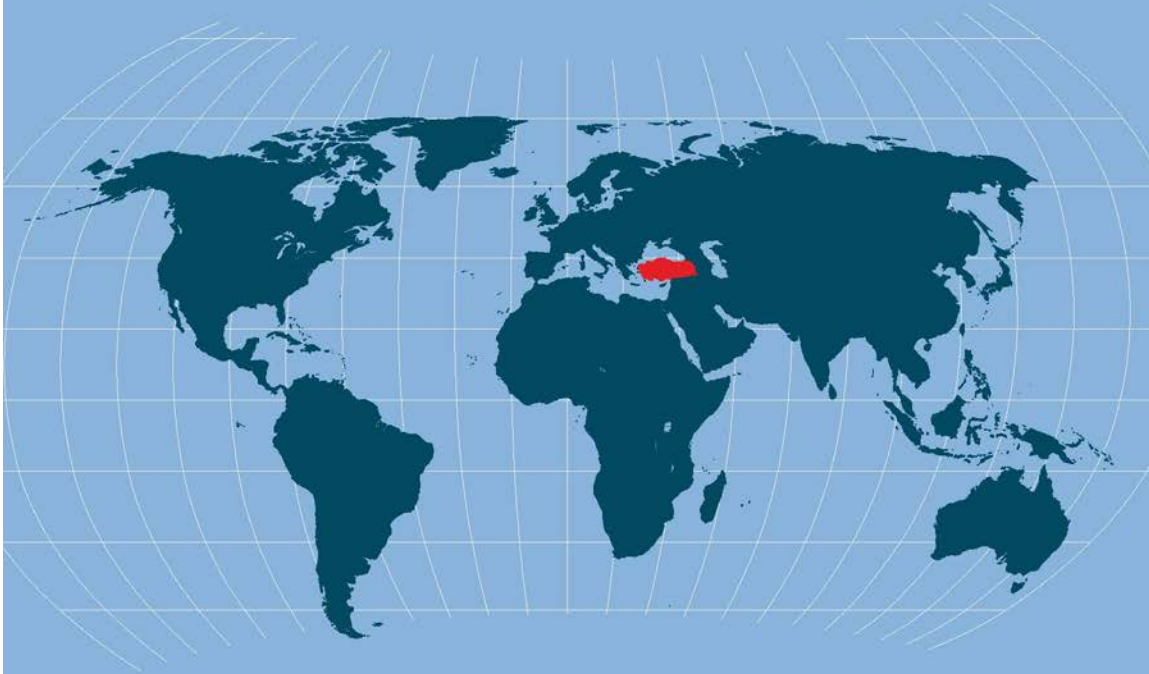


Scientists, Engineers, *and* Medical Doctors in Turkey

A HUMAN RIGHTS MISSION

A Report to the International Human Rights Network
of Academies and Scholarly Societies



Carol Corillon, Peter Diamond, Hans-Peter Zenner
representing
Committee on Human Rights of the
National Academy of Sciences, National Academy of
Engineering, and Institute of Medicine, USA

Human Rights Committee of the
German National Academy of Sciences Leopoldina

**Scientists, Engineers,
and Medical Doctors
in Turkey**

A H U M A N R I G H T S M I S S I O N

A Report to the

International Human Rights Network
of
Academies and Scholarly Societies

Carol Corillon, Peter Diamond, and Hans-Peter Zenner

representing

COMMITTEE ON HUMAN RIGHTS
of the
NATIONAL ACADEMY OF SCIENCES,
NATIONAL ACADEMY OF ENGINEERING, *AND*
INSTITUTE OF MEDICINE
USA

HUMAN RIGHTS COMMITTEE
of the
GERMAN NATIONAL ACADEMY OF SCIENCES LEOPOLDINA

This report and the actions it describes were made possible through the use of general operating funds provided to the Committee on Human Rights of the U.S. National Academy of Sciences (NAS), the National Academy of Engineering (NAE), and the Institute of Medicine (IOM) by the NAS, NAE, and IOM and their members and to the Human Rights Committee of the German National Academy of Sciences Leopoldina, by the Leopoldina academy.

The report can be viewed and downloaded as a free PDF at <http://www.nationalacademies.org/humanrights>.

Copyright 2013 by the National Academy of Sciences. All rights reserved.

Printed in the United States of America

Preface

This report is based on the findings of a mission of inquiry to Turkey that we undertook from February 9 to 16, 2013, in response to grave concern by our academies' human rights committees and the International Human Rights Network of Academies and Scholarly Societies regarding criminal charges brought against Turkish scientific colleagues. We were charged by the International Human Rights Network to gather the facts on these cases and report them to the Network and to the Turkish government. This report is the outcome of that charge. The issues underpinning our cases, relevant facts, and a variety of views were gathered in the United States, Germany, and Turkey from many sources, including personal interviews with diverse government officials, journalists, lawyers, academics, prisoners, and human rights advocates; attendance at conferences at which Turkish government officials, experts on Turkey, and others spoke; articles in journals and the press, human rights reports and, particularly, the findings of the European Commission in Turkey Progress Report and Conclusions (October 2012).

We offer thanks, first, to the many Turkish citizens who kindly shared their experiences, views, and insights with us prior to, during, and following the mission. We are deeply grateful for their knowledge and openness.

We also thank CHR staff members Patricia Evers, Emily Backes, and Rachel Eve Ginter, who provided invaluable assistance to Carol Corillon in organizing the mission and who also made contributions to the organization and content of this report. And we thank Eugenia Grohman of the National Academies staff, for her patience and skill in editing the report. We are grateful to Radiah Rose for preparing the manuscript for publication with professionalism and dedication.

This report was reviewed and approved by CHR chair Sidney Verba, CHR vice chair Mary Jane West-Eberhard, and Abdallah S. Daar and Felton Earls, members of the executive committee in the International Human Rights Network of Academies and Scholarly Societies.

Financial support for the mission and this report was provided by the U.S. National Academy of Sciences, National Academy of Engineering, and Institute of Medicine and many of their members through the generous annual funding that they provide to the CHR. The German National Academy of Sciences Leopoldina provided travel and other support for Hans-Peter Zenner.

Carol Corillon, Peter Diamond, and Hans-Peter Zenner

Contents

Part I	INTRODUCTION AND BACKGROUND	1
	The Country, 3	
	Mission to Turkey, 4	
	Turkey and the Committee on Human Rights, 6	
	Turkey and the International Human Rights Network of Academies and Scholarly Societies, 7	
	International Law and Turkish Law, 9	
	Turkey and the European Union, 9	
	Judicial Reforms, 10	
	Science and Academic Freedom, 13	
Part II	THE TRIALS	19
	Operation Sledgehammer Coup Trial (Balyoz Security Operation Plan), 26	
	The Ergenekon Trial, 32	
	The Postmodern Coup Trial, 47	
	The KCK Operations Trial, 54	
Part III	CONCLUSIONS	59
	The Individual Cases, 61	
	Turkey's Constitution, Laws, and Legal Processes, 62	
	Hopes for the Future, 63	
	APPENDIXES	65
A	The Committees and the Network, 65	
B	Biographical Sketches, Delegation Members, 69	
C	Report from the International Workgroup on Academic Liberty and Freedom of Research in Turkey, 73	

Part I

Introduction and Background

THE COUNTRY

Turkey is a country that straddles Europe and Asia with a multi-ethnic population of about 75 million people, of whom more than 99 percent are Muslim. The country's history dates from the eleventh century migration of Turkic people to Anatolia, and the country was a vital part of the Ottoman Empire from the late thirteenth through the early twentieth centuries. The Turkish Republic was founded in 1923, and its first president, Mustafa Kemal Atatürk, profoundly marked the country's character with his staunchly secularist and Western oriented views. He is widely credited with bringing Turkey into the modern world.

For most of the Republic's history, the powerful and autocratic military played a major role in politics, including carrying out several coups d'état. Over the past 10 years, the country has been governed by an Islamist prime minister from the Justice and Development Party (AKP), Recep Tayyip Erdoğan, who has been elected 3 times—with an increasingly larger share of votes—34 percent in 2002, 46.5 percent in 2007, and 50 percent in 2011. According to the party bylaws, he is ineligible to run for a fourth time. Presidential elections are scheduled for August 2014, and general elections—for the 550 members of parliament—are planned for June 2015. The country is currently engaged in drafting a new constitution, but no consensus on it has yet been reached. The present constitution was written about 30 years ago under the strong influence of the Turkish military.

Turkey has flourished economically during the past 10 years, following a financial crisis in 2000-2001. According to predictions in the April 2013 report, *World Economic Outlook: Hopes, Realities, and Risks*, prepared by the International Monetary Fund, Turkey's economy is expected to grow 3.4 percent this year and 3.7 percent in 2014.^{1,2,3} The country received European Union (EU) candidacy status in December 1999, and negotiations began in 2005. Turkey has been in negotiations to gain membership since then, although the talks have stalled in recent years. Some European countries reacted strongly to Erdoğan's response to the antigovernment demonstrations in May-June 2013, with Germany's Angela Merkel calling it "much too harsh," and Erdoğan responding by calling the EU "anti-democratic." It was agreed that the accession negotiations

¹The full text is available at: <http://www.imf.org/external/pubs/ft/weo/2013/01/pdf/text.pdf>.

²The IMF has voiced concern about risks in the Turkish economy in its Country Report: "Turkey remains vulnerable to capital flow reversal due to its large external financing needs; should this occur, it could lead to a hard landing." *Turkey: 2012 Article IV Consultation*, December 21, 2012. <http://www.imf.org/external/pubs/ft/scr/2012/cr12338.pdf> [May 2013].

