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SOCIAL EFFECTS OF MILITARY INTERVENTIONS IN TÜRKİYE: JUDGEMENTS FROM BİLECİK AND TEKİRDAĞ HIGH CRIMINAL COURTS (1971–1980)

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Abstract

The military coups of 1960 and 1980 were important turning points in Turks. In the meantime, the government resigned with the military memorandum of 1971. The subject of this study is the cases opened regarding the crimes committed against the state and the government between 1971 and 1980. The decision records of Bilecik and Tekirdağ High Criminal Courts were examined. It was concluded that the military interventions were not accepted by Turkish society since the relevant cases were opened mostly as a result of the reactions shown to the administration and the management approach of the period. As a result of the scanning of the archives of the High Criminal Courts in Bilecik and Tekirdağ, the decision cards containing the decisions given between 1971 and 1980 were used in a study for the first time and constitute the main source of this article.

Keywords: 27 May 1960 Coup, 12 March 1971 Memorandum, 12 September 1980 Coup, History of the Republic of Türkiye, Turkish Political Life, Turkish Social Life.

Türkiye'deki Askerî Müdahalelerin Sosyal Etkilerinin Bilecik ve Tekirdağ Ağır Ceza Mahkemeleri Kararları Üzerinden Değerlendirmesi (1971-1980)

Öz

Türk siyasal ve sosyal yaşamında önemli kırılma noktalarından kabul edilebilecek gelişmeler arasında 1960 ve 1980 yıllarında gerçekleşen askerî darbeler gösterilebilir. Bu çalışmada; askerî muhtıranın yaşandığı 1971'den askerî darbenin yapıldığı 1980 yılına kadar geçen zamanda, devlete ve hükûmete yönelik işlenen suçlar ile ilgili açılan davalar incelenmiştir. Bu inceleme, Bilecik'te ve Tekirdağ'da bulunan 1971-1980 seneleri arasındaki Ağır Ceza Mahkemesi karar kartonları üzerinden yapılmıştır. Davaların

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içeriklerine bakıldığında; ekseriyetle mevcut yönetime ve yönetim anlayışına verilen tepkiler neticesinde açılan davalar olduğu görülmektedir. Buradan da yapılan askerî müdahalelerin Türk toplumu tarafından kabul görmediği sonucuna ulaşılmıştır. Bu davaların sonuçlarına bakıldığında ise çoğunlukla hukukun ve evrensel hukukun gerekliliklerinin üstün tutulduğu görülmüştür. Bilecik'teki ve Tekirdağ'daki Ağır Ceza Mahkemelerinin arşivlerinde yapılan tarama sonucunda 1971-1980 arasında verdiği kararların bulunduğu karar kartonları ilk kez bir çalışmada kullanılmıştır ve bu makalenin ana kaynağını oluşturmıştır.

Anahtar Kelimeler: 27 Mayıs 1960 Darbesi, 12 Mart 1971 Muhtırası, 12 Eylül 1980 Darbesi, Türkiye Cumhuriyeti Tarihi, Türk Siyasal Hayatı, Türk Sosyal Yaşamı.

Introduction

In the bipolar world that emerged after the Second World War, Türkiye's preference was for the United States of America (US). The other side was led by the Soviet Union (Aydın, 2000, pp.103-139). The Soviet Union formed the 'Iron Curtain Countries' in order to expand its own side (Lutz, 1950, pp.20-31). While these countries acted on the axis of Soviet Russia in foreign policy, they adopted communism at home. The United States, on the other hand, constantly portrayed Soviet Russia as a threat to the countries in the region.¹ This situation continued until the collapse of the Soviet Union in 1991. In a way, Türkiye's preference for the US was out of necessity. The biggest reason for this necessity was the Soviet Union's claim to Turkish territory (Uzman, 2018, pp.117-142). Accordingly, the elections of 1946 were organised as multi-party elections for the first time in the Republic of Türkiye (Akandere, 2019, pp.437-464). After these elections, which were not considered democratic due to open voting and secret counting, in the first democratic elections held in 1950, the twenty seven year rule of the Republican People's Party (CHP) in Türkiye was replaced by the Democrat Party, which was founded by deputies who left the CHP (Karpaz, 1972, pp.349-375). İsmet İnönü's acceptance of this situation was not easy. Even before the Military Coup of 1960,

1. In this context, Türkiye also perceived communism as a threat. Indeed, in the aftermath of the military interventions, many citizens were prosecuted for 'communist propaganda' in both the High Criminal Courts and the martial law courts of the time.

he stated that ‘revolution is a legitimate right for nations when the conditions are right’ (Demir, 2023, pp.107-124). For this reason, there are interpretations that although İsmet İnönü did not organise the 1960 Coup, he was aware of it. It is stated that the Military Coup of 27 May 1960 opened the door for the military to intervene in politics in Türkiye. As a matter of fact, after this date; 12 March 1971 Military Memorandum (Demir, 2016, pp.130-137), 12 September 1980 Military Coup (Dagi, 1996, pp.124-141), 28 February 1997 National Security Council Decisions, 27 April 2007 e-memorandum (published on the website of the General Staff) and 15 July 2016 Coup Attempt took place. Although the last 2 of these failed to achieve their goals, the others achieved their objectives. From the developments that took place after the military interventions that achieved their goals, it is concluded that Turkish society was negatively affected by military interventions.

