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# THE TURKEY ANALYST

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## THIRD ERGENEKON INDICTMENT REINFORCES CONCERNS ABOUT THE TURKISH JUDICIAL SYSTEM

Gareth H. Jenkins

*The third indictment in what has become known as the Ergenekon investigation takes the number of people who have been charged with membership of the “Ergenekon terrorist organization” to 194. However, like its predecessors, the third indictment fails to adduce any convincing evidence that the Ergenekon organization even exists. The third indictment, as such, has not alleviated any of the serious questions that the Ergenekon investigation has raised about the credibility of the Turkish judicial system.*

**BACKGROUND:** The first indictment in the Ergenekon case was presented on July 10, 2008. The 2,455 page indictment charged 86 suspects with membership of what it described as the “Ergenekon terrorist organization”. On March 8, 2009, a second indictment, 1,909 pages long, accused another 56 suspects of membership of Ergenekon. On July 19, 2009, a third indictment, totaling 1,454 pages, charged 52 more suspects with belonging to Ergenekon. A fourth indictment is expected later this year.

The indictments claim that the accused members of Ergenekon belong to a vast, centrally-controlled organization which was not only trying to topple the AKP government by provoking a military coup but was responsible for virtually every act of political violence in Turkey over the last 20 years – including controlling an unlikely array of militant leftist, Kurdish nationalist and Islamist groups.



Ever since its inception, there have been allegations that Ergenekon investigation has violated the law and judicial procedures; not least through a tendency to detain suspects and then begin searching for evidence against them. Equally disturbing has been the frequency with which

alleged evidence – including purported transcripts of wiretaps – has appeared in the pro-AKP media before being presented to court. There have also been numerous instances of serious discrepancies between what the pro-AKP media has claimed to be in the indictments and what is actually there; while the prodigious length of the indictments has acted as a shield against any objective evaluation of their contents.

One of the most startling features of the first two indictments was that neither the 4,364 pages of the indictments themselves nor the tens of thousands of pages of supplementary evidence presented to the court contained any evidence that the Ergenekon organization actually existed. Indeed, the first two indictments were so full of

Any hope that the third indictment would contain evidence of Ergenekon's existence proved to be misplaced. Alarming, the writers of the third indictment appear to follow the same presumptive reasoning that underpinned its predecessors; namely, the assumption that there is a vast, centrally-coordinated conspiracy to destabilize the AKP and that any outspoken critic of the government must necessarily be a member of the conspiracy.

**IMPLICATIONS:** The third Ergenekon indictment follows the same format as its predecessors. Details of the 52 accused and the charges against them are followed by 42 pages explaining why Ergenekon should be regarded as a terrorist organization, it's alleged past activities and future plans. The remainder of the indictment is taken up by alleged evidence against the individual accused. As in the first two indictments, this mostly consists of wiretaps and documents which the indictment claims were recovered from premises associated with the accused.

With a very small number of exceptions, the indictment seeks to prove not individual criminal activity by the accused but membership of a criminal organization. This is done primarily by trying to prove that the accused were in contact with,

or held political views similar to, other alleged members of Ergenekon; with the implication that this proves that the individual concerned was a member of the Ergenekon organization. As was the case with the first two indictments, none of those charged in the third indictment has confessed to being a member of Ergenekon; nor is



illogicalities, absurdities and contradictions that they were frequently intellectually incoherent. (The contents of first two indictments are discussed in greater detail in Gareth H. Jenkins, [\*Between Fact and Fantasy: Turkey's Ergenekon Investigation\*](#))

there any reference to belonging to the organization in any of the wiretaps or documents seized from the homes and workplaces of the accused. As a result, the prosecutors have resorted to a circular argument in which personal acquaintance with, or similar political views to, one of the other accused is regarded as proof that both are members of Ergenekon. For example, the proof against the accused Yalcin Küçük includes the fact that he participated in a panel discussion where Erol Mütercimler, who was accused of being a member of Ergenekon in the second indictment, was present. Yet, the indictment also notes that there were 12 people on the panel, and none of the other 10 has been charged with membership of Ergenekon.

Perhaps most extraordinarily, the third indictment makes no more attempt than its predecessors to explain how Ergenekon functions, how it is funded and organized, how its members communicate with each other and how decisions are made. In fact, it produces no evidence that the organization even exists. Yet, if Ergenekon does not exist, membership of the organization cannot be proof of guilt of the crimes Ergenekon is alleged to have committed.

