Revisiting Remand Imprisonment within Biopolitics: 
A Study on Turkey’s Juvenile Justice System through 
Legislative, Judiciary and Executive Powers

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Introduction

Around 3.3 million people are remand prisoners/ pre-trial detainees worldwide, and remand imprisonment effects an excess of 14 million people per year (OSF Justice Initiative, 2014). In Turkey, around 70 per cent of young prisoners below the age 18 are on remand in the newly emerging high security prisons called Children’s Closed Institutions for Punishment Execution (and adult prisons). Below Table 1 and Graph 1 show that, over the last decade, the proportion of young prisoners on remand to young sentenced prisoners has not been lower than 70%.

Table 1: Percentage of remand prisoners in juveniles, adults and total, prepared exclusively for this thesis. Source: Official website of General Directorate of prisons and detention houses http://www.cte.adalet.gov.tr

<table>
<thead>
<tr>
<th>Years</th>
<th>Sentenced Juvenile</th>
<th>Juvenile Prisoners on Remand</th>
<th>Total</th>
<th>On Remand/Total</th>
<th>Source: Official website of General Directorate of prisons and detention houses <a href="http://www.cte.adalet.gov.tr">http://www.cte.adalet.gov.tr</a></th>
</tr>
</thead>
<tbody>
<tr>
<td>2000</td>
<td>253</td>
<td>1141</td>
<td>1394</td>
<td>81.85%</td>
<td>On Remand/Total</td>
</tr>
<tr>
<td>2001</td>
<td>352</td>
<td>1666</td>
<td>2017</td>
<td>82.55%</td>
<td>On Remand/Total</td>
</tr>
<tr>
<td>2002</td>
<td>548</td>
<td>1497</td>
<td>2045</td>
<td>73.20%</td>
<td>On Remand/Total</td>
</tr>
<tr>
<td>2003</td>
<td>366</td>
<td>1628</td>
<td>2209</td>
<td>75.03%</td>
<td>On Remand/Total</td>
</tr>
<tr>
<td>2004</td>
<td>552</td>
<td>1406</td>
<td>2115</td>
<td>84.82%</td>
<td>On Remand/Total</td>
</tr>
<tr>
<td>2005</td>
<td>321</td>
<td>1794</td>
<td>2115</td>
<td>84.14%</td>
<td>On Remand/Total</td>
</tr>
<tr>
<td>2006</td>
<td>393</td>
<td>2075</td>
<td>2687</td>
<td>79.94%</td>
<td>On Remand/Total</td>
</tr>
<tr>
<td>2007</td>
<td>671</td>
<td>2075</td>
<td>2746</td>
<td>75.56%</td>
<td>On Remand/Total</td>
</tr>
<tr>
<td>2008</td>
<td>632</td>
<td>2047</td>
<td>2679</td>
<td>76.41%</td>
<td>On Remand/Total</td>
</tr>
<tr>
<td>2009</td>
<td>529</td>
<td>1984</td>
<td>2113</td>
<td>74.96%</td>
<td>On Remand/Total</td>
</tr>
<tr>
<td>2010</td>
<td>410</td>
<td>1924</td>
<td>2334</td>
<td>82.43%</td>
<td>On Remand/Total</td>
</tr>
<tr>
<td>2011</td>
<td>418</td>
<td>1584</td>
<td>2113</td>
<td>74.96%</td>
<td>On Remand/Total</td>
</tr>
<tr>
<td>2012</td>
<td>451</td>
<td>1527</td>
<td>1978</td>
<td>77.20%</td>
<td>On Remand/Total</td>
</tr>
<tr>
<td>2013</td>
<td>540</td>
<td>1522</td>
<td>2062</td>
<td>73.81%</td>
<td>On Remand/Total</td>
</tr>
<tr>
<td>2014</td>
<td>540</td>
<td>1522</td>
<td>2062</td>
<td>73.81%</td>
<td>On Remand/Total</td>
</tr>
</tbody>
</table>

Graph 1: Percentage of children on remand and sentenced children, prepared exclusively for this thesis. Source: http://www.cte.adalet.gov.tr
Moreover, it is estimated that around 10,000 young people circulate in remand imprisonment every year (Yalçın, 2016). Around half of the young remand prisoners are incarcerated in high security prisons named ‘Children and Young People’ s Closed Institutions for Punishment Execution’ that have been built within the last decade inside large prison campuses in the three biggest cities of Turkey (Istanbul, Ankara, Izmir). These prisons have been exclusively built for young remand prisoners, as indicated in the Law on the Execution of Sentences and Security Measures (art. 11, Law no.5275, 2004). The rest of the young remand prisoners are kept in the juvenile sections of adult prisons. On the other hand, young sentenced prisoners have been placed in low-security, open-type prisons named Juvenile Education Houses. Moreover, sentenced young people are sent to Children’s Closed Institutions for Execution of Punishment if they commit punishable acts in the Juvenile Education House. Thus, these high security remand prisons are used as punishment sites for inflicting disciplinary punishment upon the sentenced young prisoners. The analysis of the transformation of the prison regime in the Turkish youth justice system (in chapter III of the thesis), reveals that the high security remand imprisonment replaces the low security prison-sentence in Turkey in the recent decades.

On the other hand, around 1.5% of young defendants, experiences remand imprisonment during prosecution, which could lead to the conclusion that pre-trial detention is used as last resort. Although 1.5% of young defendants are incarcerated during the prosecution, which could be regarded as a very low and successful number, all the other facts introduced above force the researcher to question the roles of remand imprisonment in the criminal and youth justice system and in the theories of social control. The below schema provides approximate numbers and is drawn to express the situation.

**Figure 1:** Simplified schema showing imprisonment ratio with approximate numbers based on Table 7 in chapter III, prepared exclusively for this thesis.

**Sources:** [http://www.adlisicil.adalet.gov.tr](http://www.adlisicil.adalet.gov.tr) and [http://www.cte.adalet.gov.tr](http://www.cte.adalet.gov.tr)

The very specific nature of remand imprisonment occupies little space in imprisonment and penal theories and governmentality studies. Remand imprisonment is either considered as a bureaucratic phase in the prosecution system or approached and criticized within human rights violations (right to fair trial and presumption of innocence). Moreover, we witness the emergence of high security
prisons for youth on remand in a period when the language of human rights and children’s rights is embraced and prevalent. Hence, I adopt a critical viewpoint towards the praxis of human rights language in the youth/criminal justice system and propose to deconstruct this language of human rights. The stability in the high proportion and the emergence of high security prisons for remanded youth in Turkey lead the researcher to presume that youth remand imprisonment acquires roles within crime control, and social control that could be comprehended within a look through Turkey’s governmentality that would draw a picture of its legal culture.

Research question(s)

So first, analysing the roles of remand imprisonment in the youth justice system and requires an inquiry into the legal culture. Nelken defines legal culture as: “a way of describing relatively stable patterns of legally oriented social behaviour and attitudes. The way legal professionals such as lawyers and judges are appointed and controlled, the prison rates, ideas, values, mentalities can identify the legal culture” (Nelken 2004: 1). So this thesis explores the role(s) of remand imprisonment in the juvenile justice system in Turkey by situating remand imprisonment in the centre of penal culture and penal politics.