The seizure of power by military forces through the use of force can be defined as a military coup. Military coups change the form of government of countries and at the same time create extraordinary legal conditions (Tatlilioğlu at al., 2018, p.277). The existence of an extraordinary government does not mean the elimination of the principle of a democratic state governed by the rule of law. In cases where democratic government is inadequate in solving issues related to the existence of the state, the executive body may use some exceptional powers. However, the frequency of resorting to extraordinary government regimes in Türkiye is striking (Çelik, 2023b, p.346). Since the last period of the Ottoman Empire, the army has been responsible for national security arising from internal and external threats (Urhan and Çelik, 2010, pp.2-3). Following the military interventions in the history of the Republic of Türkiye, examples of anti-democratic practices have been encountered (Gemalmaz, 1997, p.11). In the first declaration published by the National Security Council after the September 12, 1980 Coup, its aims were stated as "to protect the integrity of the country, to ensure national unity and solidarity, and to operate the democratic order." (Çelik, 2023a,

pp.155-156). In this article, however which tries to reveal the negative effects of the military interventions in Türkiye on the Turkish social structure, the decision cartons of the trials held in Bilecik and Tekirdağ Heavy Penal Courts between 1971 and 1980 are analysed. On 12 March 1971, following the military memorandum in Türkiye, the existing civilian government resigned and 4 governments were established under the supervision of the military. On 12 September 1980, after the Military Coup, the military government continued its rule for 3 years. This study focuses on the negativities experienced by the people in the political and social environment that emerged in Türkiye between these 2 important events through the decisions of the heavy criminal courts.

Since it is the most populous city in Türkiye, the decision cards of the high criminal courts in Istanbul were first requested to be examined. However, the relevant documents could not be accessed. The reason for choosing the 2 cities examined in the article is that they are located in the Marmara region, which has the highest population density in Türkiye. Another reason is that they are close to Istanbul, the most populous city in Türkiye. In this way, an average result was tried to be reached about what Türkiye experienced in the relevant period. In addition, documents related to the issue in Istanbul could not be accessed. The reason for using the sources of 2 different cities is to reach more reliable results. This was not possible since it would require more than 1 article to compare more than 2 cities in the same study. Twenty different cases were concluded in Bilecik and Tekirdağ High Criminal Courts in a total of 9 years, 2 in 1971, 4 in 1972, 1 in 1973, 1 in 1974, 1 in 1975, 2 in 1977, 3 in 1978, 5 in 1979 and 1 in 1980, concerning offences² against the state and the government. In 1976, no case on the subject was finalised. However, it is understood that in democratic states of law, there are no

2. However, the view that punishing someone just because they have an opinion against the government, without committing a crime such as destroying the existence of the state or government, will cause the government to cease to exist is a generally accepted view to this day, see Head (2011).

cases under the heading of ‘offences against the state or the government’³ as mentioned above. In democratic and legal states, in order for someone to be charged with such an offence, that person must have committed a direct act aimed at overthrowing the state, co-operating with foreign countries against the interests of the state or overthrowing the government. Therefore, when we look at the practices in Türkiye during the period analysed, it is seen that military interventions have brought Türkiye down in the world league of law and democracy.

Following the 1960 coup, the Revolutionary Courts were established with the law numbered 62 dated 18.08.1960 to try crimes committed against the state and its administrators. Following the 1980 coup, the State Security Courts, which served the same function, were established on 16.06.1983 with the law numbered 2845 (Gemalmaz, 2001, p.152-154). Although the decisions examined in this article did not include the death penalty, the courts mentioned above could also impose the death penalty if they deemed it appropriate.

Due to the necessity to specify precisely which acts are offences due to legal and constitutional regulations, it is seen that the offence is evaluated as divided into elements in the Turkish Criminal Law doctrine (Karakehya and Usluadam, 2015, pp.1-24). The main objective of Article 302 of the Turkish Criminal Code (TCK), which includes the offence of disrupting the integrity of the country and the unity of the state, is to ensure the indivisibility of the country, the independence of the state and the sovereignty of the nation.⁴ In order for the acts committed within this scope to be considered as an offence, the act must be intentional. Therefore, it is understood that a non-intentional act cannot be

3. In an article written on the subject, it was stated that in the authoritarian period in South Korea, the state used force and oppression to ensure harmony with the people. It was stated that after South Korea became democratic, it preferred to cooperate with social groups even to implement the reforms it preferred, see Kim et al. (2008, 252-270).

4. It is seen that Roman Law also includes crimes against the state and the punishments to be given to those who commit the said crimes, see Gürten (2017, 53-79).

considered within this scope.⁵ The definition of ‘government’ in the subject of ‘offences against the government’ (Evik, 2016, pp.1725-1747), which is the subject of this article, is defined as ‘the 1 who conducts state affairs and has the authority to determine the country's policy’. Just as in the case of offences against the state, anyone can be the perpetrator of offences against the government (Özata and Taş, 2022, pp.441-483). However, according to Article 312 of the TCC, the offence or offences against the government are considered as completed even if they are attempted but not completed (Yazıcıoğlu, 2016, pp.137-158).

Looking at the offences considered as ‘political crimes’, it is understood that offences against the government are also considered within this scope (Sümer, 2021, pp.293-311). Since Türkiye is a Muslim-majority country, the majority of the people in Türkiye consider opposition to authority as opposition to God, as it is defined in İslam⁶ (Taş, 2024, pp.505-534).

It is also possible to define the offences examined in this study as ‘political offences’. Although the definition of political crime has caused various discussions, it is seen that there is no consensus on exactly which crimes this crime covers (Sınar, 2000, pp.53-77). Although there are differences in the treatment of political offences in different countries and administrations at different times, crimes committed against the state and the regime in our country have not been left unpunished from the very beginning (Şensoy, 1951, pp.53-74). However, it has been observed that the punishments given in the courts held under the influence of the conditions that emerged after the ‘Military Coup’ on 27 May 1960 and 12 September 1980 and the ‘Military Memorandum’ on 12 September 1971 have caused controversy (Karataş, 2022, pp.226-262).

5. The concept of the state includes the legislative, executive and judicial powers together, see Yarsuvat (1964, 665-691).

6. In the pre-Islamic Turkish state structure, there is the concept of ‘Kut’. According to this concept, the head of state is appointed by God. For this reason, opposition to the head of state is perceived as opposition to God, see Yıldırım (2021, 325).

