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Series of Articles: Turkey Debates Making Amends #2 [1]

The debate on helalleşme (making amends) initiated by Kılıçdaroğlu led to triggered new discussions among civil society and intellectuals. Due to the centrality as an oppositional political figure of Kılıçdaroğlu, who brought the issue forward, a new area for social debate began, causing excitement for individuals and organisations who already worked on dealing with the past and transitional justice. DEMOS was one of them. You can take a look at the first article of the series, titled "How Can We Discuss Helalleşme in the Context of Reconciliation and Transitional Justice?" written by Güneş Daşlı.[2] This paper aims to add one other dimension to the debate that Güneş brought forward. In doing so, the aim is not to discuss the meaning of the call for helalleşme or to try and identify the shortcomings of the call. Rather, the blog post aims to present what the debates started by the call made me think and to suggest a different way of thinking over what is often observed in the debates.

One of the issues revealed by the call for helalleşme was the growing silence of the civil society and the lack of deeper discussion about transitional justice and confronting the past, although Turkey has a serious history of social struggle. Considering the recent years' armed conflicts and the increasingly violent authoritarian and oppressive form of government, it is quite understandable that social actors cannot voice the demands for confrontation with the past and transitional justice as much as they used to. That is vexing, as the lack of debate denotes despair and pessimism. And what is also concerning is that the existing accumulated know-how cannot be adequately transferred to the current discussions.

It is promising that Kılıçdaroğlu still raises this issue on various platforms, and it provides us a good basis for keeping the issue on the agenda. That being said, Kılıçdaroğlu's insistence on continuing this agenda under the title of helalleşme indicates the conscious nature of the word choice. In my observation, the reactions to this terminological choice were roughly grouped in two main lines: The first was a line that positions the concept of helalleşme against reckoning or confrontation, claims that helalleşme will exclude the basic dimensions of transitional justice such as justice and truth, and therefore objects to this discourse. And the second line was the opinion that helalleşme was acceptable, being a local concept shaped by the cultural context of Turkey. Although I stand closer to the second line, I

have objections to the way the discussion has progressed in general. I think that most of the objections brought to the first line, in particular, point to conceptual confusion. At times, such objections risk being superficial interventions without a deep reading on the subject and rote impositions which miss the essence of the issue. In this paper, I will try and explain what I mean by this and on what lines I think the discussions that guide the agenda of helalleşme might smooth the path for us.

Let's start with an overview of what transitional justice is, which is not sufficiently discussed, but offers us a very rich set of methods and tools to deal with the past. Transitional justice emerged as a separate discipline and field of study with the fall of dictatorships and the transition to democracy in Latin America in the 1980s. Transitional justice emerged as a result of the discussions carried out by activists, human rights defenders, lawyers, and academics seeking answers on ways to address the rights violations committed during a past regime period and to achieve justice, and soon started to be used in countries that were transforming conflicts into peace. In this sense, the broadest purpose of transitional justice can be defined as ensuring justice in transitional periods and making sure that the rights violations experienced in the previous period will not be repeated. One of the most common slogans for transitional justice, "Never Again," exactly points to this issue.

In post-conflict countries, transitional justice is mostly put to use after the conflict ends and a peace agreement is signed, i.e., after the war officially ends and a peace process is initiated. However, in recent years, a new question is being asked: Can transitional justice be of use even while conflict and conflict-related violence and rights violations are ongoing?[3]

In this context, more and more researchers and practitioners consider the possibilities of benefiting from the framework and tools offered by transitional justice in the lack of a peace agreement, even when there is no official will for peace. In the cases where this has been achieved, the role falls largely on civil society. Especially in cases like Turkey, where there is no regime change or transition from conflict to peace, the work carried out by civil society towards transitional justice serves as an infrastructure for an official process. In other words, even if what is done does not have a significant impact momentarily, or tangible results cannot be reached rapidly, these efforts accumulate. What is paramount here is the ability of the civil society to voice the demands of transitional justice even when the conditions seem unfavorable, and work towards it, creating an effective grassroots force to intervene in

transitional justice processes when the political atmosphere is appropriate. In this way, a state-centered transitional justice process can be challenged, and the fate of transitional justice not left to the mercy of the fighting parties. Turkey's civil society has already been working toward a serious pursuit of justice and truth, and while the conflict is still ongoing, thinking about ways of implementing transitional justice can enable us to develop creative and original solutions.