³The massive public demonstrations held across Turkey in late May and June 2013, reported by many news organizations as against Erdoğan's increasingly authoritarian policies regarding a variety of issues, caused downward turbulence in Turkey's stock and bond markets and a slide in the value of the Turkish lira against the U.S. dollar. The unrest caused concern by investors about the country's political and economic stability.

would resume in October 2013, when a progress report on Turkey is due to be presented.

The country is also affected by several other challenges, including the decades-long conflict with Greece over Cyprus, which is effectively an island divided in two. More recently, there was a sharp escalation in 2011-2012 in the number of terrorist attacks by the Kurdistan Workers' Party (PKK).⁴ The three-year-old civil war in neighboring Syria has led to close to half a million refugees who have fled across Turkey's border seeking (and generously receiving) refuge and to the deployment of advanced NATO surface-to-air patriot missiles in the country, which Syria claims is provocative and has resulted in protests in Turkey and tensions with Iran, Russia, and China.

These developments have contributed to a sense of vulnerability in the country where, at the same time, Prime Minister Erdoğan's administration has detained or imprisoned several hundred serving and retired military officers over the past few years, including one-fifth of Turkey's generals, on charges of conspiring to overthrow the government.⁵ In response to these actions, in July 2011, the chief of the general staff of the Turkish military, along with the commanders of the army, navy, and air force, resigned in protest. In late January 2013 a top naval commander also resigned, and many other navy and air force officers followed, by either resigning in protest or taking early retirement. Although Erdoğan himself publicly complained of "dropping army morale" because of the arrests of hundreds of high-ranking military officers, an additional dozen or so active and retired military officers have been detained in the early months of 2013. (Turkey's military is the second largest, after the United States, in NATO.)

MISSION TO TURKEY

Along with the detentions and charges against the military officers, there have been allegations by public prosecutors of serious crimes by several of our scientific colleagues who are Turkish citizens, as well as several detentions. It was these specific charges and arrests that led the International Human Rights Network of Academies and Scholarly Societies to decide on the mission to Turkey described in this report.

The three delegates on the mission (see Appendix B), who are the authors of this report, were charged to gather the facts and report back to the Network. We undertook the mission to Turkey in early 2013, spending time in both Ankara (February 9-13) and Istanbul (February 13-16). Throughout the mission,

⁴For detailed information, see *Country Reports on Terrorism 2012*, which was submitted to Congress on May 30, 2013, by the U.S. Department of State. The full report is available at: <http://www.tusiad.us/1927/2012-country-reports-on-terrorism-turkey/> [June 2013].

⁵Jonathan Burch, "Jailings may have spurred Turkish commander to quit," Reuters, January 28, 2013. The full text is available at: <http://www.reuters.com/article/2013/01/28/us-turkey-military-idUSBRE90R0OI20130128> [April 2013].

we sought to achieve a balanced, comprehensive understanding of the situation faced by the six scientific, engineering, and health colleagues whose situations prompted the mission: a chemical engineer/education administrator and two medical doctors who are charged with serious crimes for which they have been detained; a social scientist and a medical doctor who have been charged with serious crimes and released pending the outcome of their trials; and an engineer who has been tried and sentenced to 13 years in prison. In addition to these six cases, during and following our mission we learned of two others that are of concern to the Network, both of whom are medical doctors who are former university rectors.

The situations faced by these colleagues, whose cases are the subject of this report, are illustrative of thousands of cases in Turkey that have been and are being tried under antiterrorism legislation and by using “secret” witnesses. These cases include thousands of Kurds—dozens of whom are elected officials and hundreds of whom are children—who find themselves the victims of miscarriages of justice or awaiting trials for years for reasons of which they often are kept unaware until the trial begins.⁶ As the 2012 report of the European Commission (EC) on Turkey also points out (p. 7) with regard to three of the four trials that the Network considers to be particularly worrisome: “Concerns persisted over the rights of the defence [sic], lengthy pre-trial detention and excessively long and catch-all indictments leading to significantly enhanced public scrutiny of the legitimacy of these trials.”⁷ The EC report also notes:

[Rather than] offering a chance to strengthen confidence in the proper functioning of Turkey’s democratic institutions and the rule of law, these cases have been overshadowed by real concerns about their wide scope and the shortcomings in judicial proceedings. Moreover, they tend to contribute to the polarization of Turkish politics.

We were repeatedly reminded of this context during our many conversations in the course of our mission.

The delegation requested visits with the colleague who is detained in Sincan prison and the three who are detained in Silivri prison. The government, gratifyingly, granted both requests to visit the four colleagues, all of whom speak English. Our visits were facilitated in a professional manner by the director of prisons, other officials, and guards, who received us cordially. This was particularly striking at Silivri prison, where the prison grounds are called a “campus” and inmates are referred to as “guests.” We also met with one of the accused scientists, who

⁶Josette Durrieu, “Post Monitoring Dialogue with Turkey,” April 2013, Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe, p. 43, April 2013, Council of Europe. The full report is available at: <http://assembly.coe.int/ASP/Doc/XrefViewPDF.asp?FileID=19548&Language=en> [July 2013].

⁷The full report is available at: http://ec.europa.eu/enlargement/pdf/key_documents/2012/package/tr_rapport_2012_en.pdf [April 2013].

had been released from prison pending the outcome of her trial, and some of the family members of the accused.

We also requested meetings with top government officials and, although some were out of the country and others failed to respond, the Turkish Embassy in Washington, D.C. helpfully arranged cordial and informative meetings with Ambassador Erdoğan Işcan, who is director general for Multilateral Political Affairs, and Hasan Göğüs at the Ministry of Foreign Affairs in Ankara; and with two officials at the Ministry of European Union Affairs, Mehmet Cangir, deputy undersecretary for EU affairs and Ege Erkoçak, director of the Directorate for Political Affairs. We also met with the German ambassador to Turkey, Eberhard Pohl, and his counselor for political affairs, Tobias Krause, and the U.S. ambassador to Turkey, Francis J. Ricciardone, and his political officer, Jamie Shuffelbarger; and with staff of the EU delegation to Turkey. In addition, we talked with lawyers, journalists, and academics who are knowledgeable about the cases of interest to us and the overall situation in Turkey. All meetings were conducted in English except one, for which we arranged informal translation.

TURKEY AND THE COMMITTEE ON HUMAN RIGHTS

The Committee on Human Rights (CHR) of the U.S. National Academy of Sciences, National Academy of Engineering, and Institute of Medicine (a member of the Network and serving as its secretariat) has investigated cases of unjustly imprisoned colleagues in Turkey since the late 1980s, most of which were cases of medical doctors. We briefly describe several of these below. During those years there also was broad use of antiterror laws to detain human rights advocates, doctors, academics, and journalists. There were many cases of extrajudicial killings and torture, but few convictions for these offenses.

One of the CHR's cases then was Dr. Nihat Sargin, a surgeon and chest specialist, who earned his medical degree in 1957 and worked in various hospitals and in private practice until 1970. At that time he began working full time for the Turkish Workers' Party, a socialist political party, and five years later he became the party's secretary general. After a military coup in 1980, the constitutional court banned the party, along with several other political parties. Dr. Sargin left Turkey and spent seven years in exile in Brussels. When he returned to Turkey, in November 1987, he was arrested and charged with leadership and membership of an organization that was "trying to establish the domination of one social class over the others and making communist and separatist propaganda." He was brought to trial but, after 3 years in prison with little judicial progress as to his guilt or innocence and 31 rejected applications for his release, Dr. Sargin undertook a hunger strike. He was released after his 19th day on strike.

Another CHR case was that of Dr. Tufan Köse, a medical doctor who worked at the torture treatment center of the Human Rights Foundation of Turkey in Adana. He was charged in May 1996 with failing to inform the authorities when individuals came to the center for treatment of injuries resulting from torture or ill-

treatment by police and failing to turn over the center's confidential patient records. His trial dragged on for more than a year, with at least five hearings and three different judges. The eventual outcome is that he was fined approximately \$100.

Dr. Cumhuri Akpınar was a forensic medical practitioner who from 1993 worked at the Ankara branch of the State Forensic Medicine Institute, a clinic affiliated with the Turkish Ministry of Justice. He examined individuals who claimed to have been tortured while in detention and wrote forensic reports on his findings. In January 1999 he was arrested by the antiterror branch of the Turkish police force and referred to the Ankara State Security Court, where he was questioned and then charged (under Article 169 of the Turkish Penal Code) with "aiding the members of an illegal organization—The Association for Solidarity with the Relatives of Arrested Prisoners for Human Rights—by providing forensic reports favoring them." More than 100 Turkish medical doctors attended his trial to protest his being charged for having, as they described it, "performed his duty in line with the ethical principles of the profession." He was released on March 5, 1999, after an initial trial, and acquitted in December of that year.

Dr. Veli Lök worked with the Turkish Medical Association. In 2001 he was charged with crimes for making statements to the press about the ill treatment of human rights defenders held in prison and, particularly, the practice of isolating and force feeding hunger strikers. He was eventually fined \$200 and given a 5-year suspended sentence.

In all of these cases—and many more of both our scientific colleagues and other citizens—the arrests were made on vague charges or for actions clearly permissible under the Universal Declaration of Human Rights (UDHR); many were held without trial for long periods of time; some were tortured. In moving forward, we believe it important that Turkey bring to justice those responsible for murder, torture, unjust imprisonment, and perjury. These criminals should not be allowed to escape punishment, no matter how long ago their crimes were committed. Thus, we urge Turkey to change its law on impunity before it expires and bring to justice those responsible for such crimes but who remain untried.