What is the legal culture that allows the fact that 70% of young prisoners on remand are in high security prisons is unrecognized and un-problematized? How can we explain the roles of remand imprisonment in the Turkish youth justice system, and how do young defendants perceive and experience it?

Until now, imprisonment has not been taken as a major subject of inquiry in social sciences in Turkey. The vast majority of published work is on the experiences of political prisoners that have implications on the sovereign power of the Turkish state, its nationalism as well as its political economy. Similarly, legal experts have considered remand imprisonment in Turkey within a narrow scope. Ultimately, the current literature is not sufficient to understand the governance of remand prisoners in the Turkish criminal justice system. Moreover, law in practice does not necessarily match law in the books. The latter does not explain the roles of remand imprisonment perceived by youth justice professionals or the young defendants. So, this thesis first offers an introduction to the Turkish legal culture and the law in praxis in the Turkish youth justice system and secondly provides valid explanations to the high remand imprisonment proportion in the Turkish youth justice system and finally explains the roles of remand imprisonment in the youth (criminal) justice system.

Situating remand imprisonment in penal politics through governmentality studies

Understanding the roles of remand imprisonment requires the researcher to situate this phenomenon in the center of the penal politics, which could itself be better interpreted in the studies of govern-mentality. In this understanding of statecraft, the art of governing is not confined to the figure of the sovereign and the abstract laws. Govern-mentality indicates to how the modus operandi of the government gains new meaning on conducting and ordering things. Governmentality as a concept is developed in Foucault’s lectures at the Collège de France on Biopolitics. The use of the term Biopolitics is not stable and keeps developing as a concept through the lectures and texts of Foucault. It is developed as a method of thought to analyze the transformation in the exercise of power and a transformation in the mode of politics in the West in the 18th century that is going through a change with capitalist mode and relations of production while the liberal individual being is developed in emerging nation-states. Biopolitics refers to the
production of knowledge and techniques to rationally manage the population as a social entity in the transformation towards capitalist relations of production. Understanding political economy and the mode of knowledge production; the production of truth matter significantly in this method of thought.

This art of governing, gains acceleration as human beings become detached from the land, mobilize and grow in number in the emergence of capitalist relations of production. Foucault points out that this art of governing develops as the population becomes the main target of the governor and economy is introduced as a correct way of managing individuals (2007). The target of governance shifts from territory to population as new disciplines produce knowledge on conduct and as the economy is politicized. Rose describes the liberal rule from the perspective of governmentality, as the rise of the ‘social’ (1996). Institutions on health, education and justice develop through procedures, analysis, measures and tactics. By definition, governmentality takes as its target, ‘population’, as its principle form of knowledge, ‘political economy’ and as its technical means, ‘apparatuses of security’ (Foucault 1991: 102, Foucault 2007: 107,108). The state eventually becomes ‘governmentalized’.

So governmentality is about the governance of the population, or Biopolitics is the politics of optimizing the health, welfare and life of the population (Dean 2010, Foucault 2007, 2008). Accordingly, “government is defined as a right manner of disposing things so as to lead not to the form of the common good, as the jurists’ texts would have said, but to an end which is ‘convenient’ for each of the things that are to be governed” (Foucault 1991:95). So, things must be disposed. Foucault underlines the term ‘dispose’ as government. It is about disposing things rather than imposing law on meant, “even of using laws themselves as tactics- to arrange things in such a way that, through a certain number of means, such and such ends may be achieved” (Foucault 1991:95). So, the term govern-mentality refers to the production of strategies and tactics to dispose things and to manage the population through certain knowledge-production. Rose (1996) draws attention to the transformation from the liberal-rule to advanced liberalism that invents new strategies for the will to govern. New relations between the expertise and politics, new pluralisation of ‘social’ technologies, a new specification of the subject of government, are the characteristic shifts that Rose underlines. According to Rose, advanced liberal government seeks to govern without governing society, and to govern through the regulated and accountable choices of individuals. Thus Rose calls for a critical analysis of the practices of freedom (Rose 1996).

Operationalization of the study of governmentality

The term governmentality provides the theoretical tool to scrutinize remand imprisonment holistically. Remand imprisonment has implications on the governance of the state while the study of govern-mentality indicates the roles of the remand imprisonment in the criminal/youth justice system. In this study I scrutinize the roles of youth remand imprisonment as a study of governmentality by focusing on three aspects of governmentality studies that I find essential. These are the penal culture of Turkey in relation to its political economy, in relation to the Sovereign power’s relations with its young citizens and in relation to its mode of knowledge production which, today, is the language of human rights.

a. Studying the penal culture in relation to the political economy

First, I follow the emergence of high security prisons in relation to the transformations in the political economy and welfare capitalism of Turkey. For this task, I rely on the literature on revisionist theories of imprisonment (Rusche and Kirchheimer, 2003, Melossi and Pavarini, 1981;
Foucault, 1977, 1980; Matthews, 2009). Revisionist penitentiary theories of the late 20th century allow us to theorize the emergence of the prison as the main site of punishment in the relations of production, political economy and governmentality. According to the revisionist theory, prison sustains itself and the theories that situate imprisonment in political economy continue working to understand prison’s sustainability in relations of production that transform over time. So, can the revisionist literature of the late 20th century elucidate the roles of remand imprisonment in the light of the three elements of imprisonment, namely ‘space’, ‘time’ and ‘labour/discipline’ (Matthews, 2009)? And reversely, can the everlasting remand imprisonment and prisons emerging only for defendants tell us something about modern penal theories in terms of imprisonment’s three elements?

In the revisionist theories of imprisonment, the two elements of time and labour/discipline come forth as the pioneering elements that constitute imprisonment as the modern mode of punishment. Space, which is the third element of imprisonment, remains an indispensable component. Spatial arrangement and exclusion of people in conflict with the law remains a primary aspect of the modern understanding of punishment. In this research, as the elements of time and labour/discipline which are essential for the sentenced youth in the Juvenile Education Houses, do not feature in youth remand imprisonment, the analysis revolves around the element of ‘space’.

In line with the revisionist thesis, it is not surprising to witness the rise of high-security prisons in the post-Fordist period in which the regulatory mechanisms of the Fordist era, namely the modern family and the Keynesian welfare state, are undermined and transformed. In this post-Fordist era, we witness the cycle of the production of la canaille, which is: “the new contribution to the working class... made up of former peasants or peasants-turned-vagrants, not yet understanding themselves as working-class and therefore deprived of that possibility for a feeling of mutual “solidarity” that will be the hallmark of their becoming working-class” (Melossi 2008: 234-235).

Thus contrary to the height of the Fordist times in the early 1970s when prisoners were deemed “obsolete”, it is not surprising to see the prison brought back to life within this framework, in order to deal with la canaille, or the delinquents as Foucault defines this group (Melossi 2008: 241). Feeley and Simon draw attention to a ‘new penology’ (1992), arguing that prison no longer sustains itself with the claim of transforming individuals but rather manages aggregates in a managerialist, though not professionalized, manner. The new penology appeals to the subject matter of this research. However, the findings call for a critical review of this approach, which is done in the Chapter VI of the thesis.

