

Perils of Civil Society: When Discourses of Human Rights are Replaced by Those of Biopolitics¹

Abstract

This paper will explore the limitations of liberal paradigm, which idealizes civil society as a democratic sphere, in explicating the power relations within actual civil societies - without declaring certain groups inherently anti-democratic. Suggesting a context-dependent approach, I will discuss how civil society might operate as a site of biopolitics (Foucault), which renders certain lives disposable (Butler), in collaboration with a necropolitical state (Mbembe). Based on my field research on the “Islam vs. homosexuality” debate in Turkey, I will examine how otherwise democratic actors of Islamic civil society might engage in hate propaganda, justified with discourses of self-protection from perceived perils of homosexuality. I will suggest that Muslim activists assumed an active role in the politics of life and death by marking LGBTQs as “non-human,” framing them as “virus-like” threats to humanity, and calling for state action against this “peril.” Consequently, the liberal discourses of equality and human rights are easily replaced with those of normality, security and threat. I will show, on the other hand, that the same debate also revealed opportunities for “unexpected” solidarities and venues to problematize the position of those at the intersection of the “inimical” Muslim and LGBTQ identities. In doing so, I will highlight the complex dynamics and self-contradictions of a non-ideal civil society, which cannot be explained using the liberal-democratic paradigm.

Introduction

In March 2010, a former minister’s stigmatizing of homosexuality as “an illness to be cured,” spurred the first nation-wide “homosexuality debate” in the history of Turkey. With the involvement of numerous Islamic civil society organizations (CSOs)² and (mostly Muslim-identified) columnists, the debate that started with pathologization of LGBTQs quickly turned into one about the place of homosexuality within Islam, which I call the “Islam vs. homosexuality” debate. Both the Muslim columnists and the Islamic CSOs, suggested that the state and (civil) society have to cooperate to take precautions against the “threat” posed by homosexuality.

¹ This paper is based on my unpublished Master’s Thesis titled “Cooperation or abjection? a Re-conceptualization of civil society beyond liberal values and dichotomies: the ‘Islam vs. homosexuality’ debate in Turkey.”

² I prefer to use the term civil society organization (CSO) rather than NGO since these associations identify themselves as Islamic civil society organizations [*İslami sivil toplum örgütü*].

The said statement of the former Minister of Woman and Family, Selma Aliye Kavaf, published in a widely read national newspaper, read as follows:

I believe that homosexuality is a biological disorder, a sickness. I think it is something that should be cured. In this regard, I do not approve homosexual marriages (Bildirici 2010).

This statement is significant for openly displaying the Turkish state's homophobia for the first time (Oz 2010).³ Yet, this paper argues that its major significance lies in the debate it created and the questions it raised regarding the rooted normative assumptions about the egalitarian and anti-discriminatory character of civil society. The outright support of the Islamic CSOs, which are known for their critical stance against the discriminatory actions of the state, revealed a paradox that cannot be explicated with the liberal-democratic paradigm commonly used to interpret civil society.⁴ Although the involved CSOs are prominent human rights advocates, in this case they opted for allying with the discriminatory state contradicting their anti-oppression stance in issues concerning other vulnerable groups. Thus, the positions that civil society actors took in the debate revealed a need for a paradigmatic shift in order to account for complex dynamics of civil societies that defy simplistic classifications concerning their liberal-democratic capacity.

³ Since 2010 numerous government representatives have adopted this openly homophobic stance making inflammatory statements that target, delegitimize and criminalize homosexuality. Various MPs and ministers declared homosexuality "one of the biggest threats to society," (Kaos GL 2016), "the destruction of humanity, like Sodom (*Lut kavmi*)," (Bia Haber Merkezi 2015) "a dishonor, immorality and an inhuman condition," (Bia Haber Merkezi 2012) etc.

⁴ The list of the signatories is as follows: AKABE Vakfı - AKDAV - AKODER Aileyi Koruma Derneği - Araştırma ve Kültür Vakfı - Anadolu Gençlik Derneği İstanbul Şubesi - ASDER Adaleti Savunanlar Derneği - Ayışığı Derneği - Hayata Çağrı Platformu - Hukukçular Derneği - İHH İnsani Yardım Vakfı - İnsan ve Medeniyet Hareketi - MAZLUMDER İstanbul Şubesi - Medeniyet Derneği - ÖNDER İmam Hatip Liseleri Mezunları ve Mensupları Derneği - ÖZGÜR-DER - Sağlık ve Gıda Güvenliği Hareketi - İnsani Değerler ve Ruh Sağlığı Vakfı - Sıcak Yuva Vakfı - TİYEMDER Tüm İlahiyat Mezunları Derneği - TÜMER Tüketici Hakları Merkezi - TGTV Türkiye Gönüllü Teşekküller Vakfı (the umbrella organization for 160 CSOs) - Türkiye Yazarlar Birliği.

