdish political movement, inspired by the Kurdistan Workers Party (PKK), has focused on establishing a system of what has been coined 'democratic confederalism'.

The aim of alternative governmentality and democratic confederalism is to provide a democratic and egalitarian framework for its people, including ethnic, religious and linguistic minorities, to have greater autonomy and to be able to organise their daily lives freely. Although the Kurdish movement claims that democratic confederalism replaces earlier aspirations for an independent nation state, my ethnographic accounts show that the Kurdish political movement is engaging in parallel state-making through creating new institutions, mechanisms and processes, and ex-

tending their judicial, economic and local military reach.

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