

Revenge and Repression

Turkey's Politicized Court Cases

2 November 2013

Chronology I

- 2002 (November) AKP comes to power with 34.3%, initially very cautious
- 2007 (April) Turkish military implicitly threatens an intervention to prevent AKP from appointing Abdullah Gül to the presidency
- 2007 (July) AKP wins election with 46.6%
- 2007 (August) Gül sworn in as president
- 2007 (October) Probe into June 2007 discovery of crate of grenades expands into major investigation
- 2008 (January) First high profile arrests in what becomes known as Ergenekon case

Chronology II

- 2008-10 Hundreds of suspects arrested on charges of belonging to the “Ergenekon terrorist organization”
- 2010 (January) *Taraf* newspaper claims to have uncovered evidence of coup plot in 2003
- 2010-13 String of other cases: Cage Plan, OdaTV, 28 February, ÇYDD, Spying and Blackmail Ring etc
- 2011 (April-May) Sex tapes against MHP
- 2011 (July) AKP wins third term with 49.8%
- 2012 (February) Prosecutors issue summons to MIT chief Hakan Fidan re facilitation of PKK attacks.

Similarities Between Cases

All start with anonymous tipoff (telephone call, letter, email etc).

Exclusive reliance on:

- Digital evidence
- Phone taps

Massive indictments

Much of digital evidence clearly fabricated

Phone taps contain no evidence of wrongdoing

No confessions

Suspects hold diverse views, only common characteristic is that all are perceived opponents, critics or rivals of Islamist Movement, specifically the Gülen Movement

Ergenekon Beginning

- 12 June 2007, anonymous tipoff results in police raid on house in Ümraniye, Istanbul, and discovery of crate of grenades
- 5 October 2007, Prosecutor Zekeriya Öz applies to Security Directorate in Istanbul for details of assassinations, racist killings, terrorist attacks, protest marches going back to 2002
- 21 January 2008, 27 arrested in Istanbul on charges of belonging to same organization as those detained in Ümraniye
- Press reports organization called Ergenekon

Claims for Ergenekon

- A vast, centrally controlled organization with its roots in the military
- Responsible for virtually every act of political violence in Turkey in the last 25 years
- Controlling every terrorist group active in Turkey
- Controlling anti-AKP NGOs, media
- Planning to develop chemical and biological weapons
- Trying to create chaos and provoke a military coup

Ergenekon Case Main Indictments

FIRST INDICTMENT

Date: 10 July 2008

Length: 2,455 pages

Charged: 86 suspects

SECOND INDICTMENT

Date: 8 March 2009

Length: 1,909 pages

Charged: 56 suspects

THIRD INDICTMENT

Date: 19 July 2009

Length: 1,454 pages

Charged: 52 suspects

Problems with the Ergenekon case

- No evidence produced to prove that organization exists
- No evidence that accused were members of an organization (many hold opposing political views and hate each other)
- Numerous abuses of Turkish laws and procedures
- Much of the “evidence” in the indictments is self-contradictory or manifestly absurd
- Some of the evidence has clearly been fabricated

Ergenekon: 5 August 2013

- 251 convicted on charges of membership of Ergenekon
- Many sentenced to more than 20 years in prison, including 16 life sentences
- Convicted include Gen. İlker Başbuğ, former head of the TGS

Balyoz

- 20 January 2010, article in *Taraf* newspaper, claiming receipt of suitcase full of evidence
- Accused of plotting a full-blooded coup at a military seminar on 5-7 March 2003
- Alleged to have planned to create chaos by:
 - Shooting down a Turkish plane
 - Bombing mosques
 - Staging Islamist demonstrations
- 365 serving and retired officers charged

Sledgehammer: Discussion Points

- Unusual to plan a coup at a military seminar
- 110 of those present at seminar not charged
- No mention of Ergenekon
- Origin of evidence unclear
- Dubious nature of evidence
- Dubious conduct of investigation

Sledgehammer “evidence”

Suitcase contained:

- 2,229 pages of documents
- 19 CDs
- 10 Audio cassettes of seminar discussions

- But all evidence relating to supposed coup on just one CD (No 11, according to page 81 of Sledgehammer indictment)

Reasons to suspect CD No 11 is a forgery

- Metadata says CD burned in a single session on 5 March 2003, and nothing added or changed after that date
- But hundreds of anachronisms, including references to entities that did not exist or had different names in March 2003
- Bombings of mosques scheduled for 28 February 2003
- CD written using Microsoft Office 2007, beta version of which was not released until 2006

Balyoz Verdicts

- 21 September 2012: 331 sentenced to lengthy prison terms, 34 acquitted
- 9 October 2013: Turkish Supreme Court of Appeal upholds convictions of 237 of the accused
- Only 33 of the 237 attended the March 2003 seminar (80% of participants not convicted)

Example 1 (Ergenekon): Hanefi Avcı

- Police chief, deeply religious, considered close to Gülen Movement, accused by leftists of torture, maltreatment of detainees
- Publishes book in August 2010, admits previous maltreatment of detainees, claims Gülenists in police falsifying evidence, manipulating processes
- Promises to present documentary evidence at press conference on 30 September 2010
- Arrested on 28 September 2010, refused bail, charged with aiding militant leftist organization
- 19 July 2013, sentenced to 15 years in prison

Example 2 (Ergenekon): Mehmet Ali Çelebi

- Lieutenant Mehmet Ali Çelebi, Land Forces helicopter pilot, arrested 18 September 2008, accused of trying to infiltrate Hizb ut-Tahrir in order to control it for Ergenekon.
- Charges against Çelebi based on “discovery” of numbers of known Hizb ut-Tahrir militants in the telephone book on his mobile.
- Judge notices that Çelebi’s telephone book also includes numbers of “my wife” and “my mother-in-law”, although Çelebi is not married.