Treating the Islamic civil society in Turkey as a case study, this paper suggests that the discourses mobilized by civil society actors - such as equality, cooperation, anti-discrimination, human rights and democracy – are not (always) inclusive of everyone. To the contrary, these very concepts, starting with the notion of “human,” are negotiable to the extent of de-legitimizing certain groups’ existence. Within the discursive framework of the “Islam vs. homosexuality” debate, LGBTQ individuals are simply left out of the definition of humanity and stripped of their right to claim these egalitarian notions for themselves on the grounds of being “dangerous” and “disgusting” threats to the human life (Seyhan 2011).

In this respect, I argue that the notion of civil society should be reconceptualized as a fluid site of power relations in general and a biopolitical sphere in particular since its actors contribute to disallowing certain forms of life “to the point of death” (Foucault 1998, 138). The actions and reactions of Islamic CSOs as self-proclaimed actors of homosexuality debate vividly displays that the power to “let die” is not solely vested in institutions and private actors can assume an active role in the sustenance of regulatory/bio-power in alliance with the state.

Thus, the universal and timeless characteristics, such as egalitarianism and pluralism, attributed to civil society do not hold when tested by contextual phenomena. From the perspective of liberal-democratic accounts of civil society one simply cannot make sense of such civil society activism that reconciles homophobia and human rights, and allies itself to the state, unless such cases are treated as illiberal anomalies. For this paradigm either idealizes CSOs as the pioneers of democracy against tyrannical

tendencies of the states or condemns certain organizations for not keeping up with the Western liberal values.

For instance, an easy way to interpret this paradoxical human rights activism would be framing it as a matter of democratic deficiency and inherent homophobia of Muslims and Islamic civil society, which is not unprecedented in the literature on civil society in the Middle East (See. Gellner 1996). However, I would argue that such an approach would be reductive and problematic for presuming a “clash of values” by idealizing civil society as a “progressive” sphere and framing Islam as something necessarily incompatible with it. Maybe more importantly, it would obscure the empirical reality on the ground, which reveals that there are multiple Islamic positions that challenge this discriminatory approach. In fact, the very same debate revealed opportunities for “unexpected” solidarities between Islamic and LGBTQ organizations and venues to problematize the position of those at the intersection of the supposedly “inimical” Muslim and LGBTQ identities. For instance, a number of Muslim opinion leaders and Islamic women’s organizations refused to get involved in the debate in order not to contribute LGBTQ individuals’ abjection or openly supported LGBTQ rights struggle. Thus, the debate and the subjectivities it created cannot be interpreted through the simplistic “Islam vs. homosexuality” dichotomy.

What is rather at stake here is a non-ideal civil society whose fluid dynamics and self-contradictions are not intelligible to the dominant way of understanding civil society, which I refer to as the liberal-democratic paradigm. As Turkish case shows, the assumed boundary between the state and civil society is blurred with gray areas, and civil society actors defy pre-determined stable characteristics and assume multiple

identities that are not always consistent. As my case vividly demonstrates their actions can undermine all the fundamental assumptions of liberal-democratic paradigm and, yet, simultaneously perform as its showcases depending upon the context and other actors that they interact with. In the following pages, I discuss that such self-contradictory civil society practices cease to be a paradox when approached using Foucault's "toolbox." Short of the analytical tools, which Foucault's theory of power provides, the remaining options would be dismissing the case as an anomaly or falling into the trap of orientalism and/or Islamophobia.

A Brief Note on Context

The context of Turkey is characterized by structural, symbolic and physical violence against LGBTQ individuals, as well as various manifestations of institutional homophobia that facilitates the former. Numerous cases of physical violence and following *de facto* impunity provided to the perpetrators reveal a homophobic alliance between them and state officials (e.g. law enforcement and the criminal justice personnel). For instance, transgender individuals are frequently robbed, beaten, raped and murdered in Turkey. Perpetrators are often not found guilty (if/when they are identified) or enjoy reduced sentences on the grounds of "unjust provocation," claiming that the victim proposed same sex intercourse.⁵ That is, in Turkey being mistaken as gay is an institutionally accepted insult, which causes "extreme anger or pain" and thus justifies violence (Cakir 2009).

⁵ Principle of "unjust provocation" (haksız tahrik indirimi) is explicated in Article 29 of Turkish Penal Law as follows: A person who committed a crime as a result of anger, of extreme pain caused by an unjust deed, is sentenced to imprisonment from 18 to 24 years, instead of aggravated life imprisonment. From one fourth to three fourths of the penalty that would have been given under different circumstances is reduced (Turkish Penal Code 2004).

State-homophobia not only lets LGBTQ individuals actually die and be killed. The institutional practices that aim at reducing LGBTQ individuals' visibility and degrade their lives are also attempts to wipe homosexuality off the public discourse and sight so as to secure their "political death," in Foucault's terms (Foucault 2003, 254). For instance, from the very beginning of LGBTQ movement in Turkey, there have been systematic efforts to close down LGBTQ organizations on the grounds that they provoke immorality in society (Korkut 2005; Soyle 2009). The Radio and Television Supreme Council (RTUK) penalizes TV channels and suspend certain shows due to scenes with "gay" content claiming that homosexuality is against the Turkish moral values (Gazete Vatan 2010). In such a context, the former minister's declaration is far from surprising. However, the following debate is puzzling due to the identity of its actors whose self-proclaimed mission is to fight against oppression of any kind.