TURKEY AND THE INTERNATIONAL NETWORK OF ACADEMIES AND SCHOLARLY SOCIETIES

The International Human Rights Network of Academies and Scholarly Societies was created in 1993, and the Turkish Academy of Sciences (TÜBA) joined shortly thereafter.⁸ In 1997, Network founders Torsten Wiesel, Pieter van Dijk,

⁸TÜBA was nationalized by official statutory decree on August 27, 2011, so its continued eligibility to participate in the Network is unclear. A new, independent academy, The Science Academy (Bilim Akademisi) was subsequently created. Although both academies were invited to the Network's biennial meeting, held at the Academia Sinica,

and Carol Corillon were invited to give lectures on science and human rights during a day-long human rights symposium in Istanbul, hosted by TÜBA.⁹ Near the end of the symposium, one clearly exasperated participant said that not a single speaker had so much as uttered the word “Kurd,” when, as he pointed out, not far away from the campus there were Kurdish prisoners being tortured. The issue was not pursued. Although the 1997 trip to Turkey was not a formal human rights mission, Wiesel, van Dijk, and Corillon did meet with union members, scientists, and academics regarding grave human rights issues and cases of concern, and visited a torture treatment center in Istanbul.

We note that, in contrast to the situation in 1997, there appeared to be little hesitation by people in Turkey to speak of the plight of the Kurds and of the rumored peace efforts underway (subsequently confirmed in April) between the Erdoğan government and the jailed Kurdish rebel leader, Abdullah Öcalan.¹⁰

We also note, however, that in December 2012, 49 journalists were held in prison in Turkey, according to the Committee to Protect Journalists—higher than any other country in the world.¹¹ (Four months earlier, the number had been sixty-one.) Many have now been held for years without trial—unable to write the news or express their opinions.

Taiwan in 2012, only a representative of the new Science Academy attended the meeting. Oversight of TÜBA was moved from the Office of the Prime Minister to the Ministry of Science, Industry, and Technology (TÜBİTAK), which is also Turkey’s science funding agency.

The practice of TÜBA’s members being elected by their peers (essential in independent science academies) was changed by the new decree, which stipulated that one-third of the members would be selected by TÜBİTAK, one-third by the Council of Higher Education (YÖK, Yüksek Öğretim Kurulu) which is also a government agency, and one-third by TÜBA’s members. Additionally, the age at which members would become honorary was reduced from 70 to 67, and honorary members’ voting rights were removed. In response to TÜBA’s loss of autonomy, 52 of its 140 members resigned immediately and some of those who resigned created the new academy. (As of mid-2013, the new academy had 120 members, including those newly elected, and had awarded 20 scholarships, according to the new science academy’s president, Mehmet Ali Alpar, an astrophysicist at Sabanci University, with whom the delegation met.)

⁹Torsten Wiesel is a Nobel Laureate in physiology or medicine, who was then president of The Rockefeller University and chair of the CHR; Pieter van Dijk was professor of human rights law, a member of the Netherlands Council of State, and at that time a judge on the European Court of Human Rights; and Carol Corillon is executive director of the Network and director of the CHR.

¹⁰Öcalan commands the Kurdistan Workers’ Party (PKK), which has been designated as a terrorist group by the government, as well as the European Union and the United States. It has been engaged in armed conflict with the Turkish armed forces for more than 30 years; some 40,000 people (primarily Kurds) have died. Öcalan is serving a life sentence in an island prison in the Sea of Marmara for treason and had not been permitted to participate in peace negotiations until this year.

¹¹The CPJ’s annual worldwide census, conducted on December 1, 2012, is available at: <http://www.cpj.org/2013/02/attacks-on-the-press-in-2012-turkey.php> [June 2013].

INTERNATIONAL LAW AND TURKISH LAW

In 2004 Turkey adopted a new criminal code and a new criminal procedure code to begin to bring its laws into conformity with the European Convention for the Protection of Human Rights and Fundamental Freedoms. Also of note is that, in 2004, Article 90 of the Turkish Constitution was amended to read as follows:

In any disputes which may arise because laws contain different provisions on the same subjects as are dealt with in international treaties on fundamental rights and freedoms which have duly entered into force, *the provisions of the international treaty shall be taken as a basis* [emphasis added].

Yet a 2012 United Nations' (U.N.) report on the independence of judges and lawyers in Turkey noted that the impact of this amendment on jurisprudence "has yet to be seen." Perhaps in response, the Ministry of Foreign Affairs has indicated that the "Third Judicial Reform Package," adopted in 2012, and the current "Fourth Judicial Reform Package," now before the parliament, "aim at aligning the Turkish legislation with the Copenhagen Criteria of the European Union (EU), with due regard to the European Convention on Human Rights and the case-law of the European Court of Human Rights (ECtHR)."¹² In 2012 the court considered 8,048 applications regarding Turkey; 7,914 were declared inadmissible and 123 judgments were delivered—117 of which found at least one violation of the convention. As of early 2013, 18,774 applications regarding Turkey were pending before the court.¹³

TURKEY AND THE EUROPEAN UNION

Turkey and the EU opened accession negotiations for membership in 2005, but negotiations languished while the Republic of Cyprus held the presidency of the EU and France and Germany expressed rather strong reservations on several fronts regarding Turkey's potential membership. Recent developments, however, with Ireland's assumption of the presidency of the EU, the election in France of President François Hollande, who is more open to Turkey's accession than his predecessor, and the two-day trip to Turkey by German Chancellor Angela Merkel in late February 2013, a rekindling of EU accession negotiations with Turkey now appears possible, despite criticism by several EU countries of Erdoğan's reaction to country-wide demonstrations, in late May and June 2013, by ordering the use of force to end them. (See above.)

Hollande had earlier expressed the willingness of his government to open one more chapter (regional policy) in the accession negotiations, European Un-

¹²See *Policy Objectives and Developments*, available at: http://www.mfa.gov.tr/human-rights_policy-objectives-and-developments.en.mfa [April 2013].

¹³See the ECHR's website at: http://www.echr.coe.int/Documents/CP_Turkey_ENG.pdf [June 2013].

ion Affairs Minister Lucinda Creighton of Ireland had expressed hope to see at least one negotiation chapter opened during her country's presidency, and Merkel had said she favors doing so to add "fresh momentum" and "move forward" with membership.¹⁴ According to press reports, following her February talks with Prime Minister Erdoğan, Merkel said that she wanted the process to advance, although she is still skeptical about Turkey's full membership of the EU, and she urged Turkey to open its ports and airports to traffic from Greek Cyprus if it wants accession talks to continue.

JUDICIAL REFORMS

M. Şükrü Hanioglu wrote in his biography of Mustafa Kemal Atatürk, that he "brought about a drastic reshaping of Turkish state and society. Neither Turkey nor the Muslim world will ever be the same again."¹⁵ Writing also about Atatürk, in a report on legal and institutional reforms and inherent societal contradictions in Turkey, the human rights organization Freedom House noted:¹⁶

[reforms in Turkey have] been dogged by fundamental contradictions that were built into the state that Atatürk created or have developed over time. Tensions around three longstanding problems in particular have come to a head in recent years. The first is the adherence to an ideology of homogeneous nationhood in a multiethnic state. The second is the role of the military as the custodian of democracy. The third is rigid state secularism in a country where much of the population is pious.

During our mission, these three "contradictions" repeatedly were raised as underlying issues in the arrests as terrorists of the academics about whom we are concerned. These contradictions are also a source of political conflict and widespread polarization in the country and complicate the amendment of the constitution, as well as judicial reforms.

In 2012 the European Court of Human Rights considered 8,048 applications from Turkey claiming violations of the European Convention of Human Rights.¹⁷ According to a 1959-2011 *Overview*, produced by the ECHR, since it was established in 1959, the Court has delivered more than 15,000 judgments.¹⁸ Nearly half

¹⁴For accession to the EU, 35 "chapters" have to be negotiated. One chapter on science and research has been closed (that is, agreed to) provisionally; 13 or now, perhaps, 14 are open (in negotiation); 20 remain closed (not yet in negotiation) at this time.

¹⁵M. Şükrü Hanioglu, *Atatürk: An Intellectual Biography* (2011, p. 232): Princeton University Press, Princeton, NJ.

¹⁶The full report, *Countries at the Crossroads 2011: Turkey*, is available at: http://www.freedomhouse.org/sites/default/files/inline_images/TURKEYFINAL.pdf [April 2013].

¹⁷See fn 14 above.

¹⁸The full report, *Overview 1959-2001*, is available at: http://www.echr.coe.int/Documents/Overview_2011_ENG.pdf [July 2013].

of the judgments concerned 4 member States, with Turkey having the highest number, i.e.: Turkey (2,747), Italy (2,166), Russia (1,212) and Poland (945). Many of Turkey's violations relate to the rights to free expression, association, and a fair trial and the extraordinary length of detentions and trial periods—as illustrated by the cases that were the focus of our mission, detailed in Part II.

Turkey recognizes that it must meet a number of human rights criteria to bring its criminal justice system, and particularly its misuse of terrorism laws, in line with international human rights standards. Turkish government officials told us that efforts in this direction continue and are soon to be augmented with the release of the Fourth Judicial Reform Package.¹⁹ These efforts are expected to include amendments to the overly broad definition of terrorism under Turkish law (discussed below)—a rather ambiguous definition that is being applied to the cases that we have undertaken. The package was sent to parliament in March 2013, but skeptics believe it will not go far enough in changing Turkey's antiterrorism law. Moreover, despite their merits, most of the reforms included in the Third Judicial Reform Package (July 2012) have yet to be implemented, including those related to freedom of expression. We cannot help but observe that reforms passed by parliament indicate nothing except possibly good intentions unless and until they are implemented.