These imprisonment theories share a common ground by drawing their explanations on the sustainability of imprisonment as the primary mode of punishment in relation to the political economy of the geography they study in a specified time period. As the political economy matters fundamentally to the analysis of youth remand imprisonment in this research, Turkey’s political economy and its situation in ‘varieties of welfare capitalism’ in Esping- Andersen’s formulation form the basis of discussion, which are elaborated upon in Chapter III.

From the 1980s onwards, Turkey’s political economy transformed in line with neo-liberal tendencies in the global market in the echo of classical political economy. In this outward-oriented liberal era, income inequality rose due to both global conditions and domestic developments (Pamuk 2013: 313). In this study, the construction of neoliberal subjects that are individually responsible, self-sufficient, initiating and supported by the family in case of failure, constitutes the basis of neoliberalizing governmentality. Prior to 1980s, the history of social security-pensions and health insurance-of Turkey's citizens was based on a hierarchical, inegalitarian corporatist system.
with different levels of benefits according to occupational groups (Buğra and Keyder 2006; Buğra and Candar 2011). So, as Esping-Andersen (1990) has underlined, the stratification based on social class in society has once more strengthened by the state’s hierarchical model of welfare regime in the Turkish case.

Under the Justice and Development party regime since 2002, the political-economy has been a more market-led economy, empowered by the centrality of the family in a social conservative approach. Even though the current government has introduced a more universal health insurance system and a pension system in the last decade, the core idea of social policy in Turkey has remained limited to marginal and deserving groups. The dominant political ideology of Turkey after the 1980s can be defined as a coalition of the right (neoliberal) with the religious (conservative) cleavages (Göçmen 2014: 94).

So, scholars writing on Turkey’s political economy, have until now, attributed characteristics of informality, residualism, dualism, eclecticism and immaturity to its capitalist welfare regime, underlining its non-universalistic character that reasserts social stratification (Buğra and Keyder 2006; Buğra 2006; Buğra and Adar 2008; Buğra and Candar 2011; Coşar and Yeşenoglu, 2009; Eder 2010; Öniş 2012). Turkey’s welfare regime has been identified to attribute the role of alleviating burdens to the (extended) family (Yazıcı 2012), informal social ties and voluntary sector. It is in this context, that social work as a profession was introduced in the developmentalist paradigm in the 1960s onwards (Özbek 2006: 189) under the leadership of the United Nations in an informal, inequitable and residual welfare regime. The United Nations Technical Assistance Program contributed to the development of social work in the modernist-developmentalist discourse, as the counterpart of welfarism of the industrial West (Göbelez 2003: 82). Eventually, the narrowing of the extended family alongside the new poverty following the forced migrations in the 1980s work as factors in the criminalization of young people who remain in the margins of urban life (Uluğtekin 2012).

In this context where social work has never been strongly institutionalized and has been neoliberalized in the residual welfare state, high security prisons emerged as ideal types to be governed in an actuarial managerialist conduct. In this thesis, actuarial managerialist conduct refers to approaching state institutions like private business. So statistics, calculations and numbers become more important than the treatment of individual cases in actuarial managerialism. In this managerialist conduct, young remand prisoners are contained and managed through spatial organization in the high security remand prisons. The element of ‘space’ in terms of spatial control shines out among the other essential elements of imprisonment which are ‘time’ and ‘labour/education’ (Matthews 2009). Besides imprisonment, the security of the individuals is ensured through creating gated communities, and CCTV, basically through the design and use of space. In this securitization era, prisons, though used as a last resort in human rights, epitomize the security discourse that is totally legal and compatible with human rights discourse. Human rights' discourse has been embraced in the Turkish law-making praxis. International and local civil society organizations employ human rights' language in their critiques and policy interventions in Turkey, which I anticipate to be dominant in the coming years. Hence, there is compatibility among the concepts of liberal individualism, human rights, neoliberalism and security.

After tracing the transformation of prison politics of Turkey through the literature, I agree with the thesis of the revisionist historians and claim that the transformations in imprisonment in youth

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1 Civil servants, business owners/employers and employees in the private sector, and farmers
justice system in Turkey correspond to the transformations in its political economy. However, there is a slight reductionism in revisionist imprisonment theories, as crime is merely identified as a class issue, disregarding other dynamics in society such as patriarchal relationships leading to sexual crimes, bodily injury, murder or offences against the integrity of the state. In order to avoid reductionist conclusions based on class structure, different types of offences are elaborated separately in this thesis, which will eventually have significance for the imagination of the prisoners in relation to their class and identity. Hence, the diversity of young prisoners (see Appendix D in the thesis) in this research calls for an analysis of governmentality that encompasses political economy as well as the manifestation of sovereign power.

b. Studying the penal culture in relation to the Sovereign power’s relationship with the political citizens

Here, an integrative analytics of governmentality of the modern state should not eschew the sovereign power’s claim over the territorial boundaries where the population is managed. The question of security through sovereign’s power over territorial boundaries does not disappear due to a focus on the management of population. Control techniques over people who are in conflict with the sovereign state’s security and its territorial claim can be better analyzed with a focus on the ‘State of exception’ in the modern Biopolitics that is elaborated by Agamben (1998, 2005). “Human security is instrumental in sovereign power’s ability to delineate the circumstances in which such a state of exception can be proclaimed” (De Larrinaga and Doucet 2008: 532). Agamben studies the exclusion from protection of the law, emergence of bare lives outside of the protection of the law, suspension of legal rights while the law is still in force. Control of crimes against the security of the sovereign state and its territorial boundaries through remand imprisonment can be given meaning through Agamben’s analysis of Biopolitics.

So, as the second aspect of governmentality studies, I focus on the roles of remand imprisonment in sovereign power’s relations with the political prisoners by drawing on Agamben’s analysis of Biopolitics. Agamben’s critical approach in reconstituting the concept of power and scrutiny of sovereign power in Biopolitics is illuminating to comprehend the remand imprisonment of young political defendants whose criminality is drawn upon ethnicity and identity politics in relation to the production of ‘states of exception’ and suspension of civil rights (Agamben 1998, 2005).

Throughout the 30-40 years of intra-war between the Kurdish forces and Turkish military forces, protection of the territorial boundaries, security of the population as a whole, the sovereignty of the state and the state’s integrity have been considered as under threat by Turkey's government. With the strengthening of the state- security courts in the 1980s and the anti-terror law in 1991, we see an acceleration in security concerns that is interrelated to sovereign power, as terrorism is regarded as a danger posed to the existence and integrity of the state. The state’s enunciation of sovereign power through racism calls for an Agambenian analysis. The concepts of ‘bare life’ and ‘homo sacer’ that are reintroduced by Agamben through his readings of Foucault on Biopolitics promise a ground to think about the prisoners on remand who are charged with offences against the integrity of the state.