Unlike the first two indictments, which detailed an improbably long list of violent attacks allegedly perpetrated by Ergenekon, the third indictment focuses on two, both of which occurred in May 2006. The first is a grenade attack on the fiercely secularist Cumhuriyet newspaper in Istanbul. The second is an assault by a lone gunman on the secularist Council of State in Ankara. The indictment claims both were “false flag” attacks intended to destabilize Turkey and discredit Islamists. Yet, although such an explanation is possible, there is no evidence that either attack was or was not the work of an organization, much less one called Ergenekon.

As proof of the organization’s ultimate intentions, the third indictment cites what it alleges were “four coup plans” prepared by Ergenekon: one in a diary allegedly written by retired Admiral Özden Örnek, who served as commander of the navy, and which was first published in *Nokta* news magazine in spring 2007; and three power point presentations which were allegedly recovered from a computer belonging to retired General Şener Eruygur, the former commander of the Turkish gendarmerie. There are question marks about the provenance of all four documents. Even if they are genuine, they appear to reflect a mixture of frustrated personal ambition and a desire for the military to apply pressure the AKP rather than to stage a full-blooded coup. More importantly, none contains any references to an organization or joint action with any of those accused of membership of Ergenekon.

The third indictment also include details of what it claims are plans for attacks against NATO installations and personnel and the assassination of members of Turkey’s religious minorities. The plans for the attacks against NATO were allegedly found amongst documents recovered from premises associated with the socialist-nationalist Worker’s Party, whose chairman, Doğu Perinçek, was one of those accused in the first indictment. The plans for attacks against members of Turkey’s religious minorities were allegedly recovered from the premises associated with İbrahim Şahin, an ultranationalist former head of the Special Operations Department of the Interior Ministry. Şahin and two of his close associates are among the suspects charged in the third indictment. The alleged plans have been dismissed as forgeries by the owners of the premises in which they were reportedly found. But, even if the plans are genuine, there is no evidence that they are linked to an organization called Ergenekon.

The third indictment also contains a list of the contents of what it claims are secret Ergenekon arms caches. The caches were allegedly discovered on premises associated with four of the 194 people accused in the Ergenekon indictments; one of those charged in the first indictment and three of those (one of them İbrahim Şahin) named in the third indictment. However, the list is problematic in itself. It includes 33 rifles and a large quantity of ammunition. But it also contains what are described as “used booby traps” and “used anti-aircraft ammunition”, the empty casings for “light anti-tank weapons (LAWs)” and “gas bombs”. It is unclear why such items with no apparent military use would be secretly buried. In addition, some of the weapons appear to have been buried in the ground wrapped only in newspaper, with the result that they would have been quickly corroded by the dampness in the soil. It is possible that there are explanations for such anomalies and that some or all of the weapons and equipment were intended for use in politically-motivated violence. However, it is equally possible that they were linked with organized crime groups or intended for sale on Turkey’s thriving market in illegal arms. There is simply no evidence one way or the other; and certainly nothing linking them to an alleged organization called Ergenekon.

**CONCLUSIONS:** The third Ergenekon indictment is marked by the same flaws that characterized its predecessors. A disparate collection of defendants who share nothing in common except opposition to the AKP have been charged with membership of a supposedly vast and powerful organization which does not even appear

to exist. This is not to say that all of the accused are innocent of any crime. It is possible that some of the 194 people who have been charged with membership of Ergenekon are guilty of criminal activity. Yet even they cannot be guilty of membership of an organization which does not exist. But, for the majority of the defendants, their membership of Ergenekon – and, by implication, guilt for its alleged deeds – is all the indictments try to prove.

The contrast between the vigor with which the AKP sought international support when the party was threatened with closure in 2008 and its apparent indifference to the many abuses and absurdities of the Ergenekon investigation inevitably raises questions about its commitment to democracy and equality before the law. However, the manner in which Ergenekon investigation has been conducted, particularly the capriciousness with which people have been arrested and charged with membership of an organization which prosecutors have failed to prove exists, raises even more serious questions about the credibility of the Turkish judicial system.

**Gareth Jenkins**, a Senior Associate Fellow with the CACI & SRSP Joint Center, is an Istanbul-based writer and specialist of Turkish Affairs. The contents of first two indictments are discussed in greater detail in Jenkins' *Between Fact and Fantasy: Turkey's Ergenekon Investigation*, a Silk Road Paper published by the Joint Center in August 2009.