Even if the fourth package simply narrows the definition of terrorism, it should bring about the release of hundreds of Kurds held in court cases related to the Union of Communities of Kurdistan. The Kurdish minority is estimated to make up between 18 and 20 percent of Turkey's population. On March 20, following our return from Turkey, there was a breakthrough in peace negotiations. Abdullah Öcalan called for a PKK cease-fire and ordered his fighters to leave Turkey for bases in northern Iraq, saying to them in a letter written from prison, "we reached the point where weapons should go silent and ideas speak. . . A new era starts when politics, instead of guns, come to the forefront."²⁰ Subsequently, the PKK's rebel commander Murat Karayılan announced that a phased withdrawal would begin May 8, 2013, but said that the rebels would not lay down their weapons before they reached northern Iraq and Mr. Öcalan is released from prison.²¹ The PKK has also called on the Turkish government to enact a new constitution, calling it an "obligation."²²

Both the Turkish press and people with whom we spoke speculated about whether the fourth judicial package will also make accommodation for individuals

¹⁹We were unable to find information about any reform packages before the third or whether they ever existed.

²⁰Sebnem Arsu, "Jailed Leader of the Kurds Offers a Truce with Turkey," *The New York Times*, March 21, 2013. Available at: http://www.nytimes.com/2013/03/22/world/europe/kurdish-leader-declares-truce-with-turkey.html?_r=0 [April 2013].

²¹*Aljazeera*, "PKK sets date for withdrawal from Turkey," April 26, 2013. Available at: <http://www.aljazeera.com/news/europe/2013/04/201342513922579836.html> [May 2013].

²²See fn 19.

in the Ergenekon trial, some of whose cases have been undertaken by the Network. Two academics—both medical doctors and former university rectors—have been held for more than four years in pretrial detention. (Under previous legal provisions, recently abrogated, terror suspects can be held for as long as 10 years in pretrial detention.) Because a new law has not been written, the previous legal provision is still being cited by the Constitutional Court.²³

The exercise of rights laid out under Article 19 of the International Covenant on Civil and Political Rights (ICCPR) includes the right for everyone to hold opinions without interference and the right to freedom of expression. Article 19 also contains two caveats, one of which makes reference to the protection of national security or of public order. These provisions are sometimes distorted by the Turkish government to repress or punish free speech or opinions that run counter to the political objectives or beliefs of the ruling party. One common misuse of antiterrorism laws is to accuse people of “membership in a terrorist organization,” in which “the burden of proof is so much lower [than accusations of “terrorist propaganda”] that all sorts of legitimate activities get counted as membership in a terrorist organization, even though the person has not advocated violence or directly committed violent activities.”²⁴

The United Nations Human Rights Committee criticized Turkey in November 2012 for using what it termed “vague” antiterrorism laws, which are incompatible with the ICCPR. Although there is no universally accepted definition of terrorism, it is generally agreed that prosecution of so-called acts of terrorism cannot violate the legal protections enumerated under the ICCPR Article 14, which promulgates a range of such rights, including:²⁵

a fair and public hearing by a competent, independent and impartial tribunal . . . to be presumed innocent until proved guilty according to law . . . To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him, . . . to be tried without undue delay . . . To examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him . . . To have the free assistance of an interpreter if he cannot understand or speak the language used in court . . . Not to be compelled to testify against himself or to confess guilt.

²³BBC Worldwide Monitoring, “Turkish court refuses to release 67 Ergenekon Coup suspects,” July 14, 2013. Available at: <http://www.accessmylibrary.com/article-1G1-297434801/turkish-court-refuses-release.html> [July 2013].

²⁴Emma Sinclair-Webb of Human Rights Watch, as quoted by Dorian Jones in *Eurasia's Weekly Digest*, March 21, 2013. Available at: <http://www.eurasianet.org/node/66725> [April 2013].

²⁵For the full text of the article see: <http://www.ibiblio.org/ais/iccpr.htm> [April 2013].

SCIENCE AND ACADEMIC FREEDOM

Science Education

The Organization for Economic Cooperation and Development (OECD) says Turkey has the fastest growing economy of any member country and that it is projected to maintain such growth through 2017 if certain structural reforms are implemented, including reforms in education.

As already mentioned, we traveled to Turkey because of human rights concerns related to our scientific colleagues. However, as representatives of science academies in the United States and Germany and of the 79 national science academies affiliated with the Network (see Appendix A), we are also deeply concerned about science and science education. And, of course, science and quality education are key to the generation of new ideas and technological innovation and, thus, to a country's continued economic growth and prosperity. Science education is particularly essential in a country such as Turkey where, according to the coordinator of the Education Reform Initiative in Istanbul, Batuhan Aydagül, as quoted in an article published by the University of Chicago, 40 percent of Turkey's 15-year-old students lack basic math literacy, and the nation's schools rank 32nd of the 34 OECD countries.²⁶ Moreover, he noted that almost one-third of Turkey's residents are less than 28 years old. Most importantly, he stressed: "Education itself cannot really grow in a country unless there's a full democracy . . . which creates active citizens, equipped and able to question authority."

In an article titled, *Lessons from the Ottoman Empire*, Turkish philosopher Ekmeleddin İhsanoğlu wrote about Turkey's efforts to obtain technology, education, and management systems from Europe.²⁷ However, he observed, they failed to discover that European science and technology is based on supporting and promoting a culture of research. He said, with regard to technology transfer, that one critical component of these efforts was lacking and that, without it, no developing country could hope to become scientifically advanced. That component, he wrote, is "a body of people who are familiar with the tools of inquiry and research." Although Turkey does have scientists and engineers who received high-quality educations in Turkey and abroad, a key issue is the size of the body of

²⁶Katherine Rittenhouse, *Educating Turkish Youth for a Democratic Future*, University of Chicago, School of Social Service Administration, (November 13, 2012), <http://internationalstudies.uchicago.edu/news/2012-2013/121113-educating-turkish-youth>. Aydagül was in Chicago to be awarded the Chicago Council on Global Affairs' 2012 Patricia Blunt Koldyke Fellowship in Social Entrepreneurship for his efforts to reform education policies and advocate for students' rights in Turkey.

²⁷The article was published in *SciDev Net* (October 3, 2007) as part of a longer piece titled *Spotlight on The way ahead for Islamic science*. Available at: <http://www.scidev.net/en/opinions/lessons-from-the-ottoman-empire.html> [April 2013]. İhsanoğlu was secretary-general of the Organization of the Islamic Conference and a former president of the International Union for the History and Philosophy of Science.

qualified researchers and the extent to which they have learned to question and inquire and have good opportunities to do so.

It is because of our interest in the promotion of science and scientific learning and our desire to also promote and protect human rights that we have included reference to the articles above. During our mission to Turkey, we learned of widespread concern among academics about the detention and imprisonment of their colleagues and students solely for expressing their nonviolent opinions on the basis of their research (often related to political, public policy, or Kurdish issues) and for their participation in civil society initiatives or peaceful legal demonstrations against government policies. Scientific inquiry requires basic freedoms such as thought, inquiry, association, and expression.

An encouraging aspect for science education is what appears to be widespread interest in science among Turkey's youth. The Scientific and Technological Research Council of Turkey (TÜBİTAK) reportedly has sold more than 12 million scientific publications over the years—850,000 in 2008 alone. Open access to the Internet is also a crucial educational tool, and we note with concern the increasing use of Internet filters by the Turkish government, which appears to be hampering access to essential scientific information, beginning from grade school.

Academic Rights and Freedoms

Academics in Turkey, the United States, and European Union countries have expressed deep concern about a steady loss of independence by major Turkish universities: the Turkish Council of Higher Education (YÖK, Yüksek Öğretim Kurulu) has replaced respected scholars and administrators by significantly less qualified and more ideologically and Islamic-focused supporters of the ruling political party. We were also told of students, scholars, and faculty who are being targeted for peacefully urging greater democratic reforms and respect for freedom of expression. Hundreds of student dissidents have been beaten, tear-gassed, sprayed with high-pressure water cannons, and taken to prison simply for attempting to hold peaceful demonstrations on their campuses.

One incident of violent suppression of the freedoms of speech, assembly, and association (which are promulgated in the Universal Declaration of Human Rights) was reported to us by a high-level university administrator who witnessed the event.

On December 18, 2012, some 300 students assembled to hold a demonstration on the campus of the Middle East Technical University (METU) to protest government higher education policies and other issues. The occasion was a scheduled visit by Prime Minister Erdoğan to a campus monitoring station to watch the launch of Turkey's first domestic high-resolution satellite, which was being launched from the People's Republic of China. Several hours before the scheduled visit, for no stated reason, some 3,000 policemen arrived on the campus in armored vehicles and tanks.

The student demonstrators were caught between the overwhelming number of policemen and the campus buildings, which housed a nursery, administrative offices, laboratories, and rooms in which classes were in progress. In what a university administrator termed an unprovoked attack on the students in an apparent effort to end the demonstration before the prime minister's arrival on the campus, the police used what the administrator characterized to us as excessive force to disperse the students. They reportedly used pepper spray and water cannons and fired off some 2,000 tear-gas canisters, some of which hit and injured students and many smashed through the windows of occupied classrooms, offices, laboratories, and even a campus nursery, making everyone in those rooms ill and causing extensive damage to the university buildings. Students were arrested, and Erdoğan personally chastised the university's dynamic and highly respected rector, Ahmet Acar, who stood by his students and defended their rights to nonviolent freedom of expression.