New laws like the Law on Counter Terrorism are enacted and renewed in states in which the security of the people and the sovereign’s power are said to be at stake. Unlike other defendants on remand whose future depends on penal law, the outcome of the cases of these ‘political defendants’ depends on both the penal law and the state’s sovereign power. Hence, their lives are suspended for an uncertain period of time in this state of exception in which the integrity of the Turkish State is considered to be above the rights of people. I would claim that this uncertainty in the suspension of
civil rights constitutes punishment of these bare lives. The suspension constitutes punishment of the bare lives of young people whose prosecution process depends upon political conjecture. Moreover, just like the remand imprisonment of young defendants accused of non-political crimes, in the remand imprisonment of political defendants, the element of ‘space’ rather than the elements of ‘time’ and ‘labour’ is revealed to be essential in crime control and social control. As the civil war continues and the definition of terrorism expands into more ambiguity, imprisonment of young political defendants shall be on the agenda. Consequently, studies on the imprisonment of young people need to consider the diversity of criminality into consideration and Agambenian analysis is illuminating to prevent falling into functionalist explanations of remand imprisonment based on merely class issues.

c. Studying the penal culture in the mode of knowledge production: deconstructing the language of human rights

As the third essential aspect of employing governementality as a method of thought, I investigate the mode of knowledge production-adaptation and the transformation in the discourses in the youth justice system in relation to Turkey’s political economy and social security regime. One of the goals of this work is to unfold how knowledge and values related to widely acknowledged concepts of ‘reformation’ and ‘rights’ get attached to techniques of regulation in the Eurocentric and developmentalist ethos. I specifically concentrate on the effect of the prevalence of the language of rights on the roles that youth remand imprisonment fulfil in the youth justice system. So, I take the language of human rights as a mode of knowledge production in the governance of the Turkish youth justice system and Turkish legal culture. I analyse the praxis of the language of human rights in relation to the sustainability of high security prisoners for the remanded youth in Turkey. The sociology of human rights literature (O’Byrne, 2012a, 2012b; Turner, 1993, 2000, 2001; Waters, 1996; Morris, 2012, Hynes et. al, 2010, 2012) provides tools for this analysis. Significantly, this approach shows that the ethos of liberalism, which is the abstract logic of exchange among equals, [forming the basis of the rights language] is a key rationality in the appearance of bio-political problems and in their resolution (Dean, 2010:120). I argue that, in informal, residual and eclectic capitalist welfare regimes, that reasserts social stratification in the society, the liberal and individualist language of human rights as a mode of knowledge production, creates an obstacle in deconstructing the concept of crime and crime control and mystifies the structural patterns of being criminalized.

To analyze the effects of the prevalence of the language of human rights in Turkey’s youth justice system, first, I suggest taking a social constructionist stance towards the language of human rights that is situated in a Eurocentric and developmentalist context in Turkey. By social constructionism, I mean questioning the universalist-normative nature of human rights and approaching human rights’ discourse as a socially constructed language embedded in the liberalism movement of Enlightenment. As Nelken suggests, exploring empirical variations in the way universal law is conceived can inform the researcher about how certain practices are interpreted by practitioners (Nelken 2004). Thus, in everyday life, criminal justice systems in non-Western countries like Turkey can embrace human rights’ language not necessarily as universal values but more as values introduced by the developed West.

My second suggestion is methodological. I argue that understanding the operationalization of any criminal justice system calls for a Weberian, interpretive understanding of social inquiry (Weber 1978 Vol. 1). This sociological method promises to explain how criminal justice workers attach meaning to their action of implementing the law. Understanding the meanings attached to certain
laws and rights by policy-makers and practitioners opens a framework to reform the criminal justice system from inside rather than imposing human rights' language from above. This methodological suggestion calls for research in the sites of ‘law in action’ (Nelken 2001).

Now, we move on to the third form of critique-challenge to human rights discourse, that calls for an elaboration on the human rights’ intrinsic relationship with liberalism, individualism and security. In fact, when elaborated altogether, rights' discourse revolves around the concept of liberal individualism, individual responsibility and rational decision-making. By scrutinizing the theoretical debates about children’s rights, (Fortin 2009), one recognizes that rights and ‘individual responsibility’ are interwoven. According to Fortin:

An acceptance of the existence of the rights of the individual underlies most liberal political theories… The main doubt over the issue stems from the view that a person cannot be termed as a rights-holder unless they are able to exercise a choice over the exercise of that right. The ‘choice’ or ‘will’ theory of rights invests the importance of choice with such significance that it alone is capable of grounding all rights (Fortin 2009: 14-15).

Hence, when referring to rights, there is an axiom of individual responsibility. Having a skeptical view towards the emphasis on individual responsibility does not necessarily mean people under 18 are not aware of the meaning and consequences of certain acts. However, revolving around individualism and claiming rights for individuals causes us to lose sight of patterns of illegal behavior, the ‘field’ where ‘habitus’ is formed, and take the acts out of context. As Zygmunt Bauman states:

True to the spirit of that fateful transformation, political operators and cultural spokespersons of the ‘liquid stage’ have all but abandoned the model of social justice as the ultimate horizon of the trial-and-error sequence—in favour of a ‘human rights’ rule/standard/measure meant instead to guide the never-ending experimentation with satisfactory or at least acceptable, forms of cohabitation. If models of social justice struggled to be substantive and comprehensive, the human rights principle cannot but stay formal and open-ended (Bauman 2001:74).

By interpreting the celebration of individualization process in ‘liquid’ modernity, Bauman asserts that: “the perception of injustice…has undergone a process of individualization. Troubles are supposed to be suffered and coped with alone and are singularly unfit for cumulation into a community of interests which seeks collective solutions to individual troubles” (Bauman 2001: 86, 96).
emphasize original). Finally, he states that it is not unexpected that the collapse of collective redistribution-social justice claims and the growth of inequality are coincidental.

Similarly, the Marxist critique of ‘natural rights’ claims that, by stripping individuals from the social context, the rights’ discourse conceals any structural inequalities between individuals by giving them equal and legal-judicial rights (right to fair trial, right to remain silent, right to have a lawyer, etc.) in the justice system. This critique of ‘natural rights’ is still valid for ‘human rights today. Generally, from the Marxist perspective, human rights' language is criticized for defending the civil, political and juridical rights of individuals in the ethos of Western liberal individualism while ignoring the social and economic structural conditions contributing to inequalities between individuals, which makes some sections of societies more vulnerable in the criminal justice systems (Hynes et al. 2010, O’Byrne 2012b). Liberalism values the rational choice maker, ignoring the dependence of the subjects in social contexts. Eventually, liberal human rights language bears the danger of perpetuating certain structural patterns of vulnerabilities by stressing the negative and civil rights in the justice system.

To wrap it up, as O’Byrne stresses, there is the problem of Western individualism and there is the issue of competing types of rights: negative freedoms that are the civil and political rights, and positive freedoms that are the social and economic rights. It begins from the assumption that the purpose of the rights' claims is to protect individuals from the state tyranny. This lies at the heart of the dominant liberal tradition of human rights. Focusing on state tyranny and protecting the individual from the state, thus an individual’s negative rights, can easily lead to ignoring positive rights that should be claimed from the state, such as the rights to economic and social wellbeing that are intrinsically tied to the operation of youth justice systems. The revival of 19th-century liberalism in 21st-century neo-liberalism has meant we experience the dominance and prevailing of negative rights, such as the rights to a fair trial, in contrast to positive rights to be guaranteed by the welfare state, which are social and economical rights. Without social and economical rights being guaranteed by the state, within Marx’s account of capitalist civil society, ‘human rights’ are merely a façade to hide or mask fundamental economic and social inequalities. In the case of Turkey, embracing the juridical rights in a developmentalist approach guarantees young people in conflict with the law the right to a fair trial, which conceals the structural inequalities and power relations they experience until they appear in court. How does ‘the right to fair trial’, having a lawyer and being lawfully detained on remand legitimize the criminal justice system when these rights can conceal structural inequalities in society?