After the period examined in this study, with the decisions taken at the Supreme Military Council on 28 February 1997, the Refah-Yol Government, which was led by Prof. Dr. Necmettin Erbakan as prime minister and Prof. Dr. Tansu Çiller as deputy prime minister, was destroyed (Momayezi, 1998, pp.3-28). Ten years later, on April 27, 2007, the AK Party government was expected to resign with the e-memorandum published on the General Staff's website. Instead, the AK Party Government Spokesperson Cemil Çiçek stated that 'it is unthinkable in a democratic country for the General Staff to take a stance against the government as an institution affiliated with the Prime Ministry.' Approximately 9 years later, on July 15, 2016, members of the FETÖ (Fetullah Terrorist Organization) Parallel State Structure within the Turkish Armed Forces attempted to overthrow the AK Party government and seize state administration (Özkır and Akkır, 2019, pp.413-427). As can be seen, in the period following 1960, when the first 'Military Coup' took place in the Republic of Türkiye, military interventions took place at intervals of approximately ten years.⁷ During the mentioned periods, extraordinary measures were taken to restrict rights and freedoms to protect the integrity of the state. It is imperative for the continuity of the rule of law that these measures be enacted by law (Gemalmaz, 1997, pp.88-89). However, since the foundation of the Republic of Türkiye, the duty of the army has been determined as protecting and guarding the state. Indeed, following the 1960 Coup, this duty was clearly stated in Article 35 of the Turkish Armed Forces Internal Service Law No. 211. Although the relevant article was amended in 2013 and the duty of protecting and guarding the state was removed from the duty description of the army, the coup attempt by members of FETÖ in 2016 was based on the same duty (Çelik, 2019, pp.203-220).

This study attempts to reveal the effects of all types of military interventions on the relevant social structure. In doing so, first-hand sources, such as court records from the period under study, were used. In addition, it is thought

7. Those who carried out the Military Coup in 1980 did not hand over the administration of the country to civilians until 1983, see Eminoglu (2021, 465-84).

that the fact that these sources used for this article have not been studied before adds originality to this article.

1. Finalised Cases In Tekirdağ

When the cases of offences against the state and the government in the Tekirdağ High Criminal Court are examined, it is seen that 7 separate cases were concluded in 3 years, 2 in 1971, 4 in 1972 and 1 in 1973. Through the results of these cases, determinations will be made on how the military interventions affected the social situation of the Turkish nation.

1.1. Cases Concluded In 1971

F.K., born in 1920, from Çorlu, accused of ‘insulting the moral personality of the government’, damaged the furniture in his house when he was notified of his sentence of 4 months and twenty days. When the police came to the door, he swore at the government and the state. A lawsuit was filed against F.K. In the case against him, the fact that he was drunk was not considered as a mitigating factor. He was sentenced to 1 year of hard labour [Tekirdağ High Criminal Court (THCC) 23.06.1971].

A lawsuit was filed against S.K., born in 1930 in Çorlu, for ‘insulting the army’. The statements of the complainant, Major N.K., were found to be untrue by the testimony of witness S.K. The court acquitted the defendant S.K. due to the inconsistent statement of Major N. and the statements of the other witness (THCC 06.07.1971).

From the late 1960s onwards, Türkiye experienced a period of intense demands for democratic rights, also under the influence of the 1961 Constitution (Çelik, 2008, p.158). However during the period analysed in this article, it was observed that the state tried to avenge personal enmities or problems among the people by slandering the state for committing crimes against the state. Such examples are considered to be an indication of the social disturbances experienced in Turkish society after military interventions. As can be seen from this examples, military interventions change the chemistry of the society.

1.2. Cases Concluded İn 1972

A lawsuit was filed against the defendant İ.G., born in 1951, for publicly insulting the military forces of the State, insulting the President of the Republic in absentia and praising acts deemed criminal by law. On 27 March 1972, while sitting in a café with R.Ü. and K.A., the defendant İ.G. showed a newspaper article about a ball attended by the President of the Republic and the force commanders and said that ‘they are dishonest’ and that ‘they live and he crawls’.⁸ Furthermore, a public case was filed against the defendant on the grounds that he stated that ‘those who were killed were right in their own cause’ in relation to the killing of anarchists in Niksar on 31.03.1972.⁹ In his defence, the defendant İ.G. stated that he had said ‘dishonest people’ about the scantily dressed singer who had been given an award by the President of the Republic. He also denied the allegations by telling the people in the coffee house who were talking about the people killed in Niksar that ‘talking about people has a punishment in the hereafter’.¹⁰ 3 witnesses contradicted the defence witnesses' statements. A.K. and M.S., defence witnesses, stated that those who testified against the defendant had asked the defendant İ.G. ‘Are you one of them?’. As a result of the trial, the defendant İ.G. was sentenced to 1 year imprisonment for insulting the President in absentia, 3

8. It is understood that the suspect was expressing the economic and social difficulties he was experiencing. From this incident, which took place on a date after the 1971 Memorandum, it can be understood that the military interventions have caused difficulties to the society in the economic as well as in the social field.

9. It is understood that Mahir Çayan was also among those killed in Niksar and that the defendant felt that he was on the side of those killed, and that he was also a leftist. At that time, the understanding that leftism was equated with communism was prevalent in Türkiye. Since the Soviets were opposed as a state policy, a stance was taken against communism. In today's Türkiye, although communism is not approved as a state policy, people or political formations that advocate communism do not encounter the same treatment as in 1972 Türkiye. This tolerance in today's Türkiye is limited to terrorist acts committed in the name of leftism or communism. Of course, no contemporary legal and democratic state would tolerate such a terrorist act. It is also seen from such data that Türkiye has made significant progress in terms of democratization in the last 50 years.

10. From the information given, it is possible to understand the extent to which religious beliefs are effective in everyday life and in the Turkish social structure.

months imprisonment¹¹ for openly praising an act criminalised by the law and a heavy fine of fifty liras. He was acquitted of the offence of insulting the military forces of the state (THCC 15.08.1972).