Example 2 (Ergenekon): Çelebi

- Judge asks for explanation from police.
- Police submit report claiming they “accidentally” transferred the telephone book of a Hizb ut-Tahrir militant onto Çelebi’s phone.
- Çelebi released 20 May 2011, returns to active service against PKK.
- 5 August 2013: Çelebi convicted and imprisoned.
- November 2013: Still no investigation of “accidental” planting of evidence.

Example 5 (Blackmail/Spying): A Tale of Two Emrahs

- Police receive a tipoff that an officer called Emrah Karaca is involved in the blackmail gang.
- Obtain warrant, conduct raid.
- 4 August 2010, police raid home of naval officer Emrah Küçükakça. No one in the apartment. (Küçükakça had gone to sea the previous day.)
- Police fill evidence bags with hard disks, CDs, DVDs etc from apartment, each carefully logged as it is put in, taken away for forensic analysis.
- Küçükakça hears of raid, returns, is arrested and charged.
- Evidence against him consists of material found and logged during raid on Küçükakça's home, but all is in the name (user name in metadata etc) of Emrah Karaca.

Example 5 (Blackmail Gang): A Tale of Two Emrahs cont.

- Küçükakça held in prison for six months before appearing in court, points out that his surname is Küçükakça not Karaca.
- Prosecutor unconcerned, produces another hard disk (serial no 208918395), which he claims contains state secrets and was found in Küçükakça's apartment.
- Hard disk serial no 208918395 is not mentioned in log of evidence bagged in Küçükakça's apartment, nor in log when bags were opened at the police station.
- 1 July 2011, Küçükakça released from prison.
- November 2013: No action taken against prosecutor, police involved in case.

MHP sex tapes

- 25 April 2011: Deadline for candidates for 12 June general election
- 27 April 2011: Covertly-shot sex videos of two MHP candidates posted on internet by group claiming to be disillusioned MHP supporters. The two resign.
- 7 May 2011: Sex videos of two more MHP candidates posted on internet. They resign.
- 13 May 2011: Group claims to have sex videos of six more named MHP candidates. Warns MHP leader Devlet Bahçeli to resign. Bahçeli refuses.
- 21 May 2011: Fifth sex video posted. Candidate resigns.
- More MHP candidates resign. No more sex videos posted.
- But MHP loses 10 candidates, including 9 members of 17-member National Executive.

Videos

- Very professional
- Result of extensive surveillance
- Most shot in private homes by devices apparently hidden in light fittings
- Homes burgled, devices professional installed and professionally removed

Repercussions of MHP sex tapes

- None
- No investigation
- No arrests
- No attempt to identify culprits

Reasons to suspect involvement of Gülen Movement in politicized cases

All suspects enemies/rivals of Gülen Movement

All cases “broken” by journalists close to Gülen
Movement

Subsequent media coverage driven by Gülen
Movement

Defamation campaigns against those who have
questioned cases led by Gülen Movement media

Those who accuse Gülen Movement of responsibility
themselves arrested

Police and prosecutors in cases all close to Gülen
Movement

Why is the Gülen Movement doing this?

- Removal of secularist opposition
- Removal of rival/secularist NGOs
- Revenge for 28 February Process, Gülen being forced into exile
- Intimidation of critics
- Power

Smoking Gun

- 7 March 2009, NCO Ali Balta confessed to Military Prosecutor Col. Ahmet Zeki Uçök that he had planted forged documents on a military computer on an airbase in Kayseri.
- Balta told Uçök he had a long-standing affiliation with the Gülen Movement.
- In February 2009 members of Gülen Movement had brought him USB with two forged documents to try to incriminate the base commander.
- Gülen media learned of confession, began running smear campaign against Uçök.
- Gülen media alleged that Balta had been tortured into making his confession.

Smoking Gun cont.

- No signs of harm on Balta's body.
- In summer 2009, Gülen media began to allege that Balta had been hypnotized.
- Balta released. Uçök charged with extracting the confession using hypnosis, imprisoned pending trial.
- 30 April 2010, forensic report presented to court saying Balta did not have symptoms that were incompatible with him having been hypnotized in March 2009. Did not say he had been hypnotized.
- 17 April 2012, Uçök sentenced to 7.5 years in prison for extracting confession from Balta using hypnosis.

Repercussions for the rule of law

- Over 450 perceived opponents, critics and rivals of Islamist Movement already convicted
- More than 700 facing trial
- Intense intimidation of the press, leading to widespread self-censorship

Erdoğan Vs Gülen

- Initially rivals within the Islamist Movement
- Formed alliance of convenience following foundation of AKP
- Gülen Movement strong advocate of AKP during 2002-2011
- Politicized cases neutralizing shared opponents
- Erdoğan and Gülen Movement now rivals again (e.g. attempt to summons Fidan)

First they came for the Communists,
and I didn't speak up because I wasn't a
Communist.

Then they came for the Jews,
and I didn't speak up because I wasn't a Jew.

Then they came for the trade unionists,
and I didn't speak up because I wasn't a trade
unionist.

Then they came for me
and by that time no one was left to speak up.

Attributed to Martin Niemöller (1892–1984)