Civil Society in Turkey

The emergence of a civilian society, devoted to "consensus-building, civil rights and issue-oriented associational activity," in Turkey is considered a paradoxical impact of the 1980 coup-d'état (Toprak 1996, 95). According to this widely accepted explanation "the coup which set out to destroy the institutions of civil society helped to strengthen the commitment to civilian politics" (Ibid.). Especially in 1990s, new civil society actors such as Kurds, feminists, Islamists and LGBTs emerged, initiating strong social movements.

The Islamic CSOs' attracted attention due to their anti-Kemalist problematization of forced secularization, especially the violation of such rights of headscarved women as the rights to education and work. Among many Islamic organizations, especially

MAZLUMDER has been under the spotlight due to its inclusive human rights advocacy. It has been attracted academic attention both for its unconditional support to all vulnerable groups (Kadioglu 2005, Serkissian and Ilgu 2013) and its occasional practices that severely contradicts this official mission (Tomen 2015). The incongruity between its comprehensive anti-oppression position and its discriminatory actions in the debate made MAZLUMDER a major target of criticisms and one of the self-proclaimed objects of this study.⁶

The multiplicity and dynamism of practices and actors operating under the title of civil society in Turkey (and arguably elsewhere) demonstrate that any perspective that categorizes civil society actors with respect to their potential to contribute democratization and pluralism is a limited one. For the ideal-typical conception of civil society, celebrated as a sphere in which values such as egalitarianism, freedom and solidarity can be cultivated, obscures the contingencies and contradictions it bears. The actors of civil society are “more complex than Habermas’s *homo democraticus*” (Flyvbjerg 1998, 217). Yet, they also cannot be captured in an always already evil image since their subjectivities are relational rather than predetermined. Civil society can institute hierarchies between supposedly equal subjects and lead to violent exclusions, as much as it can be a ground for solidarity and progressive resistance. Thus, it is important and necessary to question the usefulness of the liberal-democratic paradigm in understanding such complex reality on the ground.

⁶ It is worth noting that the Diyarbakir branch of MAZLUMDER significantly differs from the other branches in its approach to homosexuality and LGBTQ organizations. Even if they agree that homosexuality is prohibited by Islam they are committed to a more comprehensive human rights defense including LGBTQ rights and are criticized for this by other Islamic CSOs (Akan 2010).

What (not) to expect from a liberal civil society?

What I call liberal–democratic paradigm of civil society has its roots in the Scottish Enlightenment thought that separates civilized society from political society (Seligman 1995), and Tocqueville’s emphasis on the importance of solidaristic voluntary organizations that are essential for “equality of conditions” and democracy (Tocqueville 1988, 510, 515, 517).⁷ This conception of civil society was revived 1950s as an antithesis to the authoritarian socialist-party states (Cohen and Arato 1992, 15; Hall 1995, 1). By the 1980s, especially after the collapse of communism, civil society has been celebrated as a sphere of “standing resistance to government” (See for a Tocquevillean understanding of civil society Alford 2003, 11), a site for participation, empowerment and mutual help (Fisher 1997), which is strongly related to a “healthy democracy” if it is progressive and robust (Barber 1998, 10, 11). As such, the meaning of civil society shifted from the way in which it was conceived by the forefathers of liberal thought: as a political sphere, which has strong connections with the state in terms of creating the latter and being sustained by it (Locke 1969).

Although the term defies a clear conceptualization due to the multiplicity of actors/practices it harbors and the corresponding variety of definitions (Flyvbjerg 1998, 210), Diamond’s conceptualization is symptomatic of liberal-democratic understanding of civil society. He describes civil society as a voluntarily “organized social life,” which

⁷ The same tradition can be classified in many ways. A good example would be Onbasi’s identification of the tradition as “Classical Liberal Individualist Pluralist Conception” of civil society, which is also a valid and explanatory classification (Gencoglu Onbasi 2010). For the purposes of my research I find a conceptualization that emphasizes pro-democratic assumptions more useful.

is “*autonomous from the state and constituted of citizens acting collectively in a public sphere to express their interests, passions, and ideas, exchange information, achieve mutual goals, make demands on the state, and hold the state officials accountable*” (Diamond 1994, 5. *Original emphasis*). In this regard, the separation of civil society from the state and egalitarian civil solidarity characterize the modern usage of the term. As such civil society is considered imperative for the consolidation of democracy thanks to its pluralist character (Hall 1995, 8).

On the other hand, this democratic-pluralist thesis constitutes one of the major paradoxes of liberal tradition. As Diamond clarifies, pluralism within civil society refers to means of cooperating and negotiating “without fragmenting” (Diamond 1994, 12). That is, it excludes “maximalist, uncompromising interest groups or groups with antidemocratic goals and methods” (Ibid.). What if the actors of civil society exhibit both pluralist and antidemocratic traits? What if civil society harbors multiple oppositions rather than a single one between the state and civil actors?

