

LAW IN THE SHADOW OF SECURITY

***VIOLATIONS OF THE
RIGHT TO LIFE OF
CHILDREN AND YOUTH
IN THE KURDISH REGION
OF TURKEY
(2000-2015)***

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ABRIDGED VERSION

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Derneği Yayınları (Truth Justice and Memory
Studies Association Publications), 2025
ISBN: 978-625-95069-6-8

adalet  iyileştirir

This publication was produced within the scope of the Justice Heals project and funded by the European Union and the Friedrich-Ebert-Stiftung Turkey Office. Its contents are the sole responsibility of Hafıza Merkezi and do not necessarily reflect the views of the European Union or the Friedrich-Ebert-Stiftung Turkey Office.



Funded by
the European Union



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THE SCOPE OF **RESEARCH AND** **METHODOLOGY**

This report, “Law in the Shadow of Security: Violations of the Right to Life of Children and Youth in the Kurdish Region of Turkey (2000–2015)”, constitutes the legal research component of Hafıza Merkezi's three-year project, “Justice Heals: A Holistic Approach to the Right to Life of Children and Youth”. The report examines violations of the right to life of children and youth in the Kurdish region of Turkey between 2000 and 2015. The scope of research was set in line with the state's obligations under the International Covenant on Civil and Political Rights (ICCPR) and the European Convention on Human Rights (ECHR) to protect and not to terminate life. The report focused only on incidents resulting in death and killings committed by or attributed to security forces (i.e. police, gendarmerie and soldiers). Violations concerning village guards were excluded from the research, as it was deemed necessary to address these violations separately. In terms of victims, the research was limited to the deaths of children and youth. In accordance with the United Nations (UN) Convention on the Rights of the Child, “children” were defined as those under the age of 18. Further, “youth” were defined as those between the ages of 19 and 35, taking into account the regional context. Within this framework, along with violations of the right to life resulting from the use of lethal force by security forces, violations of the state's duty to protect the lives of those within its jurisdiction, were also examined.

Building on the entrenched culture of impunity identified in work of the Hafıza Merkezi and other human rights organizations on the 1990s, this research examines the 2000s within the political and legal context of the period. Accordingly, the research focuses on the following questions:

- *How was the right to life of children and youth violated as a result of the use of lethal force by security forces in the Kurdish region of Turkey between 2000 and 2015?*
- *What kind of violations of the right to life resulted from the state's failure to fulfil its duty to protect in this region?*
- *How did changing security policies and the lifting of the state of emergency in the 2000s affect violations in the region?*
- *Were the investigation and prosecution proceedings conducted in a manner that is effective, independent, prompt and open to public scrutiny?*
- *How did the judiciary react towards violations of the right to life resulting from the lethal use of force by security forces or the state's failure to fulfil its duty to safeguard?*
- *By which judicial and administrative mechanisms and methods was the accountability of security forces limited?*
- *What structural problems and patterns regarding impunity practices do the legal proceedings related to these violations reveal?*
- *Is it possible for legal proceedings to provide redress for those affected by violations?*

The research analyses the period under review within the context of the Kurdish question, against the political and legal backdrop shaped by the redefinition of securitization policies, the lifting of the state of emergency, rising expectations for reform through the European Union (EU) accession process, and the subsequent beginning and end of the “Solution Process” (“Çözüm Süreci”). Thus, it aims to shed light on how the established practice of impunity for gross human rights violations in the 1990s continued in the 2000s, how violations of the right to life continued in a different form, what the judiciary’s conduct towards these violations was and how this conduct shaped expectations of justice.

Methodologically, the research proceeded by creating a dataset based on reports from the Human Rights Association (İHD) and the Human Rights Foundation of Turkey (TİHV), expanding the data with information obtained from legal sources and fieldwork, and verifying this data with contributions from stakeholders such as bar associations, lawyers, experts, academics, and journalists. Based on legal documents accessed during the analysis, violations of the right to life and the conduct of the judiciary were assessed comparatively in light of the case-law of the European Court of Human Rights (ECtHR) and the Constitutional Court of Turkey (AYM). The research categorized violations of the right to life resulting from the use of lethal force by security forces during operations, meetings and demonstrations, or on the grounds of alleged failure to comply with a ‘stop’ warning, as well as those caused by mines and unexploded ordnance or by armored vehicles. These were examined in the context of the state’s positive and negative obligations regarding the right to life.

This research has certain limitations. Accordingly, rather than claiming absolute comprehensiveness, it is positioned as an attempt to reconstruct fragmented human rights data within a systematic framework. Access to legal documents on killings was limited due to reasons such as families migrating or avoiding the publicization of the incident, and lawyers being unable to follow the proceedings for various reasons. The Gezi protests of 2013 were addressed only in terms of their scope within the provinces covered, while the Kobanî protests of 6-8 October 2014 could only be included to a limited extent, as it could not be verified through existing legal documents whether the perpetrators of the violations were security forces. As the research focused only on the period 2000-2015, it was not possible to investigate the full scale of the use of armored vehicles and the resulting patterns of right to life violations, which took on a different character after 2015. In cases of deaths caused by mines and unexploded ordnance, the predominance of administrative proceedings and reservations affecting access to compensation files also created limitations in accessing respective data and legal documents. Furthermore, as most of the ECtHR and Constitutional Court decisions were issued many years after the

events, only those decisions that coincided with the research period and were directly related to the data set could be evaluated.

This report addresses the limitations of the traditional retributive justice system in tackling the systematic and structural problems that produce impunity and the societal impact of human rights violations, together with a restorative justice approach. In this regard, rather than focusing solely on punishment, it aims to understand the structural causes, patterns and consequences of human rights violations and to discuss the need for restorative justice, taking into account the needs of victims.

OVERVIEW
FROM THE 1990S
TO THE 2000S

The 1990s in Turkey was a period in which the state's perception of internal threats were centered on "separation" and "reactionaryism", the Kurdish question was subsumed in the security sphere, and the war against the PKK was accompanied by gross human rights violations and systematic impunity. Although steps such as ceasefire initiatives and the establishment of Kurdish political parties were taken during the same years, these attempts failed to find political resonance due to military tutelage and security-oriented approaches. Thus, the harsh, interventionist state practice of the 1990s was carried over to the 2000s through the militarization of the Kurdish question.

The 2000s, however, was a contradictory period in which the agenda of democracy and human rights, the search for peace, and the institutionalization of security-oriented policies coexisted together with continuities leading to violations of the right to life and impunity practices. Therefore, in our research, we addressed the background of this period along three axes. On the one hand, we examined in detail how the steps taken towards democratization and the search for peace created new opportunities, and on the other hand, we examined the mechanisms through which security policies and impunity practices were reproduced.

A. 2000-2015 in Terms of the Impact of the Search for Peace

Founded in 1978, the PKK found space to expand in a political climate marked by severe human rights violations affecting Kurds in the 1990s, such as low-intensity warfare, forced displacement, village burnings and evacuations, enforced disappearances, and extrajudicial killings. During this period, local, regional and global developments also paved the way for the organization's ideological line to evolve towards a decentralized perspective prioritizing 'democratic socialism' and cultural rights, as well as for the Kurdish question to be discussed in Turkey through means other than military methods for the first time. The unilateral ceasefires declared by the PKK in 1993, 1995 and 1998 did not lead to any concrete change in state policies—whenever the processes came to an end, the violence intensified. On the other hand, attempts by then-President Turgut Özal and some politicians towards a political solution were also unsuccessful due to a lack of political will, as well as certain suspicious deaths. JİTEM (Gendarmerie Intelligence and Counter-Terrorism) and counter-guerrilla structures were not investigated; inquiries ended without punishment. Thus, both the security-oriented conduct of the conflict and the failure to judicially shed light on gross human rights violations throughout the 1990s determined the fundamental problem areas which would be carried over into the 2000s. Unlike the unilateral ceasefires of the 1990s, the 2000s saw concrete efforts towards

peace, negotiation and the construction of social peace: the İmralı Process (1999-2004), the Oslo Process (2008-2011) and the Solution Process (2013-2015). Unfortunately, like their predecessors, these peace efforts also ended in failure, and subsequent conflicts and violence both escalated thereafter.