We note, as reported in *al-Monitor* on January 6, 2013, that a dozen or so university administrators:²⁸

aligned themselves with Erdoğan's accusations, including officials at the prestigious Galatasaray, Istanbul Technical, Mimar Sinan, Marmara and Hacettepe universities. Groups of faculty at these institutions were quick to assert that the administrations' views didn't reflect their own.

According to GITTurkey:²⁹

the METU incident is only one of [an] increasing number of direct assaults on university students and faculty members that leave us gravely concerned for the present and the future of democracy in Turkey. The authoritarian tendencies in the ruling party and the use of both police violence and judicial repression are growing daily. They pose severe impediments to freedom of thought and expression in every domain. We take this opportunity to express our solidarity with academic institutions, faculty members and students in Turkey who face this repression.

Most recently, on June 18, 2013, in the midst of the anti-government demonstrations that were held across Turkey for several weeks, the Turkish Medical Association reported:³⁰

²⁸To read the full article: <http://www.al-monitor.com/pulse/originals/2013/01/turkey-you-th-2013.html#ixzz2a7AXyd1j> [July 2013].

²⁹GIT (Groupe Internationale de Travail) is an international group of researchers supporting and advocating freedom of research in Turkey. For details see: <http://www.gitinitiative.com/article-git-north-america-statement-on-recent-events-at-metu-odtu-113852426.html> [April 2013]. For its founding statement, see: http://www.gitinitiative.com/pages/The_Inaugural_Declaration_November_21_2011-6616394.html [April 2013].

³⁰The full report is available at: <http://www.ttb.org.tr/en/index.php/tuem-haberler-blo/g/179-ttb/1214-health> [June 2013].

8,038 people in total applied for injuries to public hospitals, private hospitals and medical centers and infirmaries which were immediately constructed in areas where the clashes happen. The content of the injuries consists of skin-deep inflammation, burns, respiration disorders and asthma crisis, epilepsy attacks due to tear gas, musculoskeletal system injuries (soft tissue injuries, cuts, burns, from simple fractures to serious open/close fractures causing sequellae) related with close quarter shots of tear gas canisters, rubber bullets and assault, head traumas, eye problems concluding to sight losses originating from rubber bullet use and intra-abdominal organ injuries.

We also are aware of the situations of several university faculty members and researchers whose academic rights and liberties appear to have been violated in recent years by their universities. Assessment reports by GITTurkey on academic rights and freedoms in the country provide reliable case information. Its first report, “Violations of Academic Rights and Liberties,” was publicized on June 26, 2012, “to draw public attention to the dramatic increase in academic rights violations in Turkey in recent years.”³¹ The group has also created a database on violations of these rights and liberties and is categorizing the violations suffered by university staff and independent researchers so as to inform the general public and raise awareness about the increasing violations. It also plans to build a support team that can provide legal advice and defend the rights of Turkish scholars and researchers. The academics who generally suffer the worst violations, according to GITTurkey, (see Appendix C), include scholars who do research on Kurdish issues and who take “political and social stances that concur with their academic work” and those who do research on “other minority groups and non-conventional gender identities in Turkey,” as well as on issues “that are not political in nature, but that have political repercussions regarding human and public health or the protection of nature.” Union members also suffer. There is continuous “intimidation, administrative investigations, such penalties as disciplinary action and pay cuts, obstacles in the way of appointments to posts, dismissals on unjustified grounds or for economic reasons . . . [which] constitute violations of academic rights and liberties on a predominantly economic basis.”

One example of this situation is the ongoing prosecution of Pinar Selek, a 42-year-old Turkish sociologist, writer, and advocate for the rights of socially disadvantaged children and women, as well as minorities, such as Kurds and Armenians. Her case is of long-standing concern and the subject of repeated appeals by the Network and many other respected organizations. On December 12, 2012, the president of the Middle East Studies Association (MESA), Peter Sluglett, wrote to Prime Minister Erdoğan about the continuing prosecution of Selek.³²

³¹See Appendix C for the organization’s statement on the situation in Turkey.

³²The full text of the letter from which this quote is taken is available at: <http://www.mesa.arizona.edu/committees/academic-freedom/intervention/letters-turkey.html> [June 2012].

[It] sends a chilling message to the academic community and signifies an ongoing policy of violating the freedom of academic research in Turkey. Selek's prosecution is also taking place against a backdrop of an increasing pattern of detention and prosecution of academics who conduct research on subjects deemed sensitive by the government. The fact that the government persists in implicating Selek in an explosion that has been established to be the result of an accidental gas leak makes this case all the more worrying. Further, the use of torture to force an academic to reveal the names of interview subjects undermines compliance with ethics rules concerning research involving human subjects that requires the protection of the privacy and rights of interviewees. These violations of academic freedom not only undermine Selek's ability and freedom to conduct research, but are also likely to intimidate others from participating in academic research studies going forward. Indeed, the prosecution of Selek appears to be part of a government strategy to make an example of her precisely to create an intimidating climate that inhibits the work of other scholars, researchers, students and academic study participants.

In another letter written in December 2012 and published on MESA's website, Sluglett expressed to the prime minister:³³

[the] dismay and concern [of MESA] over recent allegations of censorship at several Turkish universities where scholarly publications have touched on sensitive subjects such as racism against Africans in Turkey, Kurdish rights or environmental issues. Reports of the forced withdrawal of an article from a refereed journal, a disciplinary investigation and lawsuit against a scientist who drew attention to serious health hazards related to industrial pollution, and the cancellation of conferences due to interference by university administrators are only the most recent examples of ongoing political interference in academic freedom at Turkish universities. The fact that these instances all touch on topics deemed sensitive or controversial by your government gives the appearance of coordination between the government and university administrators to ensure that certain subjects be excluded from academic scrutiny, which would constitute a clear violation of academic freedom.

³³See fn. 28.

Part II

The Trials

Since 1960, the Turkish Armed Forces have carried out three armed coups (1960, 1971, and 1980), and in 1997 there was the so-called “Postmodern Coup,” in which Prime Minister Necmettin Erbakan and his Welfare Party, Turkey’s first Islamist-led government, lost power through unarmed pressure and manipulation by the military. Subsequently, the Welfare Party was banned.

Today, the government is run by the Justice and Development Party (Adalet ve Kalkınma Partisi, AKP), which is also Islamist-led. This government came to power in 2002 and has claimed to be the successor to the banned Welfare Party. Concerns about violations of human rights under the AKP government include abuses by the police forces and failure of the judicial system to meet minimum standards for detention and for timely, fair, and impartial trials.

During the Network’s mission, we often heard complaints that Turkish law primarily protects the government against expressions of political and civic beliefs by its citizenry, rather than protecting and promoting those rights for citizens. The U.N. special rapporteur also wrote in her 2012 report with regard to the mindset of judges and prosecutors: “[A] state-centered mentality is rather prevalent in the Turkish judiciary, as the approach is often to favour or protect in the trial what are perceived to be the interests of the State.” The imbalance between these two matters reflects some of the concerns about human rights in Turkey. Particularly disturbing with regard to the Network’s cases is also the overly broad interpretation of antiterrorism laws that violate international standards related to freedom of expression, association, and assembly. According to the U.N. special rapporteur on Turkey:

[There are] cases where individuals have been prosecuted and tried under the anti-terrorism legislation and article 220 of the Criminal Code simply for having participated in public demonstrations by showing banners and shouting slogans, activities that clearly do not sufficiently address the personal material link to violence against bystanders that an acceptable definition of terrorism would require.

These abuses generally have been implicitly acknowledged by the Turkish government through its willingness to make amendments to specific articles of the country’s constitution.¹ Under the various judicial reform packages prepared by the AKP government (see Part I), some important constitutional amendments have been passed, but most of them have not been implemented. At the same time, other laws have been introduced that could allow for further abuses. Even the enacted reforms often do not meet internationally recognized standards of human rights law. As noted in Part I, the “fourth judicial reform package” was passed to the Parliament earlier this year, and the government has implied that some or many of

¹The current constitution was written by the military about two years after the 1980 coup d’état. It is generally acknowledged to be authoritarian and designed to be self-serving for those in power.

the continuing violations may be remedied. Meanwhile, our colleagues and many other prisoners, including hundreds of students, remain under the authority of existing laws and previous court actions.

The four highly politicized trials, which include the scientists, engineers, and medical doctors who are the subject of this report, are all at different judicial stages, but the delegation believes they have several problems in common—they all lack proper due process, presumption of innocence, reliable evidence, and trustworthy witnesses. Each trial is or has been heard before “Specially Authorized Heavy Penal Courts” that give special authority to judges and prosecutors and great latitude in their interpretations of the law. Although these courts are no longer legal and have no constitutional jurisdiction, an exception was made for the four trials of concern to the delegation. (See below for further details.)

The Operation Sledgehammer Coup investigation began in January 2010, and the trial commenced on December 16, 2010, initially with 196 defendants but eventually with 365 defendants, all but 2 of whom were high-ranking, serving or retired, military officers. Two hundred and fifty of the accused were held in detention, some from as early as 2009. They were accused of planning a coup against the AKP government in 2003 that was never carried out. Evidence produced during the trial appears to have been fabricated or deeply flawed. Sentences were handed down in September 2012 with 325 of the accused found guilty of “conspiracy to commit treason.” Sentences ranged from 20 years (originally life in prison) to 13 years. The sentences are currently under appeal. The decision of the appeals court is expected to be announced on October 9, 2013.