A.N.K., born in 1928, was charged¹² with making propaganda for Nurjuluk.¹³ In the court, it was demanded that the suspect be sentenced because he was found to be in possession of papers praising Nurism. In his defence, the suspect stated that he was engaged in transport, that he had a traffic accident in the vicinity of Tekirdağ, that he was hospitalised, that among his belongings seized by the gendarmerie in the vehicle were papers on Nur Risaleleri, that he had read these papers out of curiosity and not for propaganda purposes. He also stated that he had bought the books from a peddler in Istanbul and demanded his acquittal. Bekir Berk, the defendant's lawyer, submitted to the court a copy of the expert report by the Istanbul 1st Coroner's Court and a copy of the favourable decision of the military court on the Nur Risaleleri. As a result, it was concluded that the possession of Said Nursi's Nur Risaleleri was not an offence and the acquittal of the accused was unanimously decided (THCC 03.10.1972).

In the trial of the defendant M.N.Y., born in 1932, for publicly insulting and insulting the military forces of the state, it was unanimously decided to merge the case with the case numbered 1972/60, which was opened against the same defendant for the same offence (THCC, Case no: 1971/189, Decision No: 1972/170, Decision Date: 25.12.1972).

11. This sentence indicates that the court did not find the defendant's defence convincing.

12. In 1972, these people were sued because it was considered a crime to possess Said Nursi's works, but in today's Türkiye these works can be read freely. This is an example of how military intervention can negatively affect the social structure of a society. It is clear that A.N.K., who is being prosecuted as a defendant, has suffered moral damage in addition to the material damage he has suffered as a result of the accident he has committed and the trial that has been brought against him for possessing articles praising Risale-i Nur.

13. Propaganda is used in the sense of trying to persuade others to adopt an idea or issue in order to gain supporters, see Cihan (1978, 9-18).

In the trial against the defendant M.N.Y., born in 1932, it was decided unanimously to send the case file to the military court¹⁴, since the military court is the competent authority for the accusation of ‘public insult and defamation of the military forces of the state’ (THCC, Case no: 1972/160, Decision No: 1972/172, Decision Date: 25.12.1972).

The concern that the sensitivities called reactionism and separatism experienced in the founding period in Türkiye would recur has been constantly kept alive. In this way, it was aimed to reinforce the society's perception of national security (Çelik, 2023a, p.345). However, after the 1960 coup, Islam was seen as the most effective weapon against communism in Türkiye (Ahmad, 1996, p.478). In addition to this information, the court results above show that the statements of citizens expressing their dissatisfaction with the administration as a result of the oppressive environment that emerged after the military intervention led to lawsuits being filed against them.

1.3. Cases Concluded In 1973

O.O.Ö., born in 1944, was charged with making propaganda for communism. It was alleged that he and S.V. went to Nusratlı village to distribute newspapers and made speeches against the order. When they asked the villagers how much grapes and sunflowers cost and how much they sold them for, and when they said ‘wouldn't it be bad if they had a tractor?’ the villagers misunderstood this and reported them, thinking that they were making communist propaganda.¹⁵ However, the defendants denied the allegations. On the basis of the testimonies of

14. As can be seen, although the harsh criticism against the authors of the 1971 Military Memorandum was not ignored, the civilian courts of the time referred the matter to the military courts. Although this situation shows the pressure that military interventions put on society, it can also be said that the civilian courts of the time performed their duties properly.

15. When the villagers are told that their economic situation would be better if they worked in agriculture, it is interesting from today's perspective that these speeches are interpreted as communist propaganda and lawsuits are filed against the defendants. In today's Türkiye, such speeches are openly broadcast on television channels every day. This situation also shows how military interventions negatively affect the social structure of society.

H.Ö. and Z.T. in support of the defendants,¹⁶ the court acquitted the defendants (THCC 20.12.1973).

The freedom of association brought by the 1961 Constitution, which was made after the 1960 coup, strengthened the perception of civil society and paved the way for democratic mass organizations. With the military intervention in 1971, it was realized that the libertarian environment that had been attempted to be achieved through the 1961 constitution had regressed considerably (Çelik, 2023a, pp.147-151). In addition to this information, it was seen that the death penalty was applied to a total of 17 people in Türkiye between March 12, 1971 and October 14, 1973, when the impact of the 1971 military intervention was experienced (Gemalmaz, 2001, p.74). It was determined that no death penalty was given in Tekirdağ, which is examined in this article.

However, it is quite remarkable that while it was understood that the people who carried out the military intervention in Türkiye in 1971 were anti-communist, a lawsuit was filed against a citizen who kept books on religious subjects with him during the same period.

2. Finalised Cases In Bilecik

When the cases related to the crimes committed against the state and the government at the Bilecik High Criminal Court are examined, it is determined that thirteen different cases were concluded in a total of 6 years, 1 in 1974, 1 in 1975, 2 in 1977, 3 in 1978, 5 in 1979 and 1 in 1980. In 1976, it was observed that no case on the subject was finalised.

2.1. Cases Finalised In 1974

Born in 1929, the defendant M.Z. was charged with ‘publicly insulting and defaming the spiritual personality of the government’. In his defence, the defendant denied the accusation. He also stated that when Necmettin Erbakan said ‘we are

16. The filing of such a case shows the negative impact of military interventions. However, the prosecutor's request for the defendants' acquittal because they did not use negative statements about the administration, and the court's decision to acquit them, show that the courts of the time made an effort to ensure justice.

being deceived like sucklings’ on the radio, he said that ‘Erbakan was expressing his own helplessness and weakness’. The accused then stated that M.D., whom he had complained about for encroaching on the common property of the village, had denounced him. M.D., on the other hand, stated that on the day of the incident, while listening to Erbakan on the radio, the defendant said to Erbakan: ‘What did you promise, what are you doing, you made life more expensive, you fucking cow bastard’. H.U. and S.T. also testified in support of M.D. In the end, the court decided to acquit the defendant M.Z. as it was convinced that he had not made a speech with the intention of insulting or defaming the moral personality of the government or the ministry. Even though the court made a decision in this direction, the moral assets of individuals are protected in law [Bilecik High Criminal Court (BHCC) 18.12.1974]. While insult was considered an offence under the Turkish Penal Code No. 765, which is not still in force, Article 125/1 of the latest Turkish Penal Code also criminalises swearing (Kızılay, 2021, pp.47-70).