The İmralı Process, which began in 1999 with Öcalan's transfer to Turkey through an international operation, ushered in a new era with calls for a political solution, the end of armed conflict, and the withdrawal of armed forces to appropriate areas. However, the state settled for limited regulations such as the Effective Repentance Law (*Etkin Pişmanlık Yasası*) instead of comprehensive democratic reforms. The closure of Kurdish political parties and the suppression of the political arena during the years of the İmralı Process weakened the process. Proposals for truth commissions, amnesty regulations and local administration reforms for a political solution did not gain traction. Thus, the period of non-conflict between 1999 and 2004 ended due to the hardening of the national and international security agenda, internal state crises, and mutual distrust. Conflicts resumed and returned with greater intensity than in previous periods.

The 2008–2011 Oslo Process was critical in that it marked the first time the state and KCK (*Koma Civakên Kurdistanê*) representatives formally recognized each other as interlocutors. However, while the KCK declared a ceasefire during the process, extensive operations over KCK were carried out, resulting in the arrest of over two thousand people, including members of the Democratic Society Party (DTP), journalists, academics, lawyers, and doctors, who were leading actors in the Kurdish community in the political and social spheres; the political arena came under heavy pressure. The nationalist backlash that arose following the mass welcome given to the peace groups formed by unarmed PKK members who entered Turkey through the Habur border gate and the attacks that followed disrupted the process. The closure of the DTP in 2009, the judiciary becoming an instrument of political strife after the 2010 constitutional referendum and a suspicious attack targeting soldiers in Silvan in 2011 ended the Oslo Process. Following the collapse of the process, violence escalated again. The bombing and killing of 34 people, most of them children, in Roboski became one of the most severe examples of state violence following the peace initiative. The process completely dissolved when MİT Undersecretary Hakan Fidan, who had participated in the Oslo talks, was summoned by prosecutors in 2012 due to the political struggle between the AKP and the Gülen Movement.

The 2013–2015 Solution Process was conducted within a more institutional framework than previous processes, due to publicly held talks, the Wise Persons' Commission (*Akil İnsanlar Heyeti*), and commissions established within the Turkish Grand National Assembly. The PKK's decision to withdraw from Turkey as announced in Öcalan's letter

and new legal regulations initially created hope. However, the process was fragile due to the failure to establish a strong legal basis, determine roadmaps to secure peace, and change fundamental legal regulations. The investigation of human rights violations raised in the commissions, truth and reconciliation mechanisms, and the goal of addressing impunity were never realized. Internal power struggles within the state (the AKP–Gülen Movement conflict), the Gezi and Kobanî protests and increasing social polarization shook the process. The attack on HDP's Diyarbakır rally on 5 June, general elections on 7 June, the Suruç Massacre on 20 July and the Ceylanpınar attack on 22 July consecutively brought the process to an end in 2015.

Following the collapse of the peace process, another wave of violence emerged: clashes spread to cities, months-long curfews were imposed, hundreds of thousands of people were displaced, and many civilians lost their lives. The state of emergency regime after 2016 further deepened the legal and political consequences of the collapse of the search for peace.

Therefore, this period remained a fragile search for peace, where expectations for democratization were rising, yet no structural transformation was achieved and the security-oriented paradigm sought to regain ground.

B. 2000-2015 in Terms of the Democracy and Human Rights Agenda

Turkey's formal recognition as a candidate country for full membership to the EU at the 1999 Helsinki Summit brought with it a comprehensive reform agenda in the areas of democracy, human rights and the rule of law in the early 2000s. Between 2001 and 2004, constitutional amendments and eight 'harmonization packages' introduced significant reforms in many areas, including freedom of expression, cultural rights, and the right to assembly and demonstration. The lifting of the state of emergency in Kurdish cities and the partial easing of restrictions on Kurdish-language publications and education also brought about a change in the discourse on the Kurdish question. However, these reforms failed to deepen due to resistance within the state and limitations in implementation. The continuation of de facto and de jure restrictions on the Kurdish language, party closures and a security-oriented approach demonstrated the fragility of the democratization process.

From 2005 onwards, the momentum of EU reforms slowed down. Nationalist campaigns and security concerns on one hand, the rise of the AKP and the military bureaucracy's

reaction to this rise on the other, created new tensions between military tutelage and civilian politics. Emerging stronger from the 2007 elections, the AKP reduced democratization to the elimination of military tutelage. This elimination was achieved not through a liberal transformation, but through a revanchist and operational method based on an alliance with the Gülen Movement on the security-judiciary axis. The Ergenekon and Balyoz trials were significant developments during this period; the operations extended beyond the military high command to include journalists and civil society actors. Thus, while the language of reform was preserved, the judiciary increasingly became a political tool.

The period between 2012 and 2015 turned into a contradictory process in which hopes for democratization were intertwined with tendencies towards authoritarianism. On the one hand, negotiation channels were opened with the Solution Process, and discussions on cultural rights and political representation expanded; the Democratization Package (2013) and some judicial packages brought partial improvements in fundamental rights. On the other hand, harsh interventions in the Gezi and Kobani protests, the expansion of police powers through the legal amendments known as the “Internal Security Package”, the curtailment of freedom of expression and assembly, and the further weakening of judicial independence signaled the beginning of the institutionalization of an authoritarian transformation. During this process, the breakdown of the AKP–Gülen Movement alliance further destabilized the judicial sphere.

A significant portion of the reforms after 2005 were counter-reforms: Amendments to the Anti-Terrorism Law (TMK) and the Law on Duties and Powers of the Police (PVSK), the restructuring of the High Council of Judges and Prosecutors (HSYK) following the 2010 constitutional amendment, and frequent changes to the search and arrest regime reinforced security-oriented tendencies. The abolition of special courts, like the abolition of the State Security Courts (DGM), resulted in the reproduction of the extraordinary judicial regime in a different form rather than ending it. The 2014 Human Rights Action Plan, despite its claim of compliance with ECtHR judgments, failed to resolve the fundamental problems in the area of human rights violations.

The period between 2000 and 2015 was one in which the limited opportunities for democratization created by EU-focused reforms failed to become permanent due to the security-oriented approach, the politicization of the judiciary, and struggles for hegemony within the state. Democratization steps were interrupted both in the Kurdish question and in the entire spectrum of social opposition. Each moment of rupture paved the way for the retreat of reforms and the strengthening of security-oriented state practices.

C. Continuities: Security, Violations of the Right to Life, and Impunity

From the 1990s to the 2000s, securitization, violations of the right to life and impunity formed the three fundamental elements of a continuous pattern, transforming in form while mutually reinforcing and reproducing one another. The prioritization of security over human rights materialized in the deepening violations of the right to life and the climate of impunity. Thus, although the form of violations changed from the 1990s to the 2000s, the use of lethal force by security forces, the state's violation of its obligation to protect life, and the impunity for these violations persisted as a continuous pattern.