Accordingly, an analysis of the data of this research, on the appealing to the language of rights in the Turkish youth justice system reveals a depiction of a young individual with rights as well as responsibilities as a rational choice-maker; as a “rational-economic individual who invests... and risks making a loss...” (Lemke, 2001: 199) As a homo oeconomicus, the young defendant is a rational choice maker who is stripped of from his or her ‘field’ and ‘habitus’ (Bourdieu, 1990). Hence, studying the praxis of human rights as a language in relation to the political economy and social security of the geography is illuminating to see the implications of the language of human rights in the criminal justice system and crime control. In this thesis, I aimed to demonstrate how the normative, universal and liberal language of human rights unfold in the political economy and welfare regime of Turkey.

For her research on Turkish youth justice system, İrtiş (2012b) proposes analyzing the youth justice system in ‘dual violence’: one being ‘direct violence’ and the other ‘indirect violence’. The former, as the name implies, refers to the violence that is easily observed and comprehended in society, hence reported by the media and the civil society organizations, while the latter remains difficult to
grasp in the first instance. Indirect violence accumulates with the system’s long-term structural deficits. In the youth justice system, indirect violence is accumulated during interrogation, prosecution, incarceration and post-incarceration. Indirect violence forms in accumulation even while youth justice organizations improve to protect young people in conflict with the law, because of a certain prevailing mentality, structural conditions, or the interplay of both (İrtiş 2012b: 52).

Likewise, Carrabine (2000), who proposes to do social theory of imprisonment within governmentality, draws attention to a division of labour in the discipline. Accordingly, microsociology of prison life (Sykes, 1958; Goffman, 1961) is divorced from macrosociology of imprisonment related to broader social processes (Rusche and Kirchheimer, 2003; Foucault, 1977). I argue that interventions of human rights' discourse tend to focus on the direct violence or microsociology of the state and tend to disregard indirect forms of violence or macrosociology of imprisonment that require analysis of accumulated structural handicaps.

From the critique of human rights in a Marxist approach, we move to the fourth challenge, which is the applicability of human rights given its normative character. This is a critique that problematizes operationalization and application of human rights. Human rights are intrinsically bound to citizenship rights. However, while citizenship rights address the modern (nation) state, human rights are global in character. Citizenship provides the principle vehicle that makes most universal human rights accessible while it excludes trans-national migrants (Morris 2012: 43-44). In the intricately comprising conceptualization, citizenship makes most human rights accessible while the language of universal human rights is used as a tool to ensure ontological security against violations in the state’s conduct of governance. This global character of human rights poses no problem in the case of negative rights that are civil, political and juridical. However, positive rights, namely social and economic rights, are hard to operationalize on the global platform. Here I am referring to the difference between the United Nations International Covenant on Civil and Political Rights (UNCCPR) and United Nations International Covenant on Economic, Social and Cultural Rights (UNCESCR), that both came into force in 1976.

Considering these points, remand imprisonment, which is supposedly practiced within the principles of the right to liberty, the right to security, the right to a fair trial and the right to presumption of innocence, are revisited within the governmentality of specific territories. In this study, I analyse remand imprisonment both as a consequence and as a source of indirect violence that can go unnoticed in well-rooted hegemonic relationships in society. This analysis requires a study with youth justice professionals and young remand prisoners to understand how remand imprisonment is interpreted and experienced and how the language of human rights is contextualized and operationalized in law in action.

Methodology

As law in books remains insufficient to explain the ‘law in action’ or ‘law in context’ as sociologists of law would suggest (Nelken, 2001), research based on an interpretive understanding (Verstehen), conducted in prisons and the courthouses can help the researcher analyse the roles of youth remand imprisonment in the justice system. In this method, the individual is seen as “the upper limit and the sole carrier of meaningful conduct” (Gerth and Mills 1946: 55). This study of social action through interpretive means, based on the researcher’s understanding of the purpose and meaning different figures attach to their own action (Weber 1978, Vol. 1), can explain what roles remand imprisonment fulfils in the justice system in terms of security, control, punishment and justice. So, understanding the roles and perceptions of remand imprisonment as practiced in the youth justice system requires research in the sites of ‘law in action’, in both of the bureaucratic institutions that are prisons and in the courthouses.
In this study, the law in action was researched by attending sixty-five hearings in different courtrooms, conducting interviews with fifty young remand prisoners in six different prisons in four different cities, conducting interviews with thirty-eight youth justice professionals who are prosecutors, lawyers, judges and social workers all employed in the youth prosecution services and youth courts in three different cities in 2014 and 2015. A novel contribution of this study is the proposal of an ethical guideline that I employed to conduct research with young remand prisoners. Doing statistical analysis by using data presented by the state, analyzing the transformation between the former and the current legislations, going through the case files and doing voluntary work with the NGOs complemented the data. The study comprised a diverse group of young remand prisoners charged with crimes related to property, drug dealing, sexual crimes, crimes against the integrity of the body, murder and crimes against the integrity of the state, which is referred as terrorism. This research proves that the diversity of offences, reveals different structural patterns of being in conflict with the law which has been overlooked in Turkey’s managerialist way of governing crime.

Table 8: Participants: Young defendants on remand between 12 February 2014 and 22 October 2014

<table>
<thead>
<tr>
<th>Prisons/Offence category</th>
<th>Maltepe/Istanbul</th>
<th>Bakirköy/Istanbul</th>
<th>Sincan/Ankara</th>
<th>Aliaga/Çınar</th>
<th>Konya E type prison for males</th>
<th>Konya E type prison for females</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Drugs</td>
<td>2</td>
<td>1</td>
<td>1</td>
<td>0</td>
<td>2</td>
<td>1</td>
<td>8</td>
</tr>
<tr>
<td>Theft</td>
<td>1</td>
<td>0</td>
<td>1</td>
<td>4</td>
<td>0</td>
<td>1</td>
<td>8</td>
</tr>
<tr>
<td>Mugging</td>
<td>3</td>
<td>0</td>
<td>1</td>
<td>2</td>
<td>2</td>
<td>0</td>
<td>12</td>
</tr>
<tr>
<td>Sexual Crime</td>
<td>2</td>
<td>0</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>0</td>
<td>12</td>
</tr>
<tr>
<td>Homicide</td>
<td>1</td>
<td>2</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>8</td>
</tr>
<tr>
<td>Bodily Injury</td>
<td>1</td>
<td>0</td>
<td>1</td>
<td>2</td>
<td>0</td>
<td>1</td>
<td>8</td>
</tr>
<tr>
<td>Political Crimes/Crimes against the state</td>
<td>1</td>
<td>0</td>
<td>2</td>
<td>0</td>
<td>2</td>
<td>0</td>
<td>5</td>
</tr>
<tr>
<td>Total</td>
<td>11</td>
<td>4</td>
<td>12</td>
<td>10</td>
<td>8</td>
<td>2</td>
<td>50</td>
</tr>
</tbody>
</table>

I analyzed prisoners’ interviews by clustering them first into prisons that they were incarcerated in. Second, I clustered them according to offence types. Patterns emerged as I read the interviews according to offence types over and over again. Patterns on Bourdieu’s (1990) concept of ‘capital’ emerged based on different offence types, which led to diverse experiences and interpretations of imprisonment. I share the interpretations by analyzing them as ‘pains of imprisonment’ (Sykes 1958; Crewe 2011; Liebling 2011) in Chapter V. In summary, this study shows that young prisoners with various ‘capital’ ranging between economic, social and cultural capital experience imprisonment differently and suffer the ‘pains of imprisonment’ in a variety of ways.