In 1972, a citizen was sentenced for insulting the President of the Republic,¹⁷ whereas in the case in question, the Deputy Prime Minister of the time, Necmettin Erbakan, was not sentenced even though he was publicly insulted. However, it was stated that the defendant could be prosecuted for personal insult. It is unclear whether this decision of the court was communicated to Necmettin Erbakan.

2.2. Cases Concluded In 1975

M.E., born in 1919, was charged with ‘participation in the offence of insulting the spiritual personality of the government’. An investigation was conducted with the accusation that M.E., who was the editor-in-chief of *Yarın* newspaper published in Bilecik, was involved in the crime with the newspaper

17. The president in question is Cevdet Sunay, the 5th president of the Republic of Türkiye, who has a military background. From this, it can be seen that the court's decision on the charge of insulting a civilian deputy prime minister is not the same as the decision on the charge of insulting a president with a military background. Therefore, it can be concluded that military interventions somehow influence the court's decisions.

dated 8 July 1975. In all his defences, the defendant stated that he would not have allowed such an article and that he was not aware of the article as he was in Ankara and therefore requested his acquittal. As a result, the court acquitted the defendant (BHCC 19.11.1975).

All coups and interventions have caused deep wounds and destructive effects on society (Tatlılıoğlu at al., 2018, p.288). However, 4 years after the 1971 military intervention and the existence of a government led by a civilian prime minister, Süleyman Demirel, it was observed that the courts did not deviate from the line of law in such cases.

2.3. Cases Concluded In 1977

E.T., born in 1954, and F.Y., born in 1946, were charged with ‘publicly insulting and defaming the moral personality of the government’. This case was filed at the Bilecik Heavy Penal Court pursuant to the decision of the Söğüt Criminal Court of Peace dated 07.12.1976 and numbered 82/199. Since the same court had previously acquitted the defendants with the decision dated 29.12.1976 and numbered 83/105, the case was dismissed (BHCC 09.02.1977).

R.E., born in 1952, Y.O., born in 1949, C.Ö., born in 1957, and M.M., born in 1956, were charged with publicly insulting and defaming the moral personality of the government. According to the decision taken on 11.09.1976 by the Board of Directors of the Bilecik Cultural Association, of which the defendants were members, one hundred posters were to be printed and distributed in protest. The posters bore the inscriptions ‘Enemy of the People, State Security Courts¹⁸ to be closed down, Prisons to be emptied, Death to Fascism, Freedom for the People’. The declaration also states that the National-CHP government, which collaborates with imperialism, is responsible for the high prices, poverty and unemployment. In

18. State Security Courts were established in Türkiye by Article 136, which was added to the Constitution of 1961, which was established after the 1960 Coup, by Law No. 1699 of 15.3.1973, see Official Gazette, 20 March 1973. From this information, it can be concluded that military interventions have been effective in establishing State Security Courts in Türkiye.

the court, the defendants stated that they had not insulted or denounced the moral character of the government. The court sent the text to an expert to determine whether it contained an element of offence. In the report prepared by the experts, it was stated that the statement made was within the framework of the freedom of associations to express their opinions and that there was no insult to the moral personality of the government. In line with these findings, the Court unanimously acquitted the defendants (BHCC 26.10.1977). Although cases were brought before the High Criminal Court due to protests against the State Security Courts, which were established under the influence of military interventions, and protests in the form of objections to their decisions, it was observed that the decisions were rendered within the framework of the law.

However, in the first declaration published after the 1980 coup, signed by Chief of General Staff Kenan Evren, the aim of the coup was explained as "to protect the integrity of the country, to ensure national unity, to ensure the healthy functioning of the democratic order." (Çelik, 2008, p.164). It is also quite striking that it was aimed to provide a democratic environment with an undemocratic practice.

2.4. Cases Concluded In 1978

A public case was filed against A.B., born in 1938, on the grounds that he publicly insulted the moral character of the government by saying 'not a triple coalition, but a three-headed wild beast' in a coffee house. The court unanimously acquitted the defendant on the grounds that there was insufficient evidence to convict him, since the witnesses testified in contradictory opinions (BHCC 20.09.1978).

M.M.Ş. and R.Ü., born in 1953, Ü.E. and N.B., born in 1956, Ş.T. and C.Ü., born in 1955, were charged with making propaganda for communism. The court concluded that the defendants did not intend to commit an offence because they had given the bulletin consisting of twenty-three pages printed by Gökder, one of the associations in Gölpazarı, to the Public Prosecutor's Office before

distributing it to determine whether it contained any criminal elements.¹⁹ As a result of the examination at the Public Prosecutor's Office, the bulletin was not distributed by the defendants as it was found to contain criminal elements. For these reasons, the defendants were acquitted and the bulletins were confiscated (BHCC 27.09.1978).