Securitization

Throughout the history of the Republic, Turkey's understanding of security gradually evolved from "national defense" to "national security". Particularly after the 1960 coup, with the establishment of the National Security Council (MGK), security took on a decisive position in the political arena. The 1971 military memorandum and the 1980 coup institutionalized the concept of "internal threat," turning security into a technical, politically independent, and untouchable matter of the state. Institutions such as the National Security Council, National Intelligence Organization, martial law commands, the Supreme Military Council (YAŞ) and the State Security Courts shaped both political decision-making processes and the judiciary according to a security-centered regime. This security architecture became even more rigid in the 1990s around the Kurdish question. Militarization deepened through tools such as the state of emergency, JITEM, counter-guerrilla structures, the village guard system and the Anti-Terrorism Law, paving the way for serious human rights violations. Thus, by the 2000s, Turkey had inherited an established practice of securitization centered on the notion of internal threats.

Although regulations concerning democracy and human rights were implemented in the early 2000s under the influence of the EU accession process, limiting the military's tutelage over the political sphere, the new security paradigm that emerged globally after 11 September 2001 also had an impact in Turkey. The perpetuation of the state of emergency regime under the rhetoric of "counter-terrorism," the narrowing of the distinction between the public and private spheres, and the state's shift towards prioritizing security needs over rights accelerated the transition to a security state. The void left by the military during this period was largely filled by the police force. The strengthening of the Special Operations Department, established for "counter-terrorism" and equipped with special tactics and weapons, along with an increase in its personnel, the expansion of technical

equipment, and the emergence of the police-judiciary axis as a new center of power began to form the backbone of the security state.

The institutional and legal basis for security policies was also expanded during this period. Technological infrastructures such as Pol-Net, MOBESE/KGYS and MERNİS increased the state's surveillance capacity, while Community Policing, Security Teams, the proliferation of the private security sector, and the establishment of the Undersecretariat for Public Order and Security both centralized the security apparatus and enabled it to penetrate deeper into social life. Similarly, through amendments to the Turkish Penal Code (TCK), the Code of Criminal Procedure (CMK) and, in particular through comprehensive amendments made to the TMK after the mass protests of 28 March 2006, the police were granted significant expansions of authority in the areas of search, seizure, wiretapping and use of weapons. Amendments to the PVSK expanded preventive policing capacity and effectively rendered the entire population "reasonably suspicious", paving the way for children to be tried under the TMK. Amendments to the Misdemeanors Act and the Law No. 2911 on the Meetings and Demonstrations increased the police's capacity for arbitrary intervention in a wide range of areas, from daily life to assemblies and demonstrations.

In spite of the Solution Process, practices such as the construction of military outposts and security dams in Kurdish cities, the recruitment of new village guards and the failure to clear mined areas demonstrated the continuation of a militarized approach to security.

Ultimately, the armed conflict environment that intensified from the 1980s onwards reinforced state policies that framed the Kurdish question solely as a security problem. This approach coded as security threats not only the conflict with the PKK but also the visibility of Kurdish identity in the public sphere as well as freedom of expression, assembly and association. Although certain political 'openings' (*açılım*) were attempted in the 2000s, the termination of these processes led to the continuation and further institutionalization of the security-focused approach. In this context, the security state emerged as a structure that combats not only violence but also political representation and citizenship rights.

Violations of the Right to Life and Impunity

Taking a look from the 1990s into the 2000s, while the widespread violation practices were enforced disappearances and extrajudicial executions in the 1990s, with the increase in the power of security forces to use force and coercion over the years, right to life violations due to the use of lethal force and the state's failure to fulfil its duty to protect came to the fore in the 2000s.

With the lifting of the state of emergency in the early 2000s, civilians who returned to their evacuated villages were confronted with remnants of mines and ammunition. Numerous deaths and serious injuries occurred as a result of children and youth coming into contact with explosives during agricultural activities or while playing in open areas.

Following the increase in street mobilization after 2006, newly introduced policing strategies led to the security forces' intensive monitoring of spaces where children and youth expressed their political demands. At the same time, the widespread use of armored vehicles and tanks in city centers posed a new risk to the right to life, particularly for children and the elderly. The more routine use of armored vehicles in district and city centers in the 2010s led to a marked increase in deaths involving these vehicles, particularly after 2015. Used in patrol activities and interventions in assemblies, they became serious threats to the right to life. Furthermore, the use of lethal force during operations carried out by security forces, at meetings and demonstrations, and in situations where individuals were alleged not to have complied with stop warnings, formed a distinct pattern of right to life violations in the 2000s.

The incidents examined, which demonstrate the continuity of the right to life violations caused by security forces in the 2000s and the accompanying institutionalized practice of impunity, are also the outcome of securitization policies. Although they occurred in different years and under different circumstances, each reproduced similar patterns: The use of lethal force when it was not absolutely necessary, failure to fulfil the duty to protect, inadequate and ineffective investigations, failure to collect evidence, ignoring or losing evidence, protecting the defendants, and ultimately trivializing deaths with justifications such as “unavoidable error” (*kaçınılmaz hata*), “self-defense” (*meşru savunma*) or “negligence” (*taksir*).

During the period under review, the killing of **Haşim Beyazgül**, a deaf and mute young man, on the grounds that he did not obey a “stop” warning at the border, the killing of **Ahmet and Uğur Kaymaz** during an operation carried out at their home, the **Şemdinli Umut Bookstore** incident, **the demonstrations of 28 March 2006**, the death of **Yahya Menekşe** by an armored vehicle, the death of **Ceylan Önkol** due to unexploded military ordnance, **the Roboski Massacre**, and the killing of **Medeni Yıldırım** by a gendarmerie who opened fire during demonstrations protesting the construction of an outpost and the killing of **Nihat Kazanhan** by a police officer close to his home, all point to common patterns. In particular, they all point to how legal and administrative practices that grant broad immunity to the state's use of force and its failure to fulfil its obligation to protect individuals' right to life operate, how investigations and prosecutions are systematically driven towards impunity, how victims are criminalized and their pursuit of justice is

suppressed. At the same time, each example shows how laws and practices have been reshaped by security-oriented approaches, despite having generated strong public reactions at the time.

This trajectory, extending from the killing of Haşim Beyazgül in 2001 to the killing of Nihat Kazanhan in 2015, shows that both right to life violations caused by security forces and impunity are continuities carried over from the 1990s to the 2000s. These critical examples provide a fundamental framework for understanding how the security-oriented approach was reproduced in the political atmosphere of the period under study and how impunity became a structural state practice.

VIOLATIONS OF THE
RIGHT TO LIFE
IN THE 2000S

After examining international principles and national legislation concerning the right to life, this section examines the conduct of the judiciary concerning violations of the right to life in the context of lethal force used by security forces and the state's failure to protect, in light of international human rights standards.

A. The Right to Life: Principles, Concepts and Legislation

International Framework

The right to life is the most fundamental and indispensable right in the human rights system. The legal system aims to safeguard this right against both violence between individuals and the state's authority to use force. The Universal Declaration of Human Rights, the ICCPR, and the ECHR regulate the right to life with explicit and specific provisions due to its paramount nature.

Article 6 of the ICCPR requires that the right to life is protected by law, that no one is arbitrarily deprived of their life, and that states establish effective protection and investigation mechanisms. General Comment No. 36 on Article 6 of the ICCPR (2019) defines the right to life as a non-derogable right; it emphasizes the state's obligation not only to refrain from killing but also to prevent risks that threaten life and to conduct effective investigations into deaths ex officio.