What is substantially lost in this ideal framework is the intra-civil society relations, which more than often involve antagonism and/or hostility rather than cooperation. The effects of domination were not taken into account in the aforementioned picture since “the cultural and normative underpinnings of civil society itself were thought to be relatively given and unproblematic” (Meeks 2001, 332). Although Scottish thinkers did not completely disregard the possibility of conflict in public sphere, they chose to preserve the belief in “a socially desirable alternative both to the state of nature and the heightened individualism of emergent capitalism” (Lewis 2001), an ideal civil society in which conflict would be replaced by cooperation. The liberal critics who

attempted to correct the flaws in the theory and account for domination suffered from similar limitations due to their belief that the ideal of civil society already exists except for some less than ideal practices (See. Chambers and Kopstein 2001; Gellner 1996; Encarnacion 2006; Jamal 2007; Fiorina 1999).

The problematic disappearance of hierarchical relations of domination within this framework, built upon a strict dichotomy between the state and civil society, can be explained by a limited understanding of power as something that can be possessed by the virtue of institutional authority, rather than a force relation inherent in all types of social relations. Put differently, (political) power is framed as a unidirectional relationship exercised only by the state on the subjects rather than one that “comes from below” and refuses “all-encompassing opposition between rulers and ruled” (Foucault 1998). Representing the (potentially or actually) tyrannical state’s “others,” the civil society actors are assumed to have contrasting (e.g. pluralist, egalitarian, anti-tyrannical) characteristics. In this framework, a civil society that reproduces domination and hierarchy is not intelligible. As can be observed in many cases, including the “Islam vs. homosexuality” debate in Turkey, neoliberal civil society does not necessarily function as an external opposition to the state (Foucault 2008, 297). Its substance is not only constituted of a constant rebellion against the state or mutual help (Ibid.). It rather has an alternative reality, which encompasses both sympathy and repugnance towards others (Ibid. 301-302).

The Turkish Islamic CSOs constitute a rich example of this operation of civil society due to the fact that they embrace both these positions, which seems to be a self-contradiction when evaluated through the lens of liberal-democratic paradigm. In their

encounters with LGBTQ actors, repugnance shapes their actions due to the specificity of the instrument of the power, namely sexuality, which is a critical object of (bio)power “endowed with the greatest instrumentality” (Foucault 1998, 103). It creates a hierarchy between the (supposedly heterosexual) Muslim subject and the homosexual subject since the latter is marked as the source of degeneration of the society. Accordingly, the discourses of life, security and human generation easily replace those of “democracy”, “rights and freedoms” and “citizenship” used while defending other vulnerable groups.

Biopolitics of Civil Society

Once one realizes the artificiality and the problematic nature of the “contractarian illusion that power can be made visible, localized, and restricted to the political state whose boundaries are clearly delimited by the rights of juridical subject” (Cohen and Arato 1992, 260), the aforementioned contradictions cease to seem like anomalies. For the civil society actors’ role in power structure is not fixed but relational. In this respect, situating the debate in the neoliberal context of biopower provides an opportunity to understand the power relations internal to civil society without resorting to problematic normative categories.

As Foucault describes it, one of the most important characteristics of biopower is its reversal of the old juridical right: namely the “right to *take* life or *let* live” (Foucault 1998, 138. Original emphasis). Optimization of life is the major concern of biopower; it either “*foster[s]* life or *disallow[s]* it to the point of death” (Ibid.). Operating in tandem (but at different levels) with juridical and disciplinary technologies, it establishes security mechanisms to retain the random element in the population and protect it from internal and external dangers. It aims at protecting the lives, which are worth protecting, through

regulation and normalization. What is at stake here is no longer the existence of a sovereign in juridical terms but the “biological existence of a population” (Ibid., 137). Through this *modus operandi*, death is disqualified as the limit of state power.

What usually escapes from analyses of biopower is that it does not necessarily need (state) institutions to achieve this end. By definition, it is a type of power, which can be pinpointed at every level of social, political and economic relations. Accordingly, institutions lose their privilege to control; and more fluid networks of power and resistance surface (Hardt 1994, 35). On the other hand, loosing its privileged monopolistic power position does not mean that state totally fades away. Rather its *raison d'état* adapts to neoliberal rationality, which requires transferring responsibility to micro-units of government. Civil society, according to Foucault, is one of the governmental technologies of biopower that facilitates decentralization of “responsibility” rather than a “philosophical idea” (Foucault 2008, 296).

In this framework, the non-state entities, which are both the subjects and objects of biopower, play “a key role in bio-political struggles and strategies” (Rabinow and Nicholas 2006, 203). Having the neoliberal rationality internalized, individuals and groups assume responsibility for their own security (O'Malley 1996), which serves as an alternative justificatory basis for their actions. That is, the discourses of rights and freedoms, as well as that of rightful resistance against the state, lose their moral and political priority when self-security is at risk. Thus, the discourses of sacredness of human life, health, security and threat come to the fore as major reference points of both societal and institutional actors. Given that the same discursive framework, which determines what is worth protecting, affects the conducts of both the civil society and the

state, it is not surprising that they stand as allies rather than conflicting parties. This does not mean that civil society actors necessarily abandon the human rights discourse. However, within the context of the politics of life and death human rights assure only an “exclusionary inclusion,” in Agamben’s terms, for groups marked as less-than-human (Agamben 1998).