## A GROWING CONVERGENCE OF PERCEPTIONS: THE TURKISH MILITARY AND THE AKP

Halil M. Karaveli

*The perspective of the General staff on the Islamic conservative movement has evolved, from having seen it as an intruder on the territory of the state to judging it on its own possible merits as a protector of the integrity and strength of the state. The joint management by the AKP government and the General staff of the Kurdish issue is revelatory of the convergence that is under way between the erstwhile foes, provoking the anger of an alienated nationalist opposition.*

**BACKGROUND:** Turkey's Chief of the General staff, General İlker Başbuğ, has on several recent occasions sought to reassure those who fear that their country faces the prospect of partition. Acknowledging that such fears do indeed exist, General Başbuğ has stated that the armed forces remain as vigilant as ever. Yet, more controversial has been that İlker Başbuğ has invited those who are worried about partition not to follow the debate that rages in the television channels about the consequences of the Kurdish (subsequently re-baptized as democratic) "opening" of the AKP government. "Please, do not watch these programs", Başbuğ pleaded. That plea in particular and Başbuğ's reassurances in general have provoked reactions from unusual quarters: The criticism against the General staff is leveled by the nationalist opposition, not by the customary foes of the military, the liberal intellectuals who usually decry the military for trying to muzzle public debate.

Indeed, the military is accused not of wanting to silence dissent but rather of implicitly being too liberal, of indirectly giving shelter to the expression of unorthodox views concerning the Kurdish question when it exhorts concerned Turkish nationalists not to follow the debate lest they get alarmed. In what amounts to a departure from past practices, the Chief of the General staff invites Turkish nationalists to switch off their



televisions, or tune into other programs, instead of demanding that the debate itself is switched off. The significance of that evolution has not been lost on the nationalist opposition.

Thus, the deputy parliamentary group leader of the opposition Republican People's Party (CHP) Hakkı Süha Okay, last week expressed the CHP's displeasure with the public interventions of the Chief of the General staff. "We find it

The military was subjected to heavy, unrelenting criticism from the nationalist opposition, in particular from the rightist Nationalist Action Party (MHP), already after a meeting of the National Security Council in August produced an endorsement of the government's Kurdish opening. That criticism subsequently prompted General Başbuğ to issue a stark declaration, in which he forcefully reiterated the founding



inappropriate that the military gets involved in the politics in this manner", the CHP representative stated. The fact that a representative of the CHP expresses displeasure at what is deemed to be an illegitimate meddling of the military in politics is indeed a unique event in recent Turkish history. It is an occurrence that suggests that the traditional attitudes and alliances at the center of the Turkish political system are shifting.

principles of the Turkish nation state, a declaration that in turn was endorsed by President Abdullah Gül as well as by Prime Minister Recep Tayyip Erdoğan. Nevertheless, the nationalist opposition interprets General Başbuğ's interventions, the reassurances that the state's integrity is secure and its identity to remain Turkish, only as attempts to downplay the effects that the nationalists fear the Kurdish opening will

inevitably have, and consequently as endorsements of the government line.

General Başbuğ had indeed anticipated the Kurdish opening of the AKP government with an “opening” of his own on the same issue at a landmark speech in April. Speaking at the War Academy in Istanbul, General Başbuğ became the first Turkish Chief of the General staff ever to acknowledge the grievances and legitimate rights of Kurds and Zazas. Başbuğ called for measures designed to counter the perception among Kurds and Zazas that they are oppressed, and for making equal opportunities more generally available to them.

Although the AKP government so far has not specified the particular contents of its “opening”, there is no reason to assume that it will eventually be revealed to differ in any significant form from the solution proposed by the Chief of the General staff – that is, a framework of extended individual cultural rights. The alternative is the path suggested by the representatives of Kurdish nationalism, the Democratic Society Party (DTP) and the terrorist PKK. That alternative would lead to the transformation of Turkey into a bi-national, Turkish-Kurdish state, as it would foresee the establishment of Kurdish national education alongside national education in Turkish, the elevation of Kurdish to official language, and the empowerment of local administrations. That is a path neither the AKP nor any other party can be expected to tread, lest they be reduced to insignificance as political forces among the Turkish population.

**IMPLICATIONS:** Indeed, the joint management of the Kurdish issue by the AKP government and the General staff, provoking the anger of an alienated nationalist opposition, is revelatory of the convergence that is under way between these erstwhile foes, after what has been a particularly testing and difficult time of adjustment for the

military. That convergence – and the adjustment it implies on the part of the military to new conditions – could be accounted for in the light of the loss of political standing that the military has endured since the historical turning point of 2007, when the General staff, rebuffed by the AKP and the electorate, lost the decisive battle over the presidential election.

From having traditionally steered politics, whether openly or indirectly, the military is now in the position of having to defer to a civilian power that does not tiptoe to it, indeed is prepared to confront it, and which represents formerly peripheral forces that the state was used to holding at bay. The former periphery has assumed control over much of the state, and that is obviously a major change in itself. Yet, that undeniable fact notwithstanding, a narrative that assumes a simplistic dichotomy of the military and Islamic conservatism, with the generals ascribed the role as the unequivocal losers in an ideological sense, would fail to take sufficiently into account the deeper realities that have historically informed the exercise of state power in Turkey.