The right to life is paramount in the ECHR. According to the ECtHR, right to life enshrines one of the basic values of the democratic societies. Lethal force can only be legitimate in cases of "absolutely necessity", and such necessity is subject to a strict test of requirement in terms of both the aims pursued and means employed. A legitimate aim alone is not sufficient; the force used must be strictly proportionate, a measure of last resort, and designed to minimize potential harm.

Within this framework, the state's obligations regarding the right to life are grouped under three categories:

The state's negative obligation means that security forces must, under no circumstances, end life arbitrarily and unlawfully, and must comply with the strict principles of necessity and proportionality when using lethal force.

The state's positive obligation involves anticipating real and imminent threats to life, taking the necessary legal and institutional measures, making risky activities (such as operations, use of weapons, dangerous vehicles and abandoned ordnance) safe, and protecting individuals from violence from both security forces and third parties.

The state's obligation to conduct effective investigations requires that, in cases where the right to life has been violated or seriously endangered, an effective investigation is carried out that will reveal the circumstances of death, identify those responsible, and ensure accountability. This obligation requires the state not only to initiate an investigation but also to conduct it in an independent, impartial, prompt and diligent manner, to collect all evidence, to evaluate each stage of the intervention meticulously and to ensure that the investigation results are open to public scrutiny. The Minnesota Protocol and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials emphasize that effective investigations are directly linked to the principles of legality, absolute necessity, proportionality, and accountability. The ECtHR further states that the investigation must be conducted independently of the political conditions of the time, and that the obligation to protect the right to life cannot be considered fulfilled otherwise.

Constitutional and Legal Framework

Although the right to life is guaranteed by Article 17 of the Constitution of Turkey, this provision contains exceptions that can be interpreted more broadly than international standards. In particular, the absence of a corresponding provision in the ECHR for the constitutional clause referring to “the implementation of the order of a competent authority during state of emergency or martial law” and the use of the term “necessary” rather than “absolutely necessary” shapes that the scope of protection in domestic law regarding the use of lethal force in a more flexible manner.

The police's power to use force and weapons is regulated in a very broad and vague manner, particularly in Article 16 of the PVSK and Additional Article 2 of the TMK. The fact that the power to stop and use force is linked to the law enforcement officer's experience and perception creates a broad area of discretion that is open to arbitrariness. Additional Article 2 of the TMK grants the power to shoot directly and without hesitation if the order to 'surrender' is not obeyed; this approach conflicts with international standards and increases the risk of impunity.

The power of security forces other than the police to use force and weapons is also based on broad and vague regulations. The Law No. 2803 on the Organization, Duties and Powers of the Gendarmerie stipulates that the gendarmerie may use weapons “to the extent

prescribed by law” while on duty; Article 25 of the PVSK grants the gendarmerie the powers of the police in areas where there is no police presence. Thus, the broad discretion in Article 16 of the PVSK continues in rural areas. Although Article 87 of the Law No. 211 on the Turkish Armed Forces Internal Service grants soldiers the power to use weapons in a graduated manner, it is not sufficiently clear how the principles of “inevitability” and “last resort” are to be applied.

Furthermore, the power to use force and weapons is set out in various laws and regulations: the Law on Meetings and Demonstrations (Article 24), the State of Emergency Law (Article 23), the Provincial Administration Law (Article 11), the Security Organization Law (Additional Article 13), the Law on the Prevention of Certain Acts Affecting Public Order, the Law on Combating Smuggling and the Police Rapid Deployment Unit Regulation (Article 25). The fact that this area, which carries the risk of direct interference with the right to life, is fragmented, ambiguous and difficult to control makes it imperative to establish a transparent, comprehensive and accountable system in light of international human rights law.

Articles 24, 25, 27, 29, 30 and 256 of the TCK, under the chapter “Reasons for Removing or Reducing Criminal Liability”, are decisive in the prosecution of public officials for the use of force. In particular, the broad interpretation of provisions such as Article 27/2 of the TCK, which refers to vague notions like “fear, excitement or panic” and does not take into account the professional duty of care and responsibility expected of security forces, leads to impunity.

Administrative Liability and Compensation Mechanisms

In cases of violations of the right to life, not only criminal justice but also administrative justice and compensation mechanisms are important as part of the state’s obligations. In particular, administrative responsibility regarding the state’s duty to protect comes to the fore in deaths resulting from landmine and ordnance explosions and collisions involving armored vehicles. Administrative justice proceedings in violations of the right to life constitute a complementary pillar of the state’s positive obligations. According to the principles of administrative law, the administration is obliged to remedy the damage arising from its unlawful acts and actions. This responsibility takes shape through both fault-based liability (“service fault”) and strict liability (especially the social risk principle). The social risk principle provides for compensation for extraordinary damages imposed on certain segments of society, even in the absence of direct fault on the part of the administration, in the context of conflicts, social events, and counter-terrorism.

Law No. 5233 on the Compensation of Damages Arising from Terrorism and the Fight Against Terrorism provides a legal framework for this approach. The Law regulates the determination and partial compensation of material damages caused by terrorist acts or counter-terrorism activities. However, the fact that only material damages are compensated, that the amounts of compensation paid have decreased over time, and that there is a long and uncertain judicial proceeding for those who do not accept the settlement agreement shows that this mechanism has a limited function in meeting expectations of justice and ensuring accountability.

B. Violations of the Right to Life Resulting from the Use of Lethal Force

This section of the report addresses violations of the right to life resulting from the direct use of force and weapons by security forces. In this context, it examines violations occurring a) during operations, b) on the grounds of failure to comply with stop warnings, and c) during meetings and demonstrations due to the use of lethal force, as well as the legal proceedings related to these violations.

Data from the 2000s indicates that violations of the right to life occurred during operations carried out by security forces in i) enclosed spaces, such as private residences and ii) during operations carried out in open terrain, mostly in rural areas. In addition, the use of uncrewed aerial vehicles increased between the early 2000s and 2015. During this period, some air operations that resulted in fewer civilian casualties are also noteworthy.

The use of lethal force on the grounds of alleged non-compliance with a stop warning occurs frequently during road checks, searches or identity checks carried out for the purpose of prevention or apprehension, when a suspicious situation is detected during patrols or controls along the border, or in incidents such as intervention in fights. Amendments made to the PVSK and other relevant legislation in 2007, granting law enforcement broad discretion to use lethal force, also pave the way for violations of the right to life, both in operations and in alleged cases of failure to comply with a “stop” warning.

Examples of security forces using lethal force both at mass events held on specific dates and at protests and funeral ceremonies held in response to the political developments of the period are common. In particular, the events of 28 March 2006 mark a period in the 2000s during which urban demonstrations became increasingly widespread in Kurdish cities and street mobilization intensified. These events demonstrate how security

strategies of the 2000s became convenient tools for suppressing not only demonstrations but also political demands.

In addition to the section on general principles and legislation, each violation category presents the fundamental legislation specific to each category under the section “Relevant Law”. Subsequently, under the section “General Principles and the Conduct of the Judiciary”, violations resulting from the use of lethal force are examined in light of the principles of absolute necessity, proportionality and last resort established in the case law of the ECtHR; the issues identified in the investigations and prosecutions and the conduct of the judiciary towards these violations are assessed.

The shortcomings, negligence and abuses observed in the legal proceedings examined once again reveal the patterns of impunity highlighted by human rights organizations from the 1990s to the present day.

Assessment of Absolute Necessity

The files examined reveal that no in-depth assessment was made as to whether the use of lethal force was “absolutely necessary”. This “absolute necessity” assessment is carried out neither by security forces at the time of the incident, nor by judicial authorities in the aftermath. The power granted to security forces in the legislation to use force and weapons is automatically converted into a justification of legitimacy without due consideration of all the circumstances surrounding the incident.