The “Islam vs. homosexuality” debate can be considered as an unsettling example of how the defense and celebration of “the human life” can turn into an active devaluation of “homosexual life style” to the point of ignoring attacks to LGBTQ individuals’ lives, thus, letting them die. Within the discursive framework of the debate, the latter is defined as the exact opposite of or a vicious attack to “the life.” A close examination of one of the initial and most significant moments of the debate, the Islamic CSOs’ open letter addressing the former minister, demonstrates the extent to which the actors of civil society can adopt the language of biopolitics as a legitimizing action ground.

Celebrating “the Life”

The discourses mobilized within the text perfectly exemplify the regulatory power’s core functioning principles such as optimization of life, self- responsabilization (of civil society), incorporation of other models of power, politicization of life and death and letting die. The letter, as a whole, comprises a celebration of human life and a guideline to prevent it from being annihilated by homosexuality. The reasoning behind it relies on the assumption that the state and the civil society have a mutual “responsibility” to optimize life, normalize it and make the human species survive.

Acceptance of “homosexuality”, which is against fitrat [creation], as a “sexual orientation” and legitimation of its spread by presenting it as a natural choice

practically mean accepting the extinction of human kind (MAZLUMDER 2010).

As can be observed in this passage from the letter, the signatory organizations primarily ground their argument on the perceived threat to human life, while they also underscore that homosexuality is repugnant to the religious doctrine, especially the heterosexist understanding of creation (*fitrat*). In order to mark same-sex relationships as an internal danger, it is of strategic importance to deny the status of “sexual orientation” to homosexuality and present it as a perverted “choice.” Only after establishing homosexuality’s status as a dangerous threat, the signatory human rights activists argue that “[n]ot accepting homosexuality as an anomaly, which threatens the security of the [human] lineage [...] is a betrayal against the life itself” (Ibid.). In this way, homosexuality is framed as a deliberately chosen act of terror that has a potential to “annihilate life thoroughly” rather than a “normal(!)” state of being, providing the signatory organizations with the legitimating ground for demanding protection (Ibid.).

According to the signatories, not only LGBTQ individuals but also their supporters, “the lobbies/mentalities/entities that mess with the human lineage and the future of the world,” are committing a crime against humanity (Ibid.). For they legitimize homosexuality and eliminate the “demand for treatment/therapy for the people who suffer from this problem and lead to the spread of this phenomenon” (Ibid.).

Self-responsibilization of Civil Society

It is worth noting that in the letter homosexuality is neither characterized as a private matter that concerns LGBTQs nor as a strictly political issue that concerns the state. The signatories justify their support to the minister as a necessity due to “the societal importance of the issue” (Ibid.). Marking homosexuality as a sickness, which

directly threatens the public health, alters the boundary of public and private and makes it a concern for the civil society that supposedly occupies the space in between.

Given the signatories' demands from the state, and the fact that they had presented the letter to public in a press meeting before they collectively mailed it to the former minister, the aim of this performance was not only to support the minister's statement. They also wanted to publicize their concerns about the existence and actions of a group of people who pose a threat to the rest of the population and invite "all believers" to oppose homosexuality for the sake of the life's sustenance.

It is normal for and one of the responsibilities of Muslims - despite the fact that Islam is a religion for peace and toleration, both norms have limits - and people who believe in other divine religions to stand against what they believe is immoral and sinful [...] This is not only Muslims societies' responsibility of but also of all humanity (Ibid. Original emphasis).

It is important to note here that Islamic CSOs do not only assume the responsibility to protect human life but also the authority to decide what others' responsibility is. Thus, the letter constitutes an attempt to a "conduct of conducts" by delegating their self-proclaimed responsibility to fight against a fatal disgrace to the rest of the society (faithful or not) with a justificatory claim of self-preservation. Very well aware of the discrepancy between a call for action against an already vulnerable group and the discourses of "Islamic tolerance" and "unconditional human rights defense," they replace the commonly mobilized norm of "toleration" with a bio-political one: "survival of species." For peace and toleration "have limits" when human life is at stake.⁸

The neoliberal linkage of security, threat and life is crucial to biopolitics of civil society for the securitization to take place and be internalized. The "random element" in the population, around which "security mechanisms have to be installed" (Foucault 2003,

⁸ Islam is proclaimed to be a religion of peace and toleration.

246), has to be marked as vulnerable to a constant threat. In other words, without depicting the normal members of the population (read: heterosexual and healthy) as potential and actual victims of an immanent danger to the society, an action that puts other lives at risk while protecting “ours” could not be justifiable. Thus, the claims and demands that the letter makes are built upon the necessity of taking vital security measures rather than religious teachings, although the latter is also a central theme.⁹ Thus, the letter incident in particular and the debate in general goes beyond religious hate speech and constitutes an example of governmentalization of public health by civil society actors for the sake self-protection.