In the indictment prepared by the Gaziantep Public Prosecutor's Office against T.D., born in 1954, it was stated that in 1974, while he was a university student in Izmir, he adopted the Marxist and Leninist ideology and travelled illegally to Lebanon to receive armed training with the aim of committing acts in this direction. It was stated that T.D. fought in the ranks of the People's Liberation Army of Palestine in the Al-Fatah Organisation²⁰ while he was there and that he contacted the illegal People's Liberation Army of Türkiye (THKO)²¹ Fighting Union established in Türkiye, joined the organisation and acted as its representative in Lebanon. It was also recorded that T.D. tried to enter the Kilis Öncüpınar Gate on 19.08.1977 with a fake passport in order to distribute the Marxist-Leninist declarations in Persian, English and Turkish which he had prepared in Lebanon. In the meantime, the defendant was found to be in possession of fake US Dollars and declarations containing separatist expressions. In the face of the allegation that he was engaged in Kurdishism and separatism, the defendant stated that he was a communist, but that he did not make propaganda for communism and Kurdishism and asked for his acquittal. As a result of the trial, a partial attempt was accepted

19. In order to be guilty of forming an organisation for the purpose of committing a crime and being a member of that organisation, the organisation must have committed crimes for which the penalty is at least 5 years' imprisonment, see Yaşar (2015, 191-237).

20. The court ruling states that Fatah was a Marxist-Leninist organisation in the 1970s. It is said that in the problems of Palestine today, Israel wants to continue with Fatah, which is characterised by its relatively secular features, instead of Hamas, which is characterised by its Islamic features, see Løvlie (2014, 100-121). There are comments that Fatah is accepted by Israel as an interlocutor instead of Hamas, whose political bureau was headed by Ismail Haniyeh, who was assassinated in Iran on 31.07.2024.

21. The Turkish People's Liberation Army (THKO) is an armed Marxist-Leninist organisation led by Deniz Gezmiş, Yusuf Aslan and Hüseyin İnan, see Ertürk (2023, 1-27).

and the defendant was released on bail, taking into account the days he had served in prison (BHCC 27.12.1978).

In 1978, 3 trials were held on the subject, 1 for insulting the moral character of the government and 2 for making communist propaganda. The lawsuit filed on the charge of insulting the moral character of the government resulted in acquittal. The government of the period was a coalition government led by Bülent Ecevit. Süleyman Demirel's Justice Party was the main opposition party. The fact that the courts did not penalise the criticism of the government by the citizens leads to the conclusion that the public benefited more from social and democratic rights during periods free from military interventions. The fact that the other 2 cases were filed with the accusation of propaganda of communism indicates that the influence of the anti-communist²² mentality in Türkiye continued after the military intervention. However, in the first of these 2 cases, despite the sensitivity against communism, it was observed that the defendant was not sentenced due to the lack of a sufficient offence. This situation suggests that the effect of the military intervention has diminished over the years. In the last case, it was decided that the evidence against the defendant was sufficient and the defendant was sentenced on the charges of communist propaganda and Kurdishism.²³

2.5. Cases Concluded In 1979

E.T. born in 1954, İ.K. born in 1952, A.K.Z. and S.K. born in 1955 were charged with 'insulting the moral personality of the government'. On 25.09.1977,²⁴

22. The origins of anti-communism in Türkiye actually go back to the time of Mustafa Kemal Pasha. Although Türkiye, under the leadership of Gazi Mustafa Kemal, sided with Soviet Russia due to the conditions of the time, it never adopted the communist form of government. In fact, communism was prevented from entering the country, see Uca, (2010, 323-348).

23. It is precisely during this period, towards the end of 1978, that the PKK terrorist organization was established in Türkiye, see Çaycı (2008, 89-99).

24. From the military memorandum of 12 March 1971 until 31 March 1975, when Süleyman Demirel became prime minister again, 6 different governments were formed, 4 of which were under military control. In the 5 years between 31 March 1975 and 12 September 1980, when the 1980 Military Coup took place, 5 separate governments were formed, 3 under the leadership of Süleyman Demirel and 2 under the leadership of Bülent

it was stated that on behalf of the CHP youth branches of Söğüt district, the defendants had prepared and printed a declaration entitled ‘To our patriotic people’ at the commemoration of Ertuğrul Gazi. In this declaration sentences such as ‘The fascist MC led by Demirel is an enemy of the people’ were used and the increases in the prices of basic necessities were criticised. It was stated that the then Minister of Interior Korkut Özal²⁵ had the shanties of poor workers and peasants in Ümraniye demolished, while the villas of rich people were left untouched. The court concluded that the content of the article was a criticism and that such criticisms were made in cartoons in newspapers. Therefore, the defendants were acquitted (BHCC 21.03.1979).

M.A., born in 1953, was charged with ‘possession of prohibited publications and military equipment’.²⁶ During the search of the defendant's house, 2 parkas, seventy-five prohibited publications and twenty-three copies of the newspaper *Devrimci Yol (Revolutionary Path)* were seized. In his defence, the defendant stated that he did not know that the publications found in his house were prohibited and that prohibited books²⁷ could not be sold. He stated that he had bought 2 parkas, which he did not know were military equipment, from a flea market in Ankara 3 or 4 years ago. In the examination made by the expert, it was stated that only one of the parkas was military, but it was too old to be worn by an

Ecevit, see Karataş, (2020, 387-422). As you can see from this, military interventions create negativity and instability in the political life of society and in every field. It is certainly unthinkable that the people can be happy with this unstable environment.

25. Court records show that there was no direct insult to the person of Prime Minister Süleyman Demirel or Interior Minister Korkut Özal, and that the defendants' statements were interpreted as criticism. This suggests that the absence of military influence creates an environment in which sound decisions can be made in the courts.

26. In today's Türkiye, a person is not brought to court for possessing a military uniform. The fact that a case was brought on such a charge in 1979 suggests that the impact of military interventions was being felt, albeit slightly.