In a significant number of files examined, the planning and execution of operations, such as risk analysis, accurate identification of targets, and determination of the level of force to be used, which are strictly monitored by the ECtHR, are found to be inadequate. Operations are conducted without taking the necessary measures to protect the right to life and minimize risks.

Operations are often carried out based on anonymous tip-offs, without sufficient intelligence and risk analysis, and without any verification or preliminary investigation. For example, no investigation is made into whether there are other people besides the suspects in the residence where the operation is to be carried out, and necessary protective measures are not taken. It appears that during the operation, the targeted individuals are not given the opportunity to surrender and non-lethal options are not considered. Judicial authorities do not review the reliability of the source of the tip-off, whether the use of lethal force in the operation is absolutely necessary, or whether it is possible to carry out the operation with less lethal means.

The positive obligation to protect third parties is also systematically violated. Within the scope of the research, numerous cases were examined in which individuals present at the scene, such as children, villagers, and shepherds, other individuals residing in the house where the operation took place, individuals passing by on the street or standing outside the crowd during meetings and demonstrations, even individuals at home during the demonstration, lost their lives as a result of the use of lethal force by security forces. These case files show that operations or interventions by law enforcement in various incidents are not planned in a way that would protect third parties present at the scene and minimize the risk of harm to them.

Assessment of Proportionality

When assessing whether the use of force was absolutely necessary and proportionate to the circumstances, a range of criteria must be considered collectively: the form and intensity of the attack faced by law enforcement, the number of personnel and equipment provided at the scene, the type of tools and the manner in which they were used in the intervention, whether less lethal tools were used, and whether necessary measures were taken to minimize the negative effects of the intervention. However, in the case files examined, judicial authorities do not evaluate these criteria and easily accept the use of force as “absolutely necessary” and “proportionate”.

In many cases, although there are allegations of attacks on security forces, these allegations are not substantiated with evidence. Even in cases where no weapons were found at the scene, where weapons were found but not fired or where no fingerprints were found on the weapon, the judicial authorities accept the security forces’ allegations of conflict as true without questioning them or supporting them with evidence.

In a significant number of the cases examined, the location where the incident took place is referred to as a “terror” or “conflict zone,” considered as an “area where the separatist organization operates,” and deemed to be a high-risk area for security. Incidents are frequently labelled as “conflict,” “counter-terrorism,” or “operations against the members of the [terrorist] organization.” It is alleged that those who lost their lives in the incident had “links to terrorist organizations”. References to “regional conditions” or “security” are used in some cases to legitimize significant procedural shortcomings, such as the failure of the investigating authorities to conduct on-site examinations or to collect evidence. This approach is also presented as a justification for the direct use of lethal firearms. Even if individuals are proven to be civilians, the claim that the incident occurred in a “conflict zone” overshadows the legal scrutiny of the use of lethal force. This claim becomes the fundamental factor determining the proportionality assessment in some cases and the criminal penalty in others.

In some cases, the characterization of an area as a “conflict” or “terror” zone operates as a presumption that the security forces are not responsible for the deaths. Particularly in cases where no identifiable piece could be obtained from the bodies of individuals killed during mass demonstrations, both prosecutors and law enforcement authorities appear more inclined to assume that the death was caused by violent demonstrators or “[terrorist] organization members.” In some cases, instead of investigating the causes and circumstances of death and whether the use of lethal force was legitimate in the context of the right to life, the investigating authorities focus their efforts on proving that the deceased was a “member of an [terrorist] organization”. Statements made immediately after the incident by senior public officials such as the Prime Minister, the Minister of the Interior, the Governor, and the Chief of General Staff clearly reveal this approach and create the perception that those responsible are granted immunity from prosecution.

The burden of proof that lethal force was used as a last resort and that the use of force was proportionate to the attack faced or the situation encountered falls on public authorities. However, the case files examined show that public authorities have failed to meet this burden of proof.

Deficiencies in the Preparation, Planning and Implementation Stages of the Operations

In cases of violations of the right to life resulting from the use of lethal force, the assessment must take into account all surrounding circumstances and stages of the incident. This includes the preparation and implementation stages of the relevant operation or intervention. However, the cases examined reveal that the planning of operations or interventions was inadequate and that insufficient measures were taken to reduce the use of lethal force, use less-lethal means, or protect individuals’ right to life. Furthermore, judicial authorities do not evaluate the preparation stage of operations or interventions.

International standards require that due care is exercised in the selection of law enforcement officers and that law enforcement officers receive qualified training on the use of force and weapons. This training should not be limited to technical information on the use of firearms; law enforcement officers should be trained to assess whether the use of firearms is “absolutely necessary” and should receive training on human rights and the “primacy of respect for human life.” The training of law enforcement officers intervening in meetings and demonstrations should include modules specific to this issue. As the content and scope of training provided to law enforcement officers in Turkey is not transparent, it was not possible to make an assessment in this regard. However, the case

files examined show that the judicial authorities have not conducted any investigation into the professional competence of officers or the content of the training they have received.

The lack of medical care or delays in transporting the injured to hospital emerge as critical issues in the examined case files. For example, while a police officer injured in the same operation is immediately transported to hospital by ambulance, the suspect is kept waiting without being transported or according to witness statements, the injured person deemed a suspect cannot be treated because the police obstruct the calling of an ambulance. In the context of meetings and demonstrations, there is no information indicating that ambulances and medical teams are present at the scene as a precaution. On the contrary, injured demonstrators are mostly taken to hospital by other demonstrators or people in the vicinity using private vehicles or taxis.

It appears that adequate records are not kept before and after operations or interventions. For example, detailed records are not kept on the identity of personnel involved in operations, the types of weapons issued to them, or the types and quantities of ammunition used. Furthermore, in the events of 28 March 2006, it was observed that the names or numbers of the law enforcement on duty were not visible on their uniforms or headgear in a way that would allow them to be identified, and some police officers even wore balaclavas. Records are not shared with the prosecutor's office on the grounds that there are no duty or assignment records. In prolonged investigations, it is stated that the records have been destroyed on the grounds that the statutory retention period had expired.

Obligation to Conduct Effective Investigations

The case files examined reveal serious procedural deficiencies in the judicial proceedings and a failure to fulfil the obligation to conduct effective investigations. Even when investigations are initiated *ex officio*, they are not conducted in an independent, adequate and prompt manner that ensures the participation of victims in the proceedings.

In most of the case files examined, it is observed that the file was not handled with reasonable expedition and care and that there were significant deficiencies, particularly in the collection of evidence within a reasonable time and its proper preservation. Failure to conduct an on-site examination and to collect evidence in the early stages of the investigation results in a lack of evidence in the later stages of the proceedings. In many cases, it is observed that no on-site examination is carried out for "security" reasons. Evidence at the scene is collected by law enforcement personnel who are suspects

themselves or by their colleagues from the same unit with which they are affiliated. No measures are taken to secure the scene of the incident or the evidence found there.

Beyond the collection of evidence, the failure to properly store and preserve evidence is also widespread. This situation becomes particularly critical in cases where the evidence is in the custody of law enforcement officers. In some of the case files examined, it was observed that certain evidence essential to the investigation, such as clothing, bullet cores and cartridge cases, were lost by law enforcement officers and, in some cases, even destroyed. Due to prolonged investigations, the collection or examination of certain evidence becomes impossible. It is also observed that some evidence is no longer held in judicial custody or has been destroyed as considerable time has passed since the date of the incident.