The Ergenekon trial investigation began in June 2007. There were a number of indictments totaling an estimated 7,000 pages against some 275 suspects, many of whom are members of the military. Others are journalists, businessmen, politicians, lawyers, medical doctors, academics—and some alleged members of the Mafia. The trial has dragged on for years. The first hearing began in October 2008. The accused were labeled as terrorists on accusations of fomenting unrest. In March 2013 the lead prosecutor asked for life in prison for 67 of the accused, including the Network’s 5 cases, and 15 years for another 96 people. The verdict is scheduled to be announced on August 5, 2013.²

²While this report was in production, verdicts were announced in the Ergenekon trial (on August 5, 2013). Of the 275 defendants, 254 were convicted and sentenced on charges of membership in a clandestine terrorist organization seeking to destabilize Turkey’s government. Those found guilty included the Network’s six cases:

- Fatih Hilmioğlu - 23 years without release (minus the 4 years he has been imprisoned): As we understand it, “without release” means that Dr. Hilmioğlu must remain in prison until a decision is reached by the High Court of Appeals, which could take years.
- Kemal Alemdaroğlu – 15 years, 8 months: after the verdict, he was immediately sent to prison.
- Mehmet Haberal – 12 years, 6 months: if the court confirms the sentence, he will be returned to prison.

The Postmodern Coup trial carries accusations against more than 100 suspects (all members of the military except one—our colleague, Kemal Gürüz) of overthrowing the government in 1997 (through intimidation, ultimatums, and manipulation) and preventing it from performing its duties. The indictment is 1,300 pages long, and the first hearing is scheduled for September 2, 2013.

The KCK Operations trial(s) began with an investigation and initial arrests in April 2009. The trial began in October 2010. The indictment against 151 of the accused is 7,500 pages and involves members of the Peace and Democracy Party (BDP), journalists, rights defenders, and dozens of Kurdish politicians. In all, at least 2,000 suspects have been arrested in the KCK Operations investigations, and they appear to have been divided up among three mass trials. The European Association of Lawyers for Democracy and World Human Rights has reported that “among the KCK suspects, 992 are in prison and 274 are elected representatives, according to figures by the Ministry of Justice.”³

As already mentioned, all four trials are or have been heard before “Specially Authorized Heavy Penal Courts.” The AKP government set up these courts in 2004, under articles 250 and 251 of the Code of Criminal Procedure, to replace the feared state security courts that the military had previously established. Prime Minister Erdoğan presented them as having been designed to strengthen the rule of law. However, in response to growing public dissatisfaction with the narrow and often unjust interpretations of the law by the courts’ prosecutors and judges and to countless questions about their treatment of evidence, the courts were officially abolished in 2012. Future trials related to suspicions of terrorism, including any that relate to members of the military, are supposed to be heard by regional high criminal courts.

Regrettably, existing and pending “terrorism-related” trials already being held in the Specially Authorized Heavy Penal Courts were made an exception to this abolishment, so these courts have continued despite widespread national and international criticism that they are serving to imprison political opponents and stifle criticism and dissent. As the U.N. special rapporteur said in her 2012 report

-
- Kemal Gürüz – 13 years, 11 months: in addition to this sentence, Professor Gürüz is also charged in the Postmodern Coup trial, which does not begin until September but for which he has been held behind bars for more than a year.
 - Dr. Ferit Bernay – 10 years: he is free pending the decision of the appeals court.
 - Dr. Mustafa Abbas Yurtkuran – 10 years: he is free pending the decision of the appeals court.

³European Association of Lawyers for Democracy & World Human Rights, “Trial Observation on 20th June 2013 in Silivri (Istanbul),” May 25, 2013. Available at: <http://www.eldh.eu/events/event/trial-observation-on-20th-june-2013-in-silivri-istanbul-165/> [July 2013].

on Turkey, she “believes that the special authority given to the Special Heavy Penal Courts allows for undue restrictions on fundamental procedural safeguards.”⁴

According to a European Commission (EC) report, concerns persist over the rights of the defense, lengthy pretrial detention, and excessively long and catch-all indictments, leading to significantly enhanced public scrutiny of the legitimacy of these trials.⁵ Although it remains important to prosecute earlier human rights abusers, these trials do not appear to have that as a prime goal. The four trials on which we focused consisted of judicial proceedings that, in the cases we examined, appeared to have political and even vengeful objectives but no intention of looking at possible individual crimes by members of the military.

The EC report says that judicial proceedings need to be speeded up to ensure the rights of the defense and to promote transparency in these cases. Investigations expand rapidly and the judiciary accepts mainly the evidence collected by the police or supplied by secret witnesses; the accuracy and authenticity of much of this evidence has been widely questioned. Additionally, defense attorneys’ rebuttals are restricted, and they are often not permitted to call vital witnesses or cross-examine witnesses who testified against their clients. The accused are frequently given very short time frames in which to defend themselves. These judicial restrictions on the accused and their defense attorneys are in clear violation of the relevant provisions of the Turkish Criminal Procedural Code.

While Prime Minister Erdoğan has, over the years, appeared to support and perhaps encourage arrests in the trials on which the delegation focused, certain tensions between Erdoğan and members of the judiciary and the police forces have increasingly become apparent over the past year and a half. For example, according to one report, in early February 2012, a specially authorized prosecutor in Istanbul, Sadrettin Sarıkaya, called in Prime Minister Erdoğan’s intelligence chief, Hakan Fidan, while Erdoğan was in the hospital.⁶ The prosecutor requested that Fidan and four high-level employees in the National Intelligence Organization testify in an investigation into the Kurdistan Communities Union (KCK) and allegations that secret discussions were being held with Abdullah Öcalan, the imprisoned leader of the banned Kurdistan Workers’ Party (PKK), and other members of the terrorist organization. When they refused to answer questions, the special prosecutor issued warrants for their arrests.

⁴*Report of the Special Rapporteur on the Independence of Judges and Lawyers*, Gabriela Knaul. *Addendum, Mission to Turkey*. Available at: http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-19-Add3_en.pdf [April 2013].

⁵The report is available at: http://ec.europa.eu/enlargement/pdf/key_documents/2012/package/tr_rapport_2012_en.pdf [April 2013].

⁶According to a January 11, 2012, article in the *Star Tribune* by Susan Fraser of the Associated Press, Erdoğan underwent abdominal laparoscopic surgery on his digestive system on November 26, 2011. A hospital official subsequently elaborated, saying that the three-hour surgery was performed on Erdoğan “to remove polyps in his intestine and that a biopsy revealed that they were not cancerous.” The full text is available at: <http://www.startribune.com/printarticle/?id=137082093> [June 2013].

According to an article by Murat Onur, “the same day, the interior ministry sacked two high ranking police officers (intelligence director and the director of anti-terrorism department) of Istanbul Police.”⁷ And later, prosecutor Sarıkaya was removed from the case, reportedly for “withholding information about the investigation from his superior.” Subsequently, according to Mr. Onur, “In the following days, the interior ministry removed ten high-ranking police officers who took part in the KCK operations and later changed the post of almost 700 police officers to different cities across Turkey.” Mr. Onur’s article continues:

Moreover, the Justice and Development Party (AKP) proposed a legal amendment—on the same day of arrest warrants—to the MIT [National Intelligence Organization] Law in a clear attempt to shield Mr. Fidan (and others) from legal probes including the ongoing case. The amendment became law in a matter of hours after it passed in the parliament and was approved by President Abdullah Gül. It is now impossible to investigate any MIT personnel and special envoys of the prime minister without the prime minister’s consent. In other words, no prosecutor (including special-authority prosecutors) can investigate the intelligence agency or the prime minister’s special representatives before consulting Prime Minister Tayyip Erdoğan.

Meanwhile, Prime Minister Erdoğan has acknowledged some of the complaints and concerns about the ongoing trials before the specially authorized courts that have been voiced by the Council of Europe, human rights organizations, and others. Despite his initial apparent strong support of the trials, as the number of suspects has continued to grow and the public has increasingly become critical of the clear lack of due process, the prime minister appears to be less enthusiastic. For example, in early 2013 he was critical of the fact that hundreds of high-level military officers were imprisoned by these courts and many others had been held in pretrial detention for years, implying that the actions by the special prosecutors were lowering the morale of the armed forces and their ability to defend the country.

We are deeply concerned about the four trials detailed below and the cases of our colleagues connected with them. We have no firsthand knowledge of these trials, but they have been covered widely in the press, and we have discussed them with knowledgeable individuals of varying political persuasions. We have thus obtained a good deal of information about the trials and about the eight scientists and medical doctors and engineers whose cases now have been formally adopted by the International Human Rights Network of Academies and

⁷The article, *Brief Summary of Turkey’s Intelligence Judiciary Government Crisis*, by Murat Onur appeared in Foreign Policy Blog on February 26, 2012. The full text is available at: <http://foreignpolicyblogs.com/2012/02/26/summary-turkeys-intelligence-judiciary-government-democracy-crisis/> [June 2013].

Scholarly Societies. We have also obtained strong assurances from sources we deem reliable—as well as the assurances of the individuals themselves—that none of them has ever advocated or practiced violence or otherwise participated in any criminal activity.

The rest of this part of the report describes the trials and details the Network's cases in the context of each trial. Because all but one of these trials is still ongoing, there is new information about them as this report is going to press. Interested readers may contact the International Human Rights Network of Academies and Scholarly Societies for updated information on the individual cases described in this report.⁸

OPERATION SLEDGEHAMMER COUP TRIAL (BALYOZ SECURITY OPERATION PLAN)

In this section we first present information about the Operation Sledgehammer trial and then about the Network's case, engineer Faruk A. Yarman.