Findings from Prison Research

Observing the daily life in the high-security prisons—its roll calls, workshops, its rules, rewards and punishments— and scaling up to take a look at the juvenile prison system from the bird’s-eye point of view, reveals that all practices implemented by the officers, the teachers and the psychosocial staff members serve the purpose of containing the young defendants securely and controlling them with minimum hassle through spatial control mechanisms. Starting from the beginning, the most significant activity of the day is the roll calls. While workshops are the highlights of the prisons, a sustainable formal education programme to prevent drop-outs does not exist. On the contrary, young defendants lose their right to formal education as a consequence of long periods of absence. If there are disputes, the solution is to shrink the space, to lock up the...
young defendant in a smaller unit, a cell, so he/she can come to her senses through a lack of human interaction. Remand imprisonment is about control of young people in conflict with the law and providing security for an uncertain period of time. Similarly, Özkazanç refers to the ‘creative’ methods to control street children who pose ‘risk’ for the security of the society in Turkey and lists numerous spatial control mechanisms such as deporting children to an island, extending school hours to keep them away from the public spaces (Özkazanç 2011: 188-191). Here, we witness that spatial control mechanisms emerge and outlaw other concerns that could be social integration through social work and interaction.

While being controlled in the container-like high security prisons for an uncertain period of time, young prisoners live through various pains of imprisonment that is, originally, reserved as a site of punishment in modern law. The characteristics of these special high-security prisons work around the element of space to ensure security while the elements of discipline/labour/education and time diminish in remand imprisonment. The term managerialism defines the prison system very well—not an emphasis on risk, but control through various categorizations. The diversity of the prisoners is disregarded. However, this diversity is revealed through the different capitals they hold and the different ways of suffering pains of imprisonment such as blocked access to education or the collective pains of political prisoners.

**Diversity among defendant-prisoners**

Firstly, it goes without saying that diversity in experiencing remand imprisonment stems from the varieties in offences that the defendants are charged with and the degree of their experiences in the youth (criminal) justice system. Elaboration of the diversity in offences, experiencing the imprisonment using Bourdieu’s concepts of economic, social and cultural capital as a basis, led me to handle diversity in four categories and enrich the analysis beyond the structure-agency dichotomy. The intricate relationship between drug use, drug dealing and property-related offences, which has not been explicitly stated in prior research, formed a category by itself. This categorization does not mean that all defendants charged with drugs had other property-related offences, but conversely, the majority of participants charged with property offences had a considerable amount of experience with drug use and drug dealing that could remain unnoticed by the justice system.

Those charged with drug and property-related offences principally hold low cultural capitals, related to problems in schools, school dropouts and illiteracy. Thus, they tend to rely on social capital they hold through their networks in their fields. In the accounts of those charged with drug and property-related offences, there is an emphasis on now, the present, on the deprivation of liberty here and now. This emphasis on the present calls for a comparison with those defendants that speak about their concern over the future, in relation to the deprivation of producing cultural capital. So, for some prisoners, the prison as a total institution does not reproduce the existing cultural capitals they already hold, but destructs their existing cultural capital, causing them anxiety about pursuing non-criminal careers. Comparing the accounts of the first group, those charged with property and drug-related offences, with those charged with sexual offences reveals this stark contrast in terms of the emphasis on the present or future. The low quality of accounts received from those charged with offences related to bodily integrity such as assault and murder that forms the third category of defendants in this research is presumably related to the difficulty the defendants had in revealing information to the researcher about their ongoing trial for severe offences. Overall, this diversity, which is best revealed in comparing the first two groups’ emphasis on their cultural capital and their emphasis on the present and future, has not been seen in prior research in Turkey.
Finally, there is the fourth category of defendants charged with offences against the integrity of the state, which can be referred as ‘terrorism’ and ‘political offences’ by the judiciary and the prison administration. Political prisoners have tended to differentiate themselves from other prisoners through their relation with the state and through the collectivity of illegality. The emphasis on the cultural capital and the vision of a collective future also differentiate political prisoners from other prisoners, who have no collective emphasis. These diversities lead to differences in experiencing pains of imprisonment.

**Pains of remand imprisonment**

In this research, the pain of sharing a collective life in a total institution, and the solid, inherent pain caused by the loss of liberty occupied a great deal of accounts. Some burdens/pains of confinement were revealed that are most intrinsic to youth imprisonment. Accordingly, the pain of blocked contact with the outside world but mostly with the family and the pain of blocked access to education emerged as significant burdens of youth remand imprisonment in high security facilities. Not surprisingly, the pain of blocked access to education was endured more severely and prioritized by those with higher cultural capital who cared about future more than the present. Consequently, the diversity of the prisoners that I tried to unpack indicates the diversity in experiencing the pains of imprisonment.

**Management of remand imprisonment as a bureaucratic disposal resort**

In contrast to the diversity of young prisoners depicted in chapter V, this study shows that all young defendants are managed under the same regime of high-security remand imprisonment where security overrules all other aspects of imprisonment such as discipline, education, labour or psychological intervention. The hierarchical bureaucratic organization of the prison that situates the primary manager above the secondary managers, and the all managers over the psycho-social service members, the teachers and the security officers, eventually appoints a role of remedy to psycho-social service members to individualize the accumulated structural issues of the defendants. The use of space is highlighted in the management of remand imprisonment, through shrinkage and expansion of space for better control over disputes. Sending sentenced youth with disciplinary problems from the Juvenile Education Houses to the high-security remand prisons stands out as another example of using the element of space as a tool for segregation, categorization and control of prisoners.

Strikingly, for the majority, the distinction between remand and sentenced imprisonment is irrelevant. Remand imprisonment is interpreted as an inevitable control facility for those charged with offences related to property and drugs. For those charged with offences related to bodily integrity, it is an integral part of punishment for immoral behavior. For those charged with crimes against the integrity of the state, imprisonment, whether remand or sentenced, is a manifestation of the sovereign state.