In some cases, due to incomplete incident records and reports or the failure to share relevant information with the investigating authorities, the identity of the security forces on duty at the time of the incident cannot be determined and these individuals are not included in the investigation.

Basic forensic procedures on the evidence collected, such as ballistic examination, determination of firing distance, and fingerprint analysis, are either not carried out at all or are carried out inadequately.

In many cases, the statements of anonymous witnesses or security forces form the basis of the investigating authorities' examination, and investigations are not extended to investigate these statements. The statements of officials who may be suspects in the incident are taken after considerable time has passed, sometimes days or even months after the incident. There appear to be cases where no statement was taken from any member of the security forces, as neither suspects nor witnesses. In some cases where statements are taken from law enforcement officers, these officers give identical statements. Statements from other individuals who witnessed the incident are also sought at a late stage. Contradictions in the statements of witnesses or suspects are not resolved; witness or suspect accounts are not evaluated in conjunction with evidence such as physical findings or ballistic reports.

As a result, in most cases, due to all these shortcomings in the collection, storage and examination of evidence, the perpetrator cannot be identified, and the circumstances of the incident cannot be clarified. These shortcomings in the investigation make it difficult to determine the material conditions of the use of lethal force and, in the later stages of judicial proceedings, lead to decisions of non-prosecution or acquittals due

to “insufficient evidence”. In cases where the perpetrator is never identified, the case is effectively suspended with a permanent search warrant and left pending until the statute of limitations expires.

In some cases, certain law enforcement officers are singled out, and their names are submitted to the prosecutor’s office, resulting in the investigation of only these individuals as suspects. However, it is unclear why these individuals are singled out and the confusion created prevents the identification and investigation of the real perpetrators.

The administrative authorization mechanism regulated in Law No. 4483 on the Prosecution of Civil Servants and Other Public Officials also structurally prevents an independent and in-depth investigation into the alleged crimes committed by law enforcement officers. The decision on whether to grant an authorization to investigate is made by administrative authorities within the same organizational structure. This not only casts a shadow over the independence of the investigation but also places the acts of public officials outside judicial scrutiny when authorization is not granted.

Another common problem in the case files examined is that investigations and prosecutions are limited to a few lower-ranking officials, while no one in a decision-making position in the chain of command is investigated. The few “high-level” individuals whose statements are sought appear in the files only as witnesses. Thus, in addition to the structural problems leading to the use of lethal force, the role of the authorities who gave the orders to use force and directed the operation is also rendered completely invisible.

Lack of Deterrent Effect

Many of the case files examined are closed at the investigation stage with permanent search warrants or decision of non-prosecution. In files that proceed to the prosecution stage, judicial authorities continue to fail to fulfil their obligations to conduct effective investigations, ensure accountability and uncover the truth regarding the right to life.

In many case files, judicial authorities broadly interpret the grounds that exclude or mitigate criminal liability set out in the TCK, leaving the use of lethal force outside legal scrutiny. In most cases, the defendant is acquitted or a decision is made that there are no grounds for sentencing. In the few cases where convictions are handed down, discretionary reductions are applied or measures such as suspending the pronouncement of the judgment, deferring the sentence or converting it to a fine are resorted to on the grounds of unjust provocation or unavoidable error. Thus, even if the prosecution results in a penalty, the deterrent effect of the penalty is nullified.

Furthermore, it is rare to find examples of public officials under investigation or on trial being suspended from their duties during the judicial proceedings.

Even if, after the exhaustion of domestic remedies, an application is made to the ECtHR and a decision is issued that the right to life has been violated, a retrial to the detriment of the defendant cannot be held due to Article 314 of the Criminal Procedure Code. Thus, the effectiveness of international monitoring mechanisms in domestic law is effectively blocked and violations go unpunished.

Re-Victimizing the Victims

In many of the cases examined, the participation of victims and their relatives in the investigation is systematically prevented by confidentiality orders which restrict the access to case files. It is observed that some cases are transferred to other cities on “security” grounds, making it difficult for victims and their relatives to participate in the proceedings.

Many of the cases examined show that families not only lost their loved ones but also were re-victimized in criminal, administrative and civil proceedings. Counter-accusations directed against victims or their relatives following the deaths, such as “aiding a [terrorist] organization” or “spreading [terrorist] organization propaganda”, counter-lawsuits filed by the state or compensation claims being rejected criminalize victims and their relatives, restrict their access to justice, and obscure the state’s accountability.

Conclusion

The findings of the research show that not only violations arising from the use of lethal force but also impunity have continued as a structural problem from the 1990s to the present day. Neither the planning and control of operations and interventions, nor the training provided to security forces ensure that lethal force is used only when absolutely necessary and as a last resort. In addition, widespread procedural deficiencies in the investigation and prosecution stages make it virtually impossible to identify and hold accountable both the officers who used force and those who ordered its use. Decisions not to prosecute, acquittals, suspending the pronouncement of the judgment, conversion of sentences to fines or deferral or reduction of sentences effectively eliminate criminal liability, thereby reinforcing this structure. As a result, impunity creates a system in which victims’ access to justice is constantly obstructed while simultaneously paving the way to new violations.

D. Violations of the Right to Life Resulting from Negligence and Violations of the Duty to Protect

Deaths resulting from the violation of the duty to protect and the failure to take necessary precautions occur in two main forms within the context of the research: violations of the right to life caused by landmines and unexploded ordnance, and violations of the right to life resulting from collisions involving armored vehicles. While violations of the right to life caused by landmines and unexploded ordnance were already a particularly common form of violation in Kurdish cities in the 2000s, deaths caused by armored vehicles only began to increase in the 2000s.

Landmines began to be widely used in Turkey from the 1950s onwards as part of border security. In the 1980s and 1990s, with the Kurdish question being placed within the context of “internal security,” they were moved to inland areas and residential zones as a result of the state of emergency, village evacuations, and the declaration of “security zones.” This situation exposed civilians, especially children, to the risk of death and injury every day in the pastures they used, near their homes and schools, and in highlands where they went to gather herbs and mushrooms or graze their animals.

In addition to landmines, numerous unexploded ordnances left behind in military training areas and around military posts also pose a serious threat. The fact that some of this ordnance has not never been marked, recorded or secured deepens the structural dimension of such right to life violations. This situation highlights the reluctance to clear mines and unexploded ordnance, as well as the absence of an effective monitoring and data system.

The most comprehensive international ban on the use of mines was introduced by the Ottawa Convention, to which Turkey acceded in 2003. The Convention foresees broad obligations, such as the destruction of stockpiles within four years, the clearance of mined areas within ten years, the marking of these areas, the adoption of risk reduction measures for civilians and support for victims. However, there has been clear delay and reluctance in implementing these obligations. Although the destruction of stockpiles has been reported as complete, the process of clearing mined areas has been repeatedly postponed, security policies have been prioritized over clearance, and mechanisms for risk education and victim support have remained limited.

Violations of the right to life caused by armored vehicles, which were not yet a widespread problem in the early 2000s, became a distinct human rights issue with the increase in street protests after 2006 and, in particular, with urban conflicts after 2015. Armored vehicles have moved beyond being an element used by security forces in harsh interventions in assemblies and have become part of everyday life in Kurdish city centers.

The first deaths occurring during demonstrations in the mid-2000s were treated as “security issues” due to the rapid criminalization of protesters. After 2015, the increase in the number of armored vehicles, the relocation of clashes to city centers, and prolonged curfews led to these vehicles becoming an important part of the security regime. During this period, armored vehicles posed deadly risks not only in suppressing assemblies but also in everyday traffic, particularly for children and the elderly. However, the failure to share official statistics and keep information about the nature of accidents, technical conditions, and administrative proceedings closed to the public seriously undermined accountability.