This is not to say that the actors of civil society are passive objects of governmental technologies by the virtue of being allies of the conservative/neoliberal Turkish state. Biopower is productive of new kinds of struggles “in the name of ‘claims to right to life’” and groups that “define their *citizenship* in terms of rights and obligations to life, health and cure,” as it turns life into a political object (Rabinow and Nicholas 2006, 196, 203). Thus, these organizations internalize the governmental reason and willingly assume part of state’s responsibility in providing security to the normal population and medical/psychological/disciplinary treatment to its “abnormal” portion. They take the necessary actions to this end rather than confining themselves to the security measures uniformly provided by the state (O’Malley 1996).

The Interpenetration of Biopower, Juridical Power and Disciplinary Power

Supporting the state and sharing its burden does not mean that these neoliberal subjects completely free the state from its juridical responsibilities. To the contrary, they

⁹ Later this group was criticized by other Muslims for adopting a Western perspective rather than prioritizing Islamic principles, which is only one of the instances that reveal multiplicity of Islamic positions and the internal discussion within the “Muslim party” of the debate.

turn to the state as a demanding customer to be pleased and invite the juridical state and its disciplinary institutions to fulfill their duty. For instance, the signatories consider mobilization of the disciplinary institutions of the state as “of vital importance” for the protection of the species:

It is required to provide easy access to all kinds of treatment for [these] people [...] In order to achieve this end, the policies that will be adopted by all related agencies, especially of the Ministry of Health, the Ministry of State for Woman and Family, the Ministry of Interior and the Ministry of National Education - in cooperation with CSOs if necessary - are of vital importance (MAZLUMDER 2010).

The list of ministries, which Foucault would have defined as disciplinary, called for duty to reduce “homosexual choices” among members of next generations is telling. It reveals that homosexuality is simultaneously defined as a health problem with the risk of spreading, a danger which might undermine the heterosexual family, as an internal threat that concerns the law enforcement and a problem which can be eliminated through the right education system. Moreover, the involved Islamic CSOs do not only expect these disciplinary institutions to provide a solution to the problem of homosexuality in Turkey but they also want to be a part of the solution. Given the aggressive biopolitical subjectivity of the signatory organizations, stripped from their presumed and/or actual pluralist identity positioned against the state, it is not surprising that they form such an “illiberal” alliance with the state to fight against an urgent threat.

Biopolitics of civil society also incorporates the techniques of juridical power by mobilizing the discourse of law, which operates as a regulatory technology and norm within the context of biopower due to the “growing importance of the norm, at the expense of the law” (Foucault 1998, 144). In this framework criminals transform into bio-criminals who attack not the sovereign state but the population.

Prepared for WPSA Conference 2016
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In many Islamic countries, homosexuality is illegal and the aim of this prohibition is to protect the human generation and to prevent this anomaly from becoming widespread (MAZLUMDER 2010).

It is true that homosexual relations are legally banned in a number of states, including non-Muslim countries (ILGA 2015). It should be noted here that the legal sanctions in some of these countries, such as Mauritania, Sudan, Iran, Saudi Arabia and Yemen, involve death sentence (Ibid.). Thus, the implications of legal sanctions that the signatory CSOs ask for are in significant contrast with the discourse of the protection of life. Ignoring this contradiction reveals a logic that trivializes the lives of the few who are responsible for putting the whole “human species” at risk.

Politics of Life and Death

Insofar as civil society is conceived as a site of biopower such a tacit justification of death is not a paradoxical stance for its actors. With an effort to differentiate biopower from juridical-sovereign power, Foucault mainly emphasizes the former’s relation to (optimizing) life without discussing its connection to the politics of death in detail except for his discussion of state racism (Foucault 2003, 62). However, death in fact is an inseparable part of biopolitics. Broadly defined, biopolitics simultaneously includes optimizing/protecting life, determining which lives are to be secured, active killing and letting die or to be killed.

Agamben corrects/completes Foucault’s argument by suggesting that life is included in politics only in exclusionary ways through a decision about “the humanity of the living being” (Agamben 1998, 8). Through the notion of *thatanopolitics* he shows that the power over death is embedded in the *power to make live* due to “the system’s inability to function without being transformed into a lethal machine” (Ibid., 175). More recent scholarship, such as that of Mbembe’s, also underscores that in some instances

biopower and sovereign power intertwine; and neoliberal state can also extinguish life, despite the fact that death is its limit. Mbembe, with a more exclusive focus on the power to decide “who must live and who *must* die,” calls this operation of power necropolitics (Mbembe 2003, 17).

On the other hand, it would be misleading to directly “apply” the theories of necropolitics or thanatopolitics to the civil society. First and foremost, both Agamben and Mbembe see the murderous aspect of biopolitics as a function of the state not as a technique of power that operates in the absence of institutional arrangements. Second, it is worth noting that the involved civil society actors do not call or take action for extermination of LGBTQ lives. I would argue that what makes death an intrinsic aspect of the biopolitics of civil society is not actual dying or killing. It rather lies in the selective construction of “the ‘being’ of life” which results in an inability to “refer to this ‘being’ outside of the operations of power” (Butler 2009, 1). Put differently, limited conceptions of “human” and “life” make Islamic CSOs complicit in letting LGBTQ individuals die. In the “Islam vs. homosexuality” debate, “the truth” of life is framed in a specific way so as to isolate LGBTQ lives from human life. Thus, the discourse of preserving life systematically disregards the former and contributes to increasing the precarity of a group that is already excessively “exposed to injury, violence and death” (Ibid. 3, 25).