Although the ways of being in conflict with the law is different in diverse structural patterns, the prison is managed with an emphasis on security for all the defendants. Thus remand imprisonment works intrinsically as a major part of penal politics in Turkey. In this framework, the decline of Juvenile Education Houses with their emphasis on labour and the rise of high-security remand centres with an emphasis on security reveal Turkey's governmentality. Remand imprisonment manages marginalized youth while controlling young political defendants. Structural diversities are disregarded and coping with this remand imprisonment is an individual responsibility.
It is important to be careful about the actuality/reality of criminal acts, as the reputed actors are only defendants and guaranteed the right to the presumption of innocence. As a matter of fact, 48 out of 50 participants in this research did not deny coming into conflict with the law; indeed, some of them enriched their criminal narratives with other criminal acts that I would otherwise not have known about. So, rather than emphasizing the right to presumption of innocence, I prefer to acknowledge the acts of being in conflict with the law as narrated by the young prisoners. The ‘right to the presumption of innocence’ blocks an interpretative understanding of remand imprisonment, as the subjects of the praxis do not claim it. Moreover, the irrelevance of the ‘presumption of innocence’ for the young defendants prove that remand imprisonment forms a significant part of crime control and the language of human rights remain irrelevant in bringing up the issue of remand imprisonment.

Findings from the research in the Courtrooms

Youth justice practitioners’ accounts and observations in the courtrooms complement the research with young prisoners.

Table 9: Participants: Youth justice practitioners

<table>
<thead>
<tr>
<th></th>
<th>Istanbul</th>
<th>Izmir</th>
<th>Ankara</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lawyers</td>
<td>5 individual interviews (1 without formal consent)</td>
<td>no interviews with lawyers</td>
<td>2 individual interviews</td>
<td>7 female respondents</td>
</tr>
<tr>
<td>Social Work Officials</td>
<td>3 individual interviews (1 without formal consent) and 2 focus groups with 2 social workers each</td>
<td>1 individual interview</td>
<td>2 focus groups with 2 social workers each</td>
<td>12 respondents (8 females and 5 males)</td>
</tr>
<tr>
<td>Judges</td>
<td>2 individual interviews (1 without formal consent)</td>
<td>7 individual interviews</td>
<td>2 individual interviews</td>
<td>11 respondents (2 females, 9 males: 6 juvenile judges, 2 head judges of the juvenile heavy penal courts, 1 retired member judge of the juvenile heavy penal court and 2 criminal peace judges.</td>
</tr>
<tr>
<td>Prosecutors</td>
<td>2 individual interviews</td>
<td>5 individual interviews (2 without formal consent)</td>
<td>1 individual interview</td>
<td>8 male respondents</td>
</tr>
<tr>
<td>Total</td>
<td>16 respondents</td>
<td>13 respondents</td>
<td>9 respondents</td>
<td>38 respondents</td>
</tr>
</tbody>
</table>

I analysed youth justice professionals’ accounts within their occupation group. Assuming that an interpretive/explanatory understanding (Verstehen), (Weber 1978, Vol.1: 4) of youth justice professionals’ accounts would reveal how they interpreted their own position and own action (decision making), I analysed different themes from different occupation groups. Together, they give a composite picture of the state’s governance of young people. Different themes emerged in each occupational group as I read the interview notes over and over again. For instance, Eurocentrism and managerialist system efficiency dominated the dialogues with the prosecutors while the role of social work officials as a topic dominated the dialogues with the lawyers. On the other hand, social work officials’ accounts led me to analyse their views in relation to the hegemonic relations they sustain with their judges. Analysing the judges’ accounts was the most difficult as I later discovered a consistent patterns of contradiction. The contradiction itself revealed the interpretation of remand imprisonment from the judges’ point of view. I discuss these interpretations in Chapter VI of the thesis.
I elaborated the operation of the adjudication process in ‘dialectics’ and analysed the prosecutors, lawyers, judges and social work officials consecutively, as delivers of the thesis, anti-thesis, ‘synthesis’ and ‘the others’. This method was helpful in analysing their accounts within their own professional fields and identifying patterns of interpretation of the service they deliver.

Accounts of the prosecutors, as delivers of the thesis and the first actors to request remand imprisonment from the judges, were shaped within a Eurocentric, developmentalist-modernist ethos. The accounts revolved around benchmarking by prioritizing system efficiency and technology, and better management of the target population through classification. Though criticizing the lack of protective/security mechanisms in the executive power, prosecutors were themselves disconnected from one important aspect of the executive power, which is imprisonment. Ultimately, remand imprisonment emerged as a first resort control and deterrence mechanism for repeat offenders, who according to some prosecutors could not adopt the dominant acceptable values of society. Thus, the responsibilization of illegal behaviour was individualized. The lack of distinction between prison sentence and remand imprisonment is worth noting.

In contrast to the strong and solid thesis of the prosecutors and despite the prevailing language of rights, lawyers, as deliverers of the anti-thesis, constituted a dispensable element of the adjudication process. In other words, defence constituted the weaker side of the adjudication process in the research findings. All lawyers, both ‘idealists’ and ‘not so idealists’, criticized the insufficiency in delivering protective/security measures that would constitute the alternatives of imprisonment. However, this critique did not have a connection to remand imprisonment. Remand imprisonment was seen as an inevitable part of the justice system and their clients had to be saved individually.

In the case of judges as the head of the adjudication process, forming the thesis in the dialectics, their self-positioning mattered considerably in the delivery of justice. Ultimately, as a result of a liberalist-individualist interpretation of children’s rights, judges’ interpretations formed a deadlock around the individual responsibilization of illegal acts. The accounts of the judges revolved around individual responsibilization of crime, which the ethos of children’s rights prevailing in the legislations did not disentangle.

In the dialectic of the adjudication process, social work officials have acquired an ambiguous position that is not an essential element of the process but an additional expertise that remains undefined. Most significantly, social work officials’ interpretation of their social position and their reactions varied at different levels, but did not form a collective resistance against their lower positioning. Based on the findings of this research, the following four factors undermine the value of social work:

i. The ambiguity of the eligibility criteria to do social work, as a psychologist, a social services graduate and a mathematics teacher can basically carry out the same task;

ii. The legal position of social work officials as experts rather than core elements of the court;

iii. The ambiguity in the timing of the use of social work officials, who are torn between the prosecution bureau and courts;

iv. The ambiguity in the job definition of the social work official, caught between determining the imputability of the child and determining his/her needs for social security.
Eventually, remand imprisonment did not occupy a space in the agenda of social work officials, as it is viewed as an inevitable control mechanism of the justice system.

**General Findings**

So, what are the roles of remand imprisonment in the Turkish youth justice system? Most crucially, first, remand imprisonment works as a first-resort deterrence and control mechanism of security. Secondly, it is rationalized and neutralized as the sovereign power’s expression of just deserts, as remand imprisonment is not distinguished from prison sentences. Accordingly, remand imprisonment works both as a manifestation of the sovereign power of the state while corresponding to the transformations in the political economy. Thus, the lives of those charged with terrorism are suspended in remand imprisonment by the sovereign in a state of necessity that emerges in modern politics. Finally, it fulfills an administrative control mechanism of evidence collection. It successfully fulfills the roles as the element of ‘space’ dispenses with ‘time’ and ‘labour’. Incapacitation of defendants through spatial control ensures these three most vital roles of remand imprisonment, in which young defendants are managed as aggregates and experience various pains of imprisonment. Hence in Turkey, young people in conflict with the law are managed in high-security remand imprisonment via spatial control mechanisms and remand imprisonment is a crime control mechanism. The emphasis given to spatial control mechanisms such as remand imprisonment manifests Turkey’s governmentality over social control and social welfare of the citizens.