The Trial and Its Context

“Sledgehammer” refers to an alleged 2003 military plot to overthrow the ruling Justice and Development Party (AKP) that never came to fruition. Operation Sledgehammer came to public attention shortly after a suitcase reportedly containing more than 2,000 pages of documents, 19 compact discs (CDs), 10 audio cassettes, and handwritten notes was given to a *Taraf* newspaper journalist in January 2010.⁹ The journalist, Mehmet Baransu, published an article on January 20, 2010, about information contained in the suitcase, reporting it related to plans made in 2003 by the military for a coup to overthrow the AKP government. Mr. Baransu reportedly told the prosecution upon questioning that the suitcase had been given to him by a retired Army officer.

Shortly after Mr. Baransu handed the suitcase and its contents over to prosecutors, the police began raiding homes, mostly in the middle of the night, and were soon detaining hundreds of current and former high-ranking military officers. Several thousand pages of additional documents were later added to the indictments. Defense attorneys, when finally given access to the contents of the suitcase and the other documents, claimed they were either unrelated to the case or had been altered to such a degree as to make them unreliable and often ridiculous. However, their testimonies to that effect were not accepted by the courts, and they were not permitted to call expert witnesses in Turkey or from Europe and the United States, whose professional forensic reports could confirm their claims. Meanwhile, as arrests of members of the military began, there were demonstrations in support of

⁸www.nationalacademies.org/humanrights [July 2013].

⁹“*Taraf*,” which means “side” in Turkish, is a nationally distributed newspaper that has been in circulation for more than five years.

the trial and the AKP for what was seen by many as a needed demilitarization of the country. As the trial progressed, however, the wives and relatives of the detained officers marched to the mausoleum of Mustafa Kemal Atatürk, founder of secular Turkey, which is located in the center of Turkey's capital, Ankara. They carried enormous Turkish flags, demanding a fair trial. (Following the verdicts, coordinated silent protests—known as “silent screams”—against the trial as a politically motivated undertaking began across the country by friends and family members of the accused on Saturday afternoons.)

The trial began on December 16, 2010—two days after the High Board of Judges and Prosecutors removed the presiding judge, Zafer Baskurt, and replaced him with Judge Ömer Diken.¹⁰ The other judges, Ali Efendi Peksak and Murat Üründü, continued to serve. The 10th High Criminal Court of Istanbul heard the case in a newly built courthouse at Silivri prison. Two additional indictments were incorporated into the main trial so that by 2012 there were 365 defendants, all but two of whom were current or retired members of the military. The two nonmilitary defendants were Dr. Faruk A. Yarman, an engineer and businessman, whose case the Network has undertaken, and a female civil officer, Güllü Salkaya. The trial took 21 months.

The suspects were charged with “attempting to overthrow the government of Turkey with force and violence.” Much of the evidence presented to support the charges stemmed from a March 5-7, 2003, military seminar at the 1st Army Headquarters, which was attended by 54 of the accused. Those involved claimed that the seminar was about a war games scenario, in which hypothetical events are laid out and possible solutions discussed, an exercise commonly practiced by North Atlantic Treaty Organization (NATO) forces. The prosecution claimed they were plotting a coup d'état and requested sentences ranging from 15 to 20 years in prison. Of the 365 accused, 250 were held in detention for the duration of the trial, while the other suspects were released pending its outcome. There were 108 hearings over roughly a 2-year period. Midway through the hearings the court refused to allow the defense to present evidence that the defense said would prove that the prosecution had falsified documents that were used against the accused. In response, the defense staged a boycott of the court, but the sentences nevertheless were handed down on September 21, 2012.

Earlier in September, lawyers submitted a petition to the United Nations Working Group on Arbitrary Detention on behalf of the detained defendants in the Sledgehammer trial. The petition claimed that the defendants had been arbitrarily detained and denied their right to a fair trial and that their detention by the Turkish government was in violation of due process and “rights afforded by Turkish law, as well as the International Covenant on Civil and Political Rights and the U.N. Body of Principles Regarding Persons under Any Form of Detention or Imprisonment.”

¹⁰It is believed that Judge Başkurt was deemed not to be sufficiently sympathetic to the prosecution.

The petitioners requested that the working group determine that Turkey was holding the defendants in contravention of its international legal obligations and urged their immediate release and an “enforceable right of compensation for their arbitrary detention.”^{11,12} The Turkish court found 331 of the accused guilty of “conspiracy to commit treason;” 34 were acquitted. The 3 former commanders of the army, air force, and navy were initially sentenced to life in prison, but their sentences were subsequently reduced to 20 years, reportedly because they did not succeed in overthrowing the government. Others who were found guilty were given sentences ranging from 13 to 18 years. The court sentenced Dr. Yarman to 13 years in prison. The cases of those convicted in the Sledgehammer trial were sent to the Supreme Court of Appeals on February 27, 2013, where their sentences could either be confirmed by the court or a retrial could be ordered.

In July 2011, in protest of the Sledgehammer prosecutions and the flawed judicial process in which their fellow military officers found themselves, the chief of the armed forces and the heads of the army, navy, and air force resigned to demonstrate their opposition to the detentions of their fellow military officers. (Turkey’s army is the second largest in NATO.) In a recent television interview, Prime Minister Erdoğan reportedly complained about the sentences:¹³

There are currently 400 retired commissioned or noncommissioned officers. Most of them are detained. If the evidence is indisputable, give a verdict. If you consider hundreds of officers and the [former] chief of staff to be members of an illegal organization this would destroy the morale of the armed forces. How will these people be able to fight terrorism?

Subsequently, Prime Minister Erdoğan visited an elderly retired general, Ergin Saygun, in the hospital amid much speculation that Erdoğan wanted a rapprochement with the military. General Saygun, who had survived serious heart surgery, had earlier been sentenced to 18 years in prison in the Sledgehammer trial

¹¹A copy of the petition to the United Nations was provided to us by a relative of one of the defendants. It was prepared and submitted by Jared Genser and Chris Fletcher of Perseus Strategies. <http://www.perseus-strategies.com/team/>.

¹²While this report was in production, we learned that the Working Group on Arbitrary Detention of the U.N. Human Rights Council has responded to the petition submitted by Jared Genser and Chris Fletcher, of Perseus Strategies. The working group decided in favor of the 250 defendants who have been sentenced and requested the government of Turkey “to remedy the situation of these 250 persons in accordance with the provisions of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.” The defense lawyers have submitted the U.N. decision to the Supreme Court of Appeal in Turkey, (which has not yet delivered its opinion on the Sledgehammer appeal), and to Turkey’s Supreme Constitutional Court.

¹³“Gov’t, army concerned over soldiers under arrest,” *Hurriyet Daily News*, January 28, 2013. The full text of the article is available at www.hurriyetdailynews.com/PrintNews.aspx?PageID=383&NID=39962 [July 2013].

(see below). The court had suspended his sentence on February 7, two days before Erdoğan's visit and, coincidentally, the day the Network delegation arrived in Turkey.



Faruk Yarman
Photo courtesy of Yarman family

The Case of Faruk A. Yarman

As noted above, the only nonmilitary persons accused and convicted in the Sledgehammer coup plot trial were Dr. Faruk A. Yarman and a female secretary employed by the army. He is serving a 13-year sentence in Silivri prison, which is located some 50 miles from Istanbul, near the banks of the Sea of Marmara. The Network delegation visited him at the prison on February 14, for approximately one hour, first passing the immense courthouse that was built on the prison grounds to try the hundreds of accused in the Sledgehammer and Ergenekon trials. The courthouse has a capacity to seat some 740 people, including 189 defendants, but there have been times when as many as 1,000 people have wanted to attend a court session.¹⁴

We were left alone with Dr. Yarman in a large room with many tables and chairs. He wore civilian clothes and appeared to be in good health and full of energy, both mentally and physically, and he told us that was the case. Yarman brought with him various documents detailing his case that he had prepared for our delegation. Tea, coffee, and cookies were brought for us by a prison guard, who placed them on a table with a purple brocade tablecloth and a vase of artificial flowers. Yarman, who said that he is on friendly terms with the guards, told us he spends some of his time helping some of the guards who are taking courses with their homework, which makes him think of his young son, who now does his homework and everything else without his father. Clearly, the effects of his imprisonment on his extended family are of great concern to him. Yarman was especially pleased to meet delegation member Peter Diamond, who is professor emeritus at the Massachusetts Institute of Technology, which is Yarman's alma mater, as well as that of his brother, Professor Tolga Yarman.

Dr. Yarman was arrested on August 12, 2011, and he was sentenced on September 21, 2012, after he had spent more than a year in pretrial detention. Yarman told the delegation that he was kept in solitary confinement in Metris Prison for weeks in an apparent effort by the police to make him acknowledge names presented to him during interrogation, names of people listed on an Excel

¹⁴In December 2012 and February, March, and April 2013, trial attendees—most of whom were middle-aged and beyond—who were pushing to get into the courthouse for the Ergenekon trial, or were protesting outside—clashed with police, who used water hoses and tear gas to disperse them.

sheet who would presumably be employed in the bureaucracy should the so-called military coup plot be successful.

At the time of his arrest, Dr. Yarman, who holds both M.S. and Ph.D. degrees in nuclear engineering, was the general manager of a state-owned software and information technology defense company, Havelsan, which he joined in 1999 as deputy general manager. By the time of his arrest, Yarman had vastly increased the revenue and value of the company, one of two leading state-owned defense industry companies in Turkey (the other is Aselsan).