Interestingly enough, in the context of the debate the discourse of human rights, which refers to certain rights of certain human beings, is one of the most resorted strategies in securing a homophobic definition of life. Within this discursive framework what is regarded as democratic rights of Muslims, turns out to be rights violations when

claimed by LGBTQ movement. For instance, a representative from MAZLUMDER-Istanbul explains that the reason why they do not defend LGBTQ rights while they support all other human rights struggles lies in the fundamental definitions about ‘human’ and ‘human rights:’

[W]e believe that human beings are created as men and women and the continuation of human lineage depends on these sexes. From our perspective, [homosexuality] is an attack to the future of humanity, and a total human rights violation (Interview with Ozsoz 2011).

As perplexing as it is, this type of homophobia that excludes LGBTQs from the definition of humanity and an all-inclusive human rights defense are not contradictory positions according to this approach.

Every homosexual is a person. Human rights are sacred. We defend all of them. We defend their [homosexuals’] human rights as well, as they are human beings. However, we do not approve [...] turning homosexuality into a life style (Ibid.).

The apparent contradiction in this argument is neutralized through a selective and contingent ontology of human life that designates the conditions of claiming human status. For instance, my interlocutor emphasizes that his organization does consider discrimination and violence against LGBTQs as human rights violations with the condition that these rights are not claimed as “LGBTQ rights.” In other words, the only way that LGBTQs can make political demands concerning human rights violations is the denial of their very being. Within the discursive framework of the debate, such denial seems reasonable/possible given that homosexuality is framed as a mere choice rather than a “normal” state of being. As such, LGBTQ lives are marked as less-than-lives and they are rendered “lose-able” (Butler 2009, 31). Thus, preserving these lives is easily left out of Islamic organizations active defense of “the life” since they represent its “Other.”

This rights hierarchy turns into a battle of competing rights claims of two supposedly mutually exclusive groups in numerous articles penned by Muslim columnists

(some of whom are human rights activists, theologians and academicians). If homosexuality is a right, claimed the columnists, then, it is the right of Muslims to fight against it.

Homosexuality, which is an obvious assault for the human kind and honor, is a disgusting and ugly perversion which is not committed even by animals [...] If these people have the right to present this action as if it is a pretty and right one, then we have the right to explicate how Islam interprets this issue and to criticize this ill favored action (Seyhan 2011).

The hateful content of these lines, written by a scholar of theology who classifies homosexuality not only as a form of life that is less-than-human but also worse than bestiality, is self-explanatory. The writer uses this pseudo-scientific argument to justify that there should be a limit to human rights and freedoms. Thus, he develops a homophobic definition of these notions so as to avoid a self-contradictory position. Yet what is left unsaid/systematically denied in this line of argumentation that bears a strict us vs. them dichotomy, namely the existence of Muslim LGBTQs, is more significant. Muslims and LGBTQs are not only framed as mutually exclusive groups but also as necessarily antagonistic ones. Thus, homophobia is presented as a natural and essential response of “Muslims” who are supposed to protect their religious value systems. In another columnists’ words, “legitimizing and supporting homosexuality is not a right, just as nourishing viruses which are created as a result of mutation cannot be one” (Erdeger 2010). In this respect, fighting against this virus-like life form is presented as the only way to protect not only Muslim society’s values but also the human species.

Letting die “par excellence”

What links Islamic CSOs’ politics of life to the deaths of LGBTQ individuals is the context within which these arguments are made. LGBTQ individuals are among the most common targets of hate-crimes in Turkey (Goregenli and Ozer 2010), although

Turkey's first the hate-crimes law, passed in 2014 does, not recognize these cases as hate crimes. Moreover, violence against LGBTQ individuals does not create resentment within the majority of the (civil) society.¹⁰

In this respect, the signatory Islamic CSOs are not the exception but the norm. However, they do differentiate from the rest exactly because of the biopolitical role they assume. Their position cannot simply be explained as a non-response since they are actively engaged in the disqualification of lives of LGBTQs. Thus, in their case inaction follows an action, which deems LGBTQ lives dispose-able. This is not to argue that there is a direct causal relationship between these speech acts and physical violence against LGBTQs. However, the former is influential in the making of the environment in which LGBTQ individuals are let die. What differentiates these Islamic CSOs from the criminal subjects who actually injure LGBTQs is the, respectively, passive-aggressive or active roles they assume in the triangle of making live, letting die and letting kill.