27. The fact that the ‘confiscation order’ requested by the Istanbul Public Prosecutor's Office in 1978 was rejected by the Second Peace Court of Istanbul on the grounds that it was contrary to Articles 132 and 136 of the Turkish Penal Code, and the rejection of the appeal against this decision by the Supreme Court of Appeals, shows that decisions were taken in accordance with the law despite military influence, see İçel (2012, 113-120).

authorised person and that similar parkas were sold in the market. Since the *Communist Manifesto*, *Ne Yapmalı* and the newspaper *Devrimci Yol* (*Revolutionary Path*), which were found in the defendant's house, had been ordered to be confiscated by different courts in Ankara, the banned publications were confiscated and the defendant was sentenced to a fine of two hundred and fifty liras. It was also decided that the defendant's sentence should be suspended due to his good behaviour in the past and the parkas should be returned to him. Court Member A.G. stated that there is no offence called 'Forbidden Publication' in the Turkish Penal Code²⁸, and even if there is a confiscation order, someone who is not aware of this situation can buy these publications that are sold publicly. Accordingly, he explained that everyone who bought these books should be convicted, but this is not true. For this reason, he stated that he was against²⁹ the defendant being sentenced for having prohibited publications in his home. For this reason, the judgement was not unanimous (BHCC 20.04.1979).

T.D., born in 1954, who was charged with the offence of 'making communist propaganda' and was found to be in possession of leaflets on the activities of the THKO Fighting Union³⁰ and separatism, was released from prison

28. In the above-mentioned decision of the Bilecik High Criminal Court in 1979, although it was stated in the annotation of one of the members of the court that there was no crime of 'forbidden publication', the decision made by the majority; it was seen that the publications in the possession of the accused, which were declared as 'forbidden publications', were confiscated and a fine was imposed. However, in the article 'Punishment in Press Crimes' written by Prof. Dr. Öztekin Tosun in the same year as the decision was made, it was stated that new rules should be put into practice due to the necessity of a free press, see Tosun (1979, 3-13).

29. This behaviour of the member of the court who objected to the verdict on the charge of 'possession of banned publications' can be seen as quite normal in today's constitutional states. However, at the time of the study, in Türkiye between 2 military interventions, such an attitude was seen as the lawyer's way of emphasising his identity as a lawyer.

30. The fact that the armed terrorist activities of the organisation in question began before the military memorandum of 1971 gives the impression that the environment was prepared for the 'memorandum'. Of course, military intervention is not preferred. However, both such developments before the 1971 Memorandum and the intense right-left conflicts in Türkiye before the 1980 Military Coup lead to the comment that 'the environment was prepared for military interventions'. In addition to the chaos in society before the military interventions, it is also important not to forget the social and economic malaise in society

on 27.12.1978. On 26.12.1978 martial law was declared and on 25.04.1979 a decision was taken to extend martial law. It was decided to send³¹ the file on the defendant to Gaziantep, Kahramanmaraş, Adana, Adıyaman Martial Law Military Court (BHCC 03.10.1979).

M.Y., born in 1958, was charged with ‘insulting the military power of the state’. Upon the closure of the Patriotic Revolutionary Youth Associations Federation by the Martial Law Command, the defendant M.Y. sent a protest telegram to the Istanbul First Army Martial Law Command on 06.03.1979. On 11.03.1979, Istanbul Martial Law Command requested Bilecik Public Prosecutor's Office to open an investigation against the defendant. In his defence, the defendant M.Y. stated that he did not think of any insult. The court decided to send the telegram to the experts and the report prepared by the experts stated that there was criticism in the telegram but there was no insult in it. As a result, the court acquitted³² the defendant (BHCC 17.10.1979).

E.T., born in 1954, İ.K., born in 1952, A.K.Z. and S.K., born in 1955, were charged with insulting the moral personality of the government; the acquittal verdict dated 21.03.1979 was finalised on 28.03.1981 as no appeal was filed in due time (BHCC 17.08.1981).

after the military interventions. They followed each other like a vicious circle. However, it was always the Turkish people who suffered.

31. As can be seen, the social unrest of the late 1970s led to the declaration of martial law at the end of 1978, the extension of martial law in 1979 and a Military Coup in 1980. However, although the defendant was accused of being a member of a terrorist organisation, the civil court took a legal stance by referring the matter to the martial law courts.

32. As we can see, in the martial law environment that prevailed before the military coup, a letter of protest from a citizen to the martial law command, which he saw as the cause of his discomfort, about an issue that bothered him, could lead to a lawsuit being filed against him. This shows how military intervention damages social peace. However, it should be noted that the civilian courts of the time decided the case filed on this issue in accordance with the rule of law.

Of the 5 separate cases concluded at the Bilecik High Criminal Court in 1979, 2 were filed on the charge of insulting the moral character of the government, 1 on the charge of possessing military equipment and prohibited publications, 1 on the charge of making communist propaganda and 1 on the charge of insulting the military forces of the state. It is understood that the judgements given in 1979 were issued during a period of martial law. However, 3 acquittals, 1 fine and 1 case was referred to the martial law court due to the nature of the offence. Despite the military pressure, it is understood that the Turkish civilian courts of the period attached importance to the rule of law.

It should also be noted that, as in the example above, following the military memorandum of 1971, some newspapers were closed down even for a short time, some journalists were detained and some publications were confiscated (Ahmad, 1996, p.361).

2.6. Cases Closed In 1980

A public prosecution was brought against A.D., born in 1955, and A.Y., born in 1950, for ‘openly insulting and humiliating the moral character of the court and the security and protection forces of the state’. In his defence, defendant A.D. stated that on the day of the incident, he saw leaflets on the table in the union room of the factory, and when he examined their contents and saw the condemnation of the court, he did not allow the other representative, defendant A.Y., to distribute the leaflets because he thought it might be a crime. Defendant A.Y. also made a similar statement in his defence. However, they stated that they did not know who had put the leaflets on the table and that they were innocent. V.D., H.S. and N.K. also testified to corroborate the defendants' statements. The court decided to acquit the defendants (BHCC 08.10.1980). Although the date of the decision of the only case decided in 1980 on the subject under review coincides with the aftermath of the Military Coup of 12 September 1980, it is seen that the rule of law was observed in the decision of the civilian court. However, it has been seen that in an environment where military pressure is felt, a declaration can be the

subject of a lawsuit. In constitutional states, however, this situation is accepted as freedom of thought. This shows how military intervention damages the social structure and social peace.