In an account which privileges the role of the armed forces as the ideological “watchdog of secularism”, the General staff obviously looms as the big loser, having had to cede to the ascendant power of Islamic conservatism. However, the relation of the Turkish military to religion has always been much less antagonistic than what tends to be acknowledged. In fact, the military regime of the 1980s itself actively promoted religion, not least in the school system, making education in the tenets of Sunni Islam compulsory. Indeed, his speech at the War academy in April, General Başbuğ reminded his audience that the military takes pride in being considered as the “hearth of the Prophet” by the people. What the military has jealously guarded has been not so much secularism understood as

“enlightenment”, any supposed departure from religious traditionalism, as the preeminence of the power of the state. The historical importance of “secularism” in the Turkish realm resides in the fact that it served to liberate the state from the constraint of having to defer – as it had had to do traditionally – to religion in order to legitimate its actions. Secularism turned the state into an independent agent in its own full right. It is thus more pertinent to describe the role played by the Turkish military as having been the watchdog of a statism that has been the real constant of Turkish politics. And statism is in turn what offers the ultimate point of convergence today between the generals and the Islamic conservatives.

The rise of the Islamic conservative political elite was naturally a provocation for the custodians of state power, unaccustomed as they were to the specter of societal forces moving into the territory of the state, reversing the traditional state-society relationship. Yet, with the transformation of the state now more or less completed, the eternally crucial question of how the state is going to be secured inevitably brings the current holders of state power, Islamic conservatives and the military, together. The fact that the state has changed colors is ultimately less consequential from the vantage point of the military, as what matters fundamentally is that the state is shored up.

**CONCLUSIONS:** The Islamic conservative movement has increasingly come to make use of the instruments of the same statist power that it

had traditionally combated. Indeed, the AKP has displayed that it does not shy away from employing state power in order to bend societal forces to its own will. (See Turkey Analyst, September 14, 2009) Meanwhile, the perspective of the General staff on the Islamic conservative movement has evolved, from having seen it as an intruder on the territory of the state to judging it on its own possible merits as a protector of the integrity and strength of the state.

Indeed, Islam is arguably what holds the nation of Turkey together. As a recent survey of religiosity in Turkey demonstrates, a vast majority adheres to



religious values. In so far as the integration of the Kurds has succeeded, with Turkish-Kurdish inter-marriages, it is to a large extent due to the sense of cultural affinity that a common religion, superseding ethnic identities, has offered.

What remains to be seen is whether the combination of Islamic conservatism and extension of individual cultural rights will ultimately satisfy and abate a Kurdish separatism that has become entrenched in the Southeast.

Halil M. Karaveli is Managing Editor of the *Turkey Analyst*.

## WHAT THE COLUMNISTS SAY

*The implications of the record \$2.5 billion tax fine imposed on the Doğan Media Group and the prospects in general of Turkey becoming more democratic under the rule of the AKP remained the main preoccupations of the commentators in Turkey during the last fortnight.*

### MERT: CRIME AND PUNISHMENT

Nuray Mert in Radikal writes that one does not have to be an expert on matters related to taxation to realize that the record tax fine imposed on the Doğan Media Group is a political measure. Punishments of this kind have always been politically motivated. In the past, it was others who were punished under the guise of the “fight against reaction”. Notably, the (Islamic conservative) daily Yeni Şafak was the target of the process that followed on the military intervention in 1997. I fully understand the anger felt by those who were subjected to such treatment in the past. Yet, I also believe that making anger the point of departure of policies paves the way to another hell. By bringing the AKP to power, the people and democracy defeated the process initiated by the intervention of 1997. It is a great disappointment that the oppressed of yesterday, by repeating past patterns, have proven themselves unable to do that victory the justice it deserves.

### AKYOL: IT'S A PITY THAT THE AKP MAKES THE CASE OF THE NEOCONS AGAINST IT SEEM CREDIBLE

Mustafa Akyol in Star writes that the fine imposed on the Doğan Media Group was inevitably going to be perceived as a politically motivated measure by international observers, whatever Prime Minister Erdoğan says about it. With its record in the Kurdish issue, minority rights and foreign relations, the AKP represents a decidedly liberal alternative compared to the opposition parties. But as its pursuit of a “blood feud” against the Doğan group suggests, the AKP also has a tendency to fall into the traditional pitfalls of

Turkish politics. It's a pity that the image of a liberal, democratic and Muslim party that represents such a great hope for the world gets tarnished by such missteps. Two years ago, marginal neocons were alone in the West in comparing Prime Minister Erdoğan with the Russian autocratic leader Vladimir Putin. Today, even the prestigious *New York Times*, which has so far been a supporter of the AKP, to the great chagrin of our secularists, takes a critical line. In fact, the AKP does not need to muzzle critical media or create its own, subservient media in order to remain in power. Let us bear in mind that it was not because it was supported by a loyalist media that the AKP won its landslide victory in 2007.