Although reports by civil society organizations show that deaths and injuries caused by armored vehicles have become a structural problem, the administrative authorities’ failure to set any standards for the use of these vehicles in cities and to regulate user training and technical inspections indicates that the positive obligation to protect the right to life has not been fulfilled. Although armored vehicles are defined in Article 3 of the Road Traffic Regulations, there is no publicly available information about their types, technical capacities, purposes of use or maintenance and inspection processes.

Trials “Without Perpetrators” and Disregard of Structural Problems

Taking measures related to landmines and unexploded ordnance used in military operations, as well as armored vehicles used intensively in residential areas, fall within the scope of the state’s positive obligation to protect life. Under this obligation, it is accepted that the state knows or should know about the risk to individuals’ lives and is obliged to take measures against it. Nevertheless, in many cases, it is observed that security forces fail to mark areas contaminated with mines and ordnance, clear them in a timely manner or provide adequate information to individuals. In addition, it is observed that administrative authorities increase the number of armored vehicles used for security in residential areas.

For the first time in the case of *Paşa and Erkan Erol v. Turkey*, the ECtHR assessed the positive obligation of states to protect life in relation to the use of anti-personnel mines in the Turkish context. In its judgment, the ECtHR noted that the mined area was a pasture regularly visited by villagers to graze their animals and that this area should have been surrounded by two rows of barbed wire that children could not easily pass through. The Court concluded that, under the circumstances of the case, the concrete protective measures taken were insufficient to provide protection against the risk of death and injury. In subsequent judgments, the Court stated that the planting of indiscriminate and inhumane weapons such as anti-personnel mines, which disproportionately affect the lives of adults and children, amounted to the deliberate use of lethal force.

The use of armored vehicles in urban areas poses a foreseeable risk of death, given the technical characteristics of the vehicles. Nevertheless, the state's failure to adopt regulations and measures to reduce these risks constitutes a violation of the state's obligation to protect life. In the cases examined, it appears that the necessary measures were not taken and that "technical inadequacies" or "limited visibility" associated to these vehicles were decisive factors in the vast majority of accidents.

In criminal investigations into violations of the right to life caused by mines and unexploded ordnance, it is observed that an incident report is prepared, a sketch of the scene is drawn, an investigation is conducted to identify the owner and type of the explosive. When the explosive is found to belong to the Turkish Armed Forces, decisions of non-prosecution are issued on the grounds that the victim was at fault. When the explosive is determined to be manufactured by the PKK, the investigation proceeds differently, most often resulting in a permanent search warrant. Violations of the right to life caused by armored vehicles occurred in the 2000s during meetings and demonstrations, where victims are criminalized and acquittal decisions are issued on the grounds that the "victims themselves are at fault".

Obligation to Conduct Effective Investigations

The failure to conduct effective investigations and prosecutions, due to investigations into mines and unexploded ordnance becoming "crimes without perpetrators," has resulted in administrative courts being accepted as an effective judicial system. The ECtHR has also adopted this approach, expecting victims to exhaust administrative legal remedies.

Deaths caused by armored vehicles are treated as “traffic accidents” and assessed for fault under the Road Traffic Law. As a result, the connection between armored vehicles and the state’s urban security policies are excluded from consideration. This approach both narrows the state’s positive obligations and individualizes the incidents by separating them from the broader socio-political context.

In the case files examined, judicial proceedings concerning deaths caused by armored vehicles lead to a structural regime of impunity, particularly because the judiciary fails to recognize the function of armored vehicles used during meetings and demonstrations as “instruments of lethal force.” Thus, deaths caused by armored vehicles are addressed through the prosecution of the individual law enforcement officer operating the vehicle and a numerical assessment of fault ratios, precluding any discussion within the context of security policies or the framework of the state’s duty to protect.

The Uncertainty of Administrative Law Proceedings and The Compensation Regime

In applications concerning mines and unexploded ordnance in the 2000s, the ECtHR continued its approach established in the 1990s, whereby offering victims administrative/legal mechanisms and compensation avenues in cases of unintentional violations of the right to life could also fulfil the obligation to establish an effective judicial system. It appears that the ECtHR focuses on administrative/legal avenues in the exhaustion of domestic legal remedies. Moreover, in cases where it deems the amount of compensation paid to be “appropriate and sufficient,” it finds the applications manifestly ill-founded and rejects them.

In administrative judicial proceedings, different practices are observed regarding the liability of the administration. There are examples where fault-based liability, strict liability and the principle of social risk are applied, where the fault of the injured party is assessed in detail, where the causal link between the incident and the damage is accepted to have been severed in some cases due to the person’s behavior and compensation claims are therefore rejected.

Law No. 5233 on the Compensation of Damages Arising from Terrorism and the Fight Against Terrorism was also an important development in the context of the administration’s liability and the principle of social risk. With regard to damages caused by mines and unexploded ordnance, applications were made to the commissions established under Law No. 5233, paving the way for compensation for material damages only, but various reports revealed that these commissions also had deficiencies.

For many years, there was uncertainty as to which judicial branch could hear cases concerning damages caused by armored vehicles. With the amendment made to the Road Traffic Law in 2011, these cases were brought under the jurisdiction of civil courts (civil courts of first instance). This amendment led to deaths caused by armored vehicles being assessed on the basis of “fault ratio” under private law, rather than within the framework of administrative negligence or positive obligations of the state. This situation is not merely a matter of courts’ competence but also constitutes a structural barrier that prevents individual and societal redress for violations caused by armored vehicles.

Lack of a Remedial Approach

There is no comprehensive support system for victims of landmines and munitions in Turkey. The majority of those injured suffer limb loss, while access to essential services such as prosthetics, rehabilitation and psychosocial support remains limited. The state’s failure to establish a comprehensive victim rights policy renders victims invisible. Moreover, in the absence of a data-based registration system, the true scale of the problem remains unknown.

The compensation system is ineffective as a means of recourse due to procedural burdens and uncertainty in fault assessments. This not only makes it difficult to remedy violations of the right to life but also hinders the establishment of preventive mechanisms for the future.

Violations of the right to life caused by mines, unexploded ordnance and armored vehicles are the most visible manifestation of the impact of Turkey’s security policies on daily life. Both phenomena demonstrate that the state has systematically failed to fulfil its obligation to protect life, prevent foreseeable risks and take necessary precautions.

The approach taken in judicial proceedings normalizes violations of the right to life, institutionalizing a culture of impunity. Furthermore, the failure to compensate victims for their losses, the refusal to accept responsibility, and the lack of effective steps towards redress leave expectations of justice unfulfilled, thereby hindering the establishment of lasting peace and a democratic future.

These issues must be addressed not only from a security perspective but also within the framework of human rights and restorative justice. In particular, special measures to protect children must be strengthened, and an approach that broadly interprets the state’s positive obligations must be adopted.

FINDINGS

AND

RECOMMENDATIONS

International human rights law imposes obligations on states to protect life, subject lethal interventions to strict scrutiny, and ensure the effective investigation and punishment of those responsible in cases of loss of life. Moreover, preventing impunity for serious violations is the absolute responsibility of the state. In contrast, the uncertainty of the legal framework and the broad margin of discretion granted to security forces in Turkey lead to the arbitrary use of lethal force, the failure to take protective measures against foreseeable risks such as mines, unexploded ordnance and armored vehicles, to investigations remaining at a formal level in their efforts to establish the material truth and prosecutions producing results that lack any deterrent effect. The findings of the research reveal that the right to life is systematically violated in Turkey due to the use of lethal force and the state's failure to fulfil its duty to protect; structural deficiencies in the investigation, prosecution and truth-finding process lead to impunity for these violations.