With the 1980 military coup, dozens of people were executed and thousands were arrested. No work of art containing the slightest criticism was allowed. The coup had deep cultural and social damages on the society (Talilioğlu at al., 2018, p.288).

Table 1: Subjects of Cases and Decisions

Provinces Where the Case Was Heard	Case Results Years	Case Topics	Decisions
Tekirdağ	1971	Defamation of the public personality of the government	1 year hard labour
Tekirdağ	1971	Insulting the military forces of the state	Acquittal
Tekirdağ	1972	Publicly insulting the military forces of the state	Acquittal
Tekirdağ	1972	Insulting the President in absentia	1 year imprisonment
Tekirdağ	1972	Praising acts considered as criminal offences by the law	3 month imprisonment
Tekirdağ	1972	Nurjuluk propaganda	Acquittal
Tekirdağ	1972	Publicly insulting the military forces of the state	Consolidation with the case against the same defendant for the same offence
Tekirdağ	1972	Publicly insulting the	Sending the case file to the

Provinces Where the Case Was Heard	Case Results Years	Case Topics	Decisions
		military forces of the state (related to the previous case)	military court
Tekirdağ	1973	Communist propaganda	Acquittal
Bilecik	1974	Insulting and defamation of the public personality of the government	Acquittal
Bilecik	1975	Participation in the crime of insulting the public personality of the state	Acquittal
Bilecik	1977	Publicly insulting and ridiculing the government's public person	Case dismissed based on prior acquittal for the same issue
Bilecik	1977	Publicly insulting and ridiculing the government's public person through the press	Acquittal
Bilecik	1978	Publicly defamation of the public personality of the government	Acquittal
Bilecik	1978	Communist propaganda	Acquittal
Bilecik	1978	Kurdishism and separatism	Release
Bilecik	1979	Defamation of the public personality of the government	Acquittal
Bilecik	1979	Possession of prohibited publications	Fine of 250 liras (suspended)

Provinces Where the Case Was Heard	Case Results Years	Case Topics	Decisions
Bilecik	1979	Possession of military property	Parkas ordered to be returned to the accused
Bilecik	1979	Communist propaganda	Case file referred to Gaziantep, Kahramanmaraş, Adana, Adıyaman Martial Law Military Court
Bilecik	1979	Insulting the military forces of the state	Acquittal
Bilecik	1979	Defamation of the public personality of the government	Acquittal
Bilecik	1980	Publicly insulting and defaming the moral personality of the judiciary, the security and protection forces of the state	Acquittal

Note: Data reflects court cases and decisions between 1971 and 1980.

Conclusion

Military coups and military memorandums are among the unwanted pages in the history of Turkish democracy. In this study, public lawsuits filed regarding crimes against the state and the government among the cases heard in the High Criminal Courts in Tekirdağ and Bilecik between the years 1971 and 1980 were examined. The period examined is included in the process that started in 1960 and continued almost until today with the coup attempt that lasted in 2016. It cannot be said that the harmony between the citizen and the state has been strengthened as a result of the practices carried out under the influence of military interventions in

Türkiye and the negative effects experienced by the people in the personal freedoms and social sphere. However, due to the influence of the ‘understanding of absolute loyalty to the state’ that has existed for centuries among the Turks, there has been no ‘dissension towards the state’.

It was observed that 7 of the public lawsuits heard in the High Criminal Courts between the years in question were opened in Tekirdağ and thirteen in Bilecik. In Tekirdağ, of the 7 cases opened between 1971 and 1973, 1 was for insulting the moral character of the government, 3 were for insulting the state's military forces, 1 was for propaganda for the Nurjuluk, and 1 was for propaganda for communism. It was seen that 1 case was a case where 2 separate cases were combined on the charge of ‘insulting the military forces’, which was said to have been committed by the same person. 3 of the 7 cases in question were concluded with acquittals, 1 was referred to a military court due to its subject matter, and 1 was combined with the previous case due to its repetition. In 1 case, the defendant was given a sentence of 1 year, and in another case, the defendant was given a sentence of 1 year and 3 months in total. Therefore, as can be seen, prison sentences were given in only 2 of the 7 cases heard in 3 years.

In Bilecik, of the thirteen cases opened between 1974 and 1980, 6 were for insulting the moral character of the government, 3 for making communist propaganda, 2 for insulting the state armed forces and 1 for possessing prohibited publications. It was noted that 1 case opened for insulting the moral character of the government was closed in March 1981 because the acquittal in March 1979 was not appealed. Of the thirteen individual cases mentioned, 7 resulted in acquittal, 1 in release, 1 in dismissal, 1 in a fine, 1 in referral to a military court and 1 in closure because the earlier acquittal was not appealed. Only 1 case resulted in a total sentence of 2 years' imprisonment. As can be seen, of the twenty individual cases in the ten years under review, only 3 resulted in heavy prison sentences. The period under study covers the years between 2 periods of extraordinary events such as military memorandums and military coups. The results of the trials held at the

High Criminal Courts in Tekirdağ and Bilecik during these years showed that the rule of law was accepted as the basis rather than the conditions of the period.

There is a widespread public opinion in the Republic of Türkiye that the US was behind the military interventions on 27 May 1960, 12 March 1971, 12 September 1980, 28 February 1997, 27 April 2007 and most recently 15 July 2016. According to this opinion, those who carried out the military interventions were either directly supported by the US or received its approval. According to this widespread opinion in Türkiye, there is no other possibility than the ones mentioned.

At the end of the study, it was revealed that all kinds of military interventions had a negative impact on the people in Türkiye. During the study, first-hand sources such as court records from the period under study were used. In addition, it is thought that the fact that these sources have not been examined before adds originality to this article.

With the sources used in this study and the results found, it has been understood that there are many more archival sources in the history of the Republic of Türkiye that need to be examined. For this reason, it is believed that this article opens the door for studies to be carried out in this direction. Therefore, it has been assessed that this article is a guide for subsequent studies.

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