### MAHÇUPYAN: SECULARIST REFLEXES

Etyen Mahçupyan in *Taraf* notes that secularist intellectuals have been incensed by the fine imposed on the Doğan Media Group, a punishment that is deemed to be unjust and which is seen to be an act of political revenge. I don't think that all of those who are appalled by the fine actually endorse the kind of unethical, pro-state campaign journalism that is the hallmark of the media outlets of the Doğan Group, not least of its flagship, the daily *Hürriyet*. Instead, I think that they are repelled because they basically mistrust the motives of the government. But, frankly I don't believe that that mistrust is the result of the actual deeds of the government; rather, the reactions towards the tax fine display “secularist reflexes”. We tend to mistrust and to question the motives of those who are unlike ourselves, while we conversely tend to identify

with the case of those who are culturally of our own kind.

### [BIRAND: AKP INSPIRES FEARS AS WELL AS HOPES](#)

Mehmet Ali Birand in Milliyet writes that secular-minded liberals and democrats like himself have not been able to make up their minds about the ruling AKP. On the one hand, the AKP inspires fears, while at the same time it also inspires hopes. What inspires fears is above all the fact that the AKP seeks to turn Turkey into a more conservative, religious society. True, the government has not sought to introduce any Sharia-inspired laws. Nevertheless, the language and demeanor of the representatives of the AKP from the Prime Minister and down send the unequivocal message that Islamicization is an encouraging development in the eyes of the ruling party. The AKP also inspires fears because it has consistently displayed an intolerant attitude towards dissent, as the fine recently imposed on the Dogan Media group illustrates, and as it systematically staffs the bureaucracy only with people of its own kind. Yet, the AKP has taken initiatives, such as the Kurdish opening and the Armenian opening that are laudable. Prime Minister Erdoğan should make a decisive choice, electing to be a truly democratic and tolerant leader.

### [İNSEL: THE HERITAGE OF AUTHORITARIANISM](#)

Ahmet İnel, writing in Radikal on the occasion of the 29<sup>th</sup> anniversary of the September 12, 1980 military coup, states that the AKP during its tenure in government has not made up its mind whether to refute or to exploit to its own advantage the heritage bequeathed by the military junta of the 1980s. The AKP government has oscillated between small and pragmatic departures from the 1980 regime and the exercise of the institutions and powers inherited from that statist and authoritarian regime. It was never easy for the AKP to make the choice of an unequivocal

break with statist authoritarianism, since no such strong desire has been expressed by society itself. One reason for that is that the AKP is distrusted by those sections of society – leftists, social democrats and conservatives of the kind of the former president Süleyman Demirel – who oppose the change of the constitution of 1982. But more consequential is perhaps the fact that the military regime of the 1980s has succeeded in creating its own particular kind of society and individual, as was the case in the former Communist bloc. After all, 29 years is not a short period. Approximately two-thirds of the population of Turkey consists of generations that have come of age politically after 1980. Significantly, these generations are the products of an educational system where the values of the military regime, intolerance and uniformity, dominate; hence, the 1980 regime has perpetuated itself.

### [GÜZEL: A CONSERVATIVE MUSLIM NATION \(2\)](#)

Referring to a new survey of religiosity in Turkey, which he deems to be the most important survey to have been published in recent years, Hasan Celal Güzel in Radikal observes that Turkey is a decidedly Muslim and at that conservative nation. 92.6 percent declares religion to be important in their lives. 79.8 percent describe themselves as being pious. 82.2 percent expresses the desire that their children be raised to be pious. 1 percent says that religion does not matter at all for them. 1.4 percent says that they are not religious at all. 82.4 percent declare that they belong to the Sunni branch of Islam. This survey shows beyond any doubt that religion, alongside citizenship, is what keeps the diverse ethnic parts of the population of Turkey together. Those who are alien to the society's dominant religious values are a marginal minority, ranging between approximately 2 and 10 percent. Pity that it is the values of this fringe minority that have come to inform the policies of the state. Islam is not a problem for Turkey, but on the contrary the very foundation of and the guarantor of the continued existence of the Turkish nation.