Now let's take a step backward and look at how the basic pillars of transitional justice are defined: truth, justice, repair, the guarantee of non-recurrence, and the most recent addition: memorialization.[4] One of the arguments I have often come across in recent weeks' discussions in Turkey is that if a real step towards helalleşme/dealing with the past is to be taken, it should pass through certain stages in a certain order. For example, some claim that truth recovery is the primary condition, and only then justice might be secured, the victims/survivors might forgive the perpetrators, and this is the way helalleşme or confrontation can be achieved. However, when we look at the transitional justice literature and experiences from different countries, we see that we cannot think of transitional justice processes in fixed formulas, and cannot apply them in the same way in every country. A mechanism that works in one country may not work in another, and may even have the opposite effect to that expected. One of the important reasons for this is that victims' and survivors' expectations of justice differ in each context. For example, while demands for an official apology and uncovering of the truth may be a priority in one country, meeting socio-economic needs and criminal proceedings may come to the fore in another.

For example, truth commissions, one of the most widely demanded transitional justice mechanisms in Turkey, are not the only way and mechanism to search for and uncover the truth. While truth commissions may be able to provide an effectual response to the needs of society in some countries, alternative and more creative methods of uncovering the truth may yield better results in other cultural contexts. While truth commissions have a crucial function of uncovering the truth and transforming the victims' experiences into public knowledge, there are other experiences in which the emergence of truth caused re-traumatization, and left victims and survivors at least unsatisfied. For example, Brandon Hamber explains the South African Truth and Reconciliation Commission process, which is also well known and frequently referred to in Turkey: In studies conducted with victims in South Africa, victims made both positive and negative reports about the long-term impacts of

the truth commission, and some victims stated that they experienced much more negative emotions than before they participated in the commission process.[5]

The most important factor that deepened such negative emotions is that there was no significant change in the socio-economic conditions of the country.[6] Of course, this is a minor example among many examples of truth commissions and does not rule out many positive outcomes of truth commissions. But this tells us that we need to consider many details and adopt a holistic approach, taking into account the socio-political context, while thinking about which transitional justice mechanisms should be used. Acting by external formulas in a rote fashion, without paying regard to Turkey's unique dynamics, causes us to miss the actual needs of the victims of the conflict and state violence. Therefore, when designing transitional justice mechanisms, it is necessary to know what the victims of the conflict demand, what they need, and what they request of justice, and to nurture the transitional justice process from this information.

The discussions about the meaning of the concept of helalleşme, or the purpose of Kılıçdaroğlu, and the authenticity of his intention in bringing it up are quite meaningful. But I suggest going one step further: We should make good use of the social debate about confronting the past and work to fill the gaps of this agenda as the civil society. In doing so, it would be meaningful to act by looking at the dynamics of the conflict in Turkey and prioritize the expectations of the victims/survivors, instead of following pre-set formulas and top-down impositions concerning a method. As expressed by victim-centered approaches, it would be most correct to base a transitional justice process on the expectations and needs of those most affected by the conflict, building the process from the bottom up. For this purpose, listening to the actors who have struggled in the field for years, and at the same time, consulting the literature on transitional justice would pave our way.

Looking at the literature on transitional justice not only shows us how similar difficulties were overcome in other countries and offers various methods but also shows how they progress uniquely according to their own dynamics in each example. Getting to know the wide variety of methods and critical approaches offered by transitional justice offers us space for more creativity in thinking about what might correspond to the particular needs in Turkey and ultimately allows us to go beyond rote judgments and propose a set of mechanisms that are unique to us. Lastly, "no transitional justice process is perfect"[7] and our task is to think of a

process that prioritizes the demands of the victim/survivors, which will contribute to ensuring lasting peace.

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[1] This blog post was written in December 2021, shortly after Kilicdaroglu's call for helallesme, as the second piece of "Turkey Debates Making Amends" series. At the time, the parliamentary and presidential elections were still far away and the hope for a change was strong. It was written with the prospects for a political change that would allow for space for dealing with the past discussions. The political context now is quite different, and helallesme does not seem to be on the list of priorities of the political parties.

[2] Daşlı, G. (2023) How Can We Discuss Helalleşme in the Context of Reconciliation and Transitional Justice?" https://en.demos.org.tr/how-can-we-discuss-helallesme-in-the-context-of-reconciliation-and-transitional-justice/

[3]For wider coverage, you can listen to our #DEMOStanSesler podcast [in Turkish] here: https://anchor.fm/demostansesler

[4] UN Human Rights Council (2020) https://undocs.org/A/HRC/45/45

[5]Although this 5-pillar model for transitional justice is widely accepted, there is also some criticism in the field to define the basic pillars of transitional justice in other ways or claims that holding such a model as a normative proposal would eventually prevent us from considering the specific contextual differences and needs of different experiences, and instead needs and suggestions from the specific context should be valued more.

[6] Hamber, B. (2009) Transforming societies after political violence: truth, reconciliation, and mental health. Dordrecht: Springer.

[7] Lambourne, W. (2014). What are the pillars of transitional justice? the united nations, civil society, and the justice cascade in Burundi. 41–60.