Dr. Yarman began his career in 1984 as an assistant professor of electrical engineering at Anatolian University. Since 1986 he has worked in the defense industry in several different capacities. Over the years, he has served on the boards of directors of several companies, including Defense Technology and Engineering Inc., Thompson Radar, and Thomson High Technology, Inc. He has published widely on energy policies, information technologies, defense electronics, and Turkish and international trends in the defense industry.

He has been active in the Union of Chambers of Industry, Trade, and Bourses of Turkey, served as the president of its Defense Industry Sector Council from 2001 to 2006, and is currently a member of the Computer Software and Defense Industry Council. Yarman also has served as the head and a member, respectively, of the Turkish delegation in the European Defense Industry Group and the NATO Industrial Advisory Group. He said that he had supported Prime Minister Erdoğan and had, in fact, written some of his speeches, but that the government has to be more transparent and democratic.

During our visit, Dr. Yarman presented his view of the case, which is summarized here. The Sledgehammer case was initiated by using unlawfully acquired digital data files and several CDs of questionable authenticity. Their origins are unknown and have not been traced to military computers. These files contained names of hundreds of military officers who allegedly “attempted to remove or prevent the functioning of the government through force and violence.” The CDs also included an unsigned list of so-called “potential cabinet ministers and bureaucrats” who allegedly could take office if the coup were successful. None of them was named as a suspect in the case.

Dr. Yarman said that the so-called evidence used against him consisted solely of two things in a single Excel file (Savunma.xls, “Defense Industry”) on a burnable CD. His name appeared in the first line as “Faruk Yarman: Defense Industry General Coordinator,” in the title, the username “fyarman,” and a date of January 9, 2003. The CD appears to have been used by an unknown person with a different username a month later, he said. The CD was not burned until March 2003.

Dr. Yarman explained that, despite some 25 expert reports from national and international computer forensics practitioners and firms rebutting the authenticity of the documents that were submitted by the defense, the court ignored them in issuing its verdict. One telling element of the rebuttal is that, although the “first-saved” and “last-saved” dates listed on the digital files were in 2002-2003, the fonts and attributes used were not available until MS Office 2007 was released,

proving that the files could not have been produced in 2002-2003. Moreover, the digital data files contain countless discrepancies and contradictions, such as names of organizations and places that did not even exist in 2008, let alone in 2003.

Dr. Yarman said that there is also a police report that claims he created the CD as the chief executive officer of Havelsan and that he created the list of civilians (357 of whom were employed by Havelsan) who supposedly would support the coup. Yet Yarman said that he did not become CEO of the company until four months after the creation date on the Excel sheet, when one-third of the 357 employees were no longer working at Havelsan. Moreover, many records in the file pages are also erroneous. On this point, Yarman said that the courts claimed “this is normal” and that either the records were later updated (despite that the evidence was on a non-rewritable CD) or the technical and physical inconsistencies were created “on purpose.” Yet, despite the fake names, incorrect dates of employment, inconsistencies, and expert reports that attested to the fabrication of the CD and Excel file, all of the objections made by the defense and their requests that independent experts be called to authenticate the documents were rejected or denied by the court. The court also refused to allow the defense to call key witnesses. In addition, the court ruled to skip the “assessment of evidence phase” of the trial, and it considered the defendants’ choice to use their right to remain silent as an admission of guilt.

Dr. Yarman said that in the early phases of the prosecution, the AKP party and most of the pro-government press, along with some of the international press, described the trial as an effort to demilitarize and democratize and normalize Turkey. It was thought that this judicial process would help curtail the military’s hold on politics and Turkey would be relieved of its historical “military tutelage.”

However, Dr. Yarman said, the AKP government has allowed the Police Department, as well as the “high criminal courts,” (Specifically Authorized Heavy Penal Courts) with special powers, to be politicized by hard-line Islamic factions. As noted in Part I, although these courts were suspended in 2012, all pending and ongoing trials (such as Sledgehammer and Ergenekon) were continued. Moreover, he said, in 2010 a constitutional referendum was introduced that revised rules of appointment for Turkey’s High Council of Judges and Prosecutors, (the only authority that can hear charges brought against judges and attorneys), of which the minister of justice remains president. The U.N. Special Rapporteur on the independence of judges and lawyers wrote in her 2012 report on Turkey that “despite improvements in the High Council of Judges and Prosecutors, the current position and functions of the minister of justice within the High Council may jeopardize the full respect of the independence and impartiality of the judiciary and the perception thereof” (see fn. 1 above).¹⁵

¹⁵Of course, if the judiciary is not impartial, its greater independence can be unjustly used against particular defendants.

These steps, Dr. Yarman said, prepared the way for government-appointed courts and prosecutors to defy international human rights standards for a free and fair trial. He said that at one point in the trial the prosecution declared: “We, the prosecution, charge the accused with an offence; it is incumbent on the accused to prove his or her innocence.” Yarman said that the Sledgehammer case has little to do with justice or advancing Turkish democracy and everything to do with settling old scores and that the trials were intrinsically political proceedings.

During the Network’s mission, a number of individuals with whom we spoke said that while, initially, they supported the Sledgehammer and Ergenekon trials and are certain that among the accused there are some criminals who deserve to be brought to justice for specific crimes, the motivation for the trials now appears to have been political—not only to weaken the power of the military, but to inhibit or intimidate critics of the government and punish individuals who peacefully expressed or implemented secularist beliefs, making the trials a mockery of justice.

Dr. Yarman said that, like the Ergenekon trial, the Sledgehammer trial was one of a number of high-profile political trials by which the government has been using the courts to silence critics and political opponents, as thousands of people, including journalists, academicians, lawyers, politicians, and officers, have been detained on remand, pending verdicts in trials that human rights groups say raise questions about Turkey’s commitment to justice, freedom and democracy.

As we left Dr. Yarman, he said that, with regard to Turkey, we should “tell Western governments to stick to their values.”

THE ERGENEKON TRIAL

In this section we first present information about the Ergenekon trial and then about the Network’s five cases: Mehmet Haberal, transplant surgeon, professor, and university rector; Fatih Hilmioğlu, gastroenterologist and former university rector; Riza Ferit Bernay, pediatric surgeon and former founding rector of several universities; Mustafa Abbas Yurtkuran, medical doctor and former university rector; and Kemal Alemdaroğlu, general surgeon, professor, and former university rector.^{16,17}

The Trial and Its Context

The Ergenekon investigation began in June 2007 when 27 hand grenades and explosives were located in the Istanbul home of a retired noncommissioned

¹⁶A sixth person, Kemal Gürüz, is charged in both the Ergenekon trial and the Postmodern Coup trial. His case is discussed in the section below on the latter trial.

¹⁷See fn. 2 above.

Turkish military officer.¹⁸ According to Human Rights Watch:¹⁹ “Evidence suggests that the grenades were similar to those used in attacks on the Istanbul offices of the daily newspaper, *Cumhuriyet*, in May 2006 and the armed attack on judges at the Council of State in April 2006.” As the investigation progressed, more evidence was produced that police apparently believed indicated plans for additional attacks and a large conspiracy.

The chief prosecutor in the case was Zekeriya Öz. According to in-depth analysis of the investigation from the Gloria Center:²⁰

Early on in the investigation, Öz applied to Police Headquarters in Istanbul for details of a string of assassinations, racist murders, terrorist attacks, and even protest marches going back to 2002. Two of those [subsequently] detained were retired military officers widely regarded as having been involved in the death squads that had terrorized southeast Turkey in the late 1980’s and early 1990’s. Their arrest triggered excited speculation in the Turkish media that, freed from the threat of a military intervention, the JDP (Justice and Development Party) [referred to above as AKP] was finally going to bring to justice those responsible for one of the darkest chapters in modern Turkish history. However, it soon became evident that something else was going on, although initially it was unclear whether it was politically motivated or simple paranoia.

Several hundred people subsequently were detained during the investigation, including members of parliament of the opposition parties, senior retired military officers, lawyers, academics, media personnel, and members of secularist civil society groups. Among them were the Network’s cases, discussed below. According to the European Commission report cited above (see fn. 5), the government has contributed to a climate of intimidation and self-censorship through its handling of the Ergenekon case.

Concerns persist over the rights of the defense, lengthy pretrial detention, and excessively long and catch-all indictments, leading to significantly enhanced public scrutiny of the legitimacy of these trials. Although initially some of the prosecutions²¹ were thought to be justified, all of the cases have been overshadowed

¹⁸The name given to an alleged group of would-be Turkish coup plotters or the “deep state.”

¹⁹The full statement is available at: <http://www.hrw.org/news/2008/10/17/turkey-conspiracy-trial-should-probe-military-s-role> [April 2013].

²⁰The article by Gareth Jenkins, *Ergenekon, Sledgehammer, and the Politics of Turkish Justice: Conspiracies and Coincidences*, was published on August 29, 2011. The full report is available at: <http://www.gloria-center.org/2011/08/ergenekon-sledgehammer-and-the-politics-of-turkish-justice-conspiracies-and-coincidences/> [June 2013].

²¹Ali Koç, “Is the Ergenekon Case an Opportunity or a Handicap?,” *Heinrich-Böll Stiftung*. The full text of this article is available at: <http://www.tr.boell.org/web/51-1401.html> [July 2013].

owed by real concerns about their wide scope, the sole focus on potential harm to the AKP, and the shortcomings in judicial proceedings. Moreover, they tend to