**Implications of managerialism for remand imprisonment**

Managerialist conduct of the Turkish youth justice system has been brought up in the Turkish literature (Uluğtekin 2014). A review of the Anglo-Saxon literature shows that managerialism or New Penology, concerned with risk management, has informed the majority of work on remand imprisonment. Consequently, if unpacked and revisited, managerialism informs the researcher to comprehend the roles of remand imprisonment in the Turkish youth justice system. Bottoms’ (1995) differentiation of managerialism as ‘systematic’, ‘consumerist’ and ‘actuarial’ provides a clearer platform for discussion. Among the three types of managerialism as categorized by Bottoms, ‘actuarial managerialism’ refers to the New Penology that is introduced by Feeley and Simon (1992, 1994). The New Penology is neither about punishing nor rehabilitating individuals, but about classifying and managing unruly groups according to the perceived level of dangerousness. Management of people as aggregates that are seen as numbers and management of the institutions that would control the target group are prioritized over intervention to structural social issues.

I identify Turkish youth justice system more with the actuarial managerialism for reasons laid out in chapter VI in the thesis. However, a critical approach to New Penology necessitates revisiting some of its aspects. First, with its target group as the underclass, New Penology conceals and mystifies the diversity of prisons that I have underlined. Second, as highlighted previously (Cheliotis 2006b), New Penology downplays the role of human agency in the deliverers of the justice system. Hence, I aimed at unrevealing the roles of remand imprisonment by gathering qualitative data from youth justice professionals and employing an interpretative understanding of law in action. Third, New Penology misses the continuity between the past and contemporary penal features (Cheliotis 2006b). In other words, not all concerns of justice practitioners are newly emerging.

So, I would like to underline that although managerialism correctly defines the ruling of young
remand prisoners as aggregates in high-security prisons, the individual responsibilization of the rational decision-maker constitutes the ground of this mentality. Ultimately, remand imprisonment most saliently works as a first-resort deterrence and crime control incapacitating mechanism. Second, as it is not distinguished from a prison sentence, remand imprisonment can be rationalized as just desert. Thirdly, remand imprisonment fills the gap of administrative control to ensure evidence collection, especially testimonies.

Consequently, I argue that, remand imprisonment is sustained as a spatial field that disposes youth in conflict with the law both as first and last resort control mechanism. So, I call youth remand imprisonment as ‘bureaucratic disposal resort’ partaking in the structural accumulation of indirect violence in the youth/welfare/criminal justice system that is embedded in the governmentality of Turkey. As already stated, disclosing the accumulated indirect violence is difficult using human rights' language that today is limited to detecting direct forms of violence.

Implications of this study in decoding the relation between neoliberal managerialism and the language of human rights

The introduction—or rather sequestration—of the rights language into this managerialist framework has some unintended consequences that contrasts with the formal human rights discourse. By focusing on the negative rights on the surface level, employing human rights language impedes critiques to see the structural patterns in crime and crime control. First, children’s rights discourse flourishes in a developmentalist, Eurocentric, civilizing language set. Second, the origin of human rights lies in the birth of natural rights in the Western enlightenment era, embracing liberal individualism that threatens to strip the individual defendant from his/her habitus. Ultimately, the positive/social rights introduced in Turkey in 1976 that form the basis of social policy literature today remain secondary. The right to liberty, the right to security, the right to a fair trial and the right to presumption of innocence remain abstract claims targeting the individual in the criminal justice system.

Eventually, the insecurity of individuals protected by negative rights grows, leading to more demand for security that is provided through spatial control. In this context, professional psychological intervention remains as merely a relief that targets the individual, eschewing the structural issues. Remand imprisonment, or what I call ‘bureaucratic disposal resort’, works as a response to the demand for spatial control. The indistinction between a prison sentence and remand imprisonment indicates the lax mentality in managerialism. This responds with a concern to collect, contain and keep the target population under control. I claim that individual responsibilization of the criminal act that is decontextualized from the structural patterns of being in conflict with the law forms the basis of this mentality in managerialism.

Castel draws attention to the contradiction embedded in neoliberal governmentality and states that the modern individual cannot sustain him/herself in society without social security provided by the state (Castel 2004: 76-77). He distinguishes between civil securities that guarantee the security of individuals and properties, and social securities that guarantee protection against all kinds of risks throughout one's lifetime such as sickness, accidents, getting old without financial means and all other risks. Elaborating on the civil securities of the rule of law, Castel starts with the emergence of the ‘society of individuals’ depicted by Thomas Hobbes and states that a ‘society of individuals’ naturally becomes a security society as security constitutes the primary condition to sustain this society.
Castel reminds his readers that insecurity is a pre-modern phenomenon as security in pre-modern times depended on the individual’s hierarchical status within the community, as part of family and relatives. In modern societies, in which individual liberty is celebrated and in which ties to family, community or occupational groups are of secondary importance, the security society emerges in which the state holds the monopoly of power to provide an individual's civil security. Accordingly, ‘being secure’ is not a natural situation but an emerging one because insecurity does not find individuals unexpectedly, but rather is a dimension of the life of individuals in modern society (Castel 2004: 19). Thus, as the individual lacks the traditional ties and dependency, property becomes the primary source of security, as embraced in Locke’s proposal. Private property renders the individual secure against all social risks such as sickness, accidents, and not participating in the labour force. There is solid security for those owning private property. Civil security, on the other hand, is provided by the rule of law. In modern society, the individual is seen as so precious and thus so vulnerable that there is a call for a strong state (Castel 2004: 27). Castel states that the presence of the majority of the population with no private property is the dark side of the liberal state legitimized by the rule of law. This population is in the blind spot of the state and has to sustain itself (Castel 2004: 35). Moreover, making thousands of young people who are poor, confused and in Giddens’ term ‘disembedded’ (Giddens, 1990), the nucleus of the security problem is taking a narrow framework to comprehend the global security problematization (Castel 2004). Thus, prevention of crime, and increasing the number of judges and police remain short-cut and short-term solutions to the constant and ontological presence of insecurity.

In this framework, intervention to remand imprisonment through the discourse on human rights, that takes the individual as the unit of analysis, obscures a view on the indirect violence that has been structurally accumulating around the issues of class and race, which are embedded in governmentality of the population. Making reference to the authoritarian language of human rights that takes individual as the unit of analysis in the criminal justice conceals the social aspect of ‘crime’ and disregards the structural patterns of being in conflict with the law. Hence, the language of human rights in Turkey that has historically an informal and immature social security system, leaves no space for Bourdieu’s concepts of ‘field’ or ‘habitus’, perplexes the practitioners of juvenile justice and unintentionally contributes to what Bauman calls the ‘individualization of the perception of injustice’ (Bauman, 2001: 86) eliminating a collective response to structural social insecurities. In this framework of limited social security, spatial organizations and control through the use of space supplants the responses for ontological, social securities. High security prisons that provide security of the defendants within the facility and security of the public outside the prison fulfill the need of security and social control. Plus, high security remand imprisonment does not by nature challenge the authority of human rights discourse as the language itself cannot critically analyse the roles of remand imprisonment that works as a crime control mechanism.