Given that signatory CSOs are among the most vocal critiques of discriminatory state practices when lives are at stake, the instances in which they choose to keep silent demonstrate the selectivity of their understanding of (right to) life. In the cases of discriminatory language targeting religious minorities or state atrocities against the Kurdish population, these organizations adopt a much more comprehensive definition of human life and organize in defense of these groups' lives and rights. For instance the Turkish government attempted to cover up the Roboski Massacre in 2011, where Turkish unmanned aerial vehicles killed 34 Kurdish civilian border traders, as a simple military

¹⁰ For example, *Human Rights Research Association* did not include hate-crimes against LGBTQ in its report prepared for their "Law Draft against Hate Crimes." (Kaos GL 2011)

mistake (Bia HAber Merkezi 2011).¹¹ President Erdogan (then prime minister) refused to discuss this “accident” on the basis of the deaths. He blamed the critics for being “necrophiles who establish their political discourse on terror and death” whereas the purpose of the operation was to protect the society from terrorist attacks (Bia Haber Merkezi 2012). In this case, the prominent actors of the “Islam vs. homosexuality” debate strongly criticized the differential allocation of importance attributed to the lives of Kurdish border traders in numerous protests and press releases (Haksoz Haber 2012).¹² Far from siding with it, they held the Turkish state responsible for the deaths and accused it with legitimizing the operation rather than accounting for the massacre (DIHA 2012).

However, when the concerned group changes and the discussion ground shifts from ethnicity to sexuality the criticism against the tyrannical tendencies of the state is replaced with support and cooperation. Let alone taking initiative for LGBTQ rights, they refuse to act even when they are asked for support (Tez 2011). One of the former presidents of MAZLUMDER, who is famous for his open support to LGBTQ movement, explains this attitude as a problematic concern with not slegitimizing homosexuality, which is perceived as corruptive of public morals and religious principles (Bilgen 2010, 128). For this reason, he adds, the organization refuses to be an actual participant in the LGBTQ rights struggle despite the fact that they acknowledge these incidents in their Human Rights Violations Reports (See. MAZLUMDER 2011), and some of its members are not comfortable with keeping silent against these violations (Interview with Bilgen 2011). In this respect, their condemnation of violence (against LGBTQs) accompanied

¹¹ Initially the newspapers reported that 35 people were killed in the massacre (Bia Haber Merkezi 2011). But later it was discovered that one person was severely wounded (Durukan 2013)

¹² At least eight of the signatories openly challenged state’s position and organized to demand justice for Roboski: MAZLUMDER, Ozgur-der, Akabe, AKDAV, Araştırma ve Kültür Vakfı, Medeniyet Derneği, IHH, İnsani Yardım Vakfı.

with hate propaganda, does not go beyond a conscious inertia that contributes to the normalization of symbolic, structural and physical violence against LGBTQ individuals.

Conclusion

My aim here is not to argue that certain civil society actors necessarily operate as hate-groups in cooperation with discriminatory states. Such an argument would be as misleading as picturing civil society as the always already anti-thesis of an omnipotent sovereign. I rather argue that civil society actors' positions vary depending on the dominant relations of power in a given context and the other actors involved. In the context of the debate both the homophobic state and the involved Muslim subjects unite through the dominant discourses of family, religion and society, "which all have a margin for tolerance and a threshold beyond which exclusion is demanded." (Foucault 2002, 46) What these discourses exclude, "the perverted sexuality," constitutes a threat for both the bio-political state and non-state actors of bio-politics. Thus, bio-politics of life brings about "segregation" and "social hierarchization" and assure "relations of domination" and "effects of hegemony." (Foucault 1998, 141) For the place of the pervert is at the lowest levels of the societal hierarchy, LGBTQ lives are not worthy of protection and can be neglected "to the point of death."

I chose to ground this theoretical discussion on the practices of Islamic civil society in Turkey for it vividly demonstrates that actual civil societies are complex structures whose dynamism cannot be captured by universalistic normative assumptions. It is not because these civil society actors are essentially antithetical to cooperation, human rights, freedom and equality but because these very notions can be problematic and exclusionary ones. The context-blind liberal-democratic conceptualization of civil

society does not suffice to explicate the complexity on the ground since it idealizes the aforementioned notions. It cannot answer questions such as how it is possible to simultaneously disregard or ignore the end of life while celebrating it; or how the civil society remains silent in the instances of fundamental violations of right to life. This is why understanding civil society requires a paradigmatic shift to the framework of biopower that allows accounting for these “paradoxes.” The latter enables framing the interactions within civil society as relational effects of power rather than universal and ahistorical constants. Accordingly, an analysis of concrete practices and strategies of civil society actors becomes possible in the absence of pre-fixed assumptions and normative expectations.

I deliberately focus on a specific group in a limited geography. If one wants to find evidence of the fact that civil society might operate as a biopolitical sphere in other contexts consisted of different groups, they can find it in pro-life, anti-prostitution, anti-immigration, anti-refugee movements and not to mention racist groups all over the world. However, my aim here is not to suggest another grand theory that treats civil society as a unilateral, universal and historical constant. Given the limitations of existing all-encompassing theories, we rather need to theorize civil societies (in plural) without ideal-typical reference points. Such an approach is especially promising in terms of its potential contribution to the literature on non-Western civil societies. For the latter is mostly limited to hierarchizing comparisons with the “Western ideal” or challenging the latter by arguing “the rest” can be as democracy-promoting as “the West,” though in a different way. Foucault’s “toolbox” is useful in demonstrating the weaknesses of such

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dichotomous thinking and expanding our analytical framework since it provides the tools for accounting for contingencies and complexities of the politics of civil society.

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