Violation of the Obligation to Address Legal Loopholes and Obstacles

The current legal framework often serves to legitimize the use of force and foster impunity rather than protect right to life. For this to change, Article 16 of the PVSK and Additional Article 2 of the TMK, which expand the law enforcement's power to use weapons and lead to a lack of oversight, must be revised in line with international human rights standards. The legal framework governing the use of lethal force must be rewritten to explicitly include the principles/rules of absolute necessity, proportionality and last resort. All instructions and regulations guiding its implementation must be made public, subject to oversight and judicial review. Administrative responsibility for the right to life must be explicitly enforced without disregarding the structural responsibility of the state; international obligations regarding the protection of children must be reflected in domestic law in a manner that produces practical results within the scope of Article 90 of the Constitution. It should also be emphasized in the monitoring mechanisms of the Council of Europe, UN, and EU that these reforms should not be postponed.

Violation of the Obligation to Use Force Only to the Extent That Is Absolutely Necessary

In the cases examined, the use of lethal force is not assessed according to the "absolute necessity" threshold set out in Article 2 of the ECHR. Therefore, it is imperative that the "strict necessity test" becomes a legally and practically binding criterion in all applications of lethal force. This test should be explicitly included in regulations concerning the authority to use weapons. Prioritizing non-lethal means in the planning, execution and oversight stages of operations should be defined as a legal obligation. All incidents involving the use of lethal force by security forces should be thoroughly investigated

by independent mechanisms. The case law of the ECtHR should become a mandatory reference point in judicial assessments and law enforcement training. In its supervision of the execution of ECtHR judgments, the Committee of Ministers of the Council of Europe should specifically monitor how the “absolute necessity” test is applied in domestic law in and should demand concrete, measurable steps from Turkey in this regard.

Breach of the Duty to Protect

The state appears to have failed to fulfil its duty to protect in foreseeable risk areas such as mine-contaminated areas, unexploded ordnance and the use of armored vehicles in cities. Obligations under the Ottawa Convention must be fulfilled without delay; the clearance of all mine-contaminated areas must be accelerated, and hazardous areas must be effectively marked throughout the process. Until clearance is completed, regular and accessible risk information should be provided to the local population, with particular attention to children as a high-risk group. A comprehensive regulatory framework should be established that clearly defines driver training, control mechanisms and technical standards, limiting the use of armored vehicles in urban areas. Restrictions should be imposed to prevent these vehicles from becoming instruments of lethal force during meetings and demonstrations. Medical, economic and psychosocial support mechanisms for persons affected by violations caused by mines, unexploded ordnance and armored vehicles should be strengthened in a sustainable manner.

Violation of the Obligation to Conduct Effective Investigations

Investigations operate in a manner that does not go beyond a formal commencement and does not pursue the objective of establishing the material truth. To change this, independent and specialized investigation units must be assigned to all incidents involving the use of lethal force, and law enforcement must cease conducting investigations into their own personnel. Crime scene investigations and forensic analysis processes must be conducted in accordance with the Minnesota Protocol; loss and destruction of evidence must be treated as a serious violation giving rise to judicial liability. The authorization system under Law No. 4483 must be reorganized to strengthen judicial oversight. Permanent search warrants must be subject to time limits and oversight conditions to prevent investigations from being suspended indefinitely. The provisions on restricting the access to case files and transfer of cases in the Criminal Procedure Code should be interpreted narrowly so as not to prevent victims' relatives from accessing information and participating in the proceeding; the focus of the investigation should be directed towards uncovering violations arising from the state's positive obligations.

Violation of the Obligation to Prosecute and Punish

The prosecution stage has become a stage reinforcing impunity rather than fulfilling positive obligations relating to the right to life. Almost all of the files examined result in acquittals; penalties are neither proportionate to the gravity of the crime, nor deterrent due to grounds that exclude or mitigate criminal liability under the Turkish Penal Code, such as unjust provocation, error provisions, discretionary reductions, suspension of the pronouncement of the judgment, deferrals and conversion to fines. In this context, for public officials in cases concerning violations of the right to life, mechanisms that produce impunity, such as suspension of the pronouncement of the judgment, deferment and conversion to fines must be removed from legislation. It should be clearly emphasized that grounds excluding or mitigating criminal liability or providing legality pursuant to the Turkish Penal Code are exceptional in nature and must be narrowly and strictly interpreted; case law in line with this approach should be reflected in judicial practice. Article 314 of the Code of Criminal Procedure should be revised to enable decisions by the ECtHR finding violations of the right to life to have effective results in domestic law; safeguards should be provided to allow for retrial where necessary. The continued service of public officials during criminal proceedings should be restricted; protective measures should be implemented in situations where there is a risk of pressure on victims and witnesses. The principles of the UN and the Council of Europe on combating impunity should be adapted to domestic law and their implementation should be monitored regularly.

Violation of the Obligation to Ensure Victims' and Relatives' Protection and Their Participation in Legal Proceedings

The case files examined reveal that participation in the judicial proceeding is systematically obstructed. Therefore, all practices that prevent victims' relatives from accessing justice must be eliminated without delay and judicial proceedings must be conducted with respect, ensuring they do not cause further victimization. Regulations such as restricting access to case files and the transfer of cases to other cities should only be applied in necessary and exceptional circumstances and subject to strict oversight. The state should develop transparent procedures that guarantee the rights of victims' relatives to access information, legal representation, and effective participation throughout the proceedings; it should establish binding protection mechanisms ensuring that those subjected to human rights violations will not face reprisals.

Violation of the Obligation to Reveal the Truth

The case files examined show that the material truth has not been uncovered, as judicial proceedings mostly result in acquittals or decisions not to prosecute. The failure to conduct effective investigations not only prevents justice from being served but also renders the truth invisible. In this regard, data on right to life violations due to the use of lethal force, as well as due to violation of the duty to protect and through negligence in Kurdish cities should be collected in a disaggregated, up-to-date and accessible manner and shared transparently with the public. The possibilities offered by restorative justice approaches should be utilized in uncovering the truth in cases of major violations with significant social impact, such as the Roboski Massacre, the killings of Uğur Kaymaz, Ceylan Önkol, and Nihat Kazanhan as well as the events of 28 March 2006, where children's right to life was violated. Non-judicial mechanisms that guarantee victims' and society's access to the truth (such as truth commissions, opening of archives, public disclosure obligations) should be used effectively. Strong legal safeguards should be established to protect families and human rights defenders who seek to uncover the truth from reprisals.

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This report is the outcome of Hafıza Merkezi's three-year interdisciplinary research project, Justice Heals. Focusing on violations of the right to life affecting children and youth in the context of the Kurdish issue between 2000 and 2015, the research examines violations caused by the use of lethal force by security forces as well as the state's failure to fulfill its duty to protect, and within the political and legal context of the period, analyzes how these violations became persistent. As a continuation of Hafıza Merkezi's earlier work on the 1990s, this study approaches demands for justice, truth and reparations from a legal perspective, examining them in relation to the state's positive obligations and patterns of impunity. Demonstrating that violations of the right to life are not isolated incidents but the result of structural problems, the report offers recommendations with an emphasis on the need for legal, institutional and social transformation to prevent the recurrence of violations, while also laying the groundwork for a discussion of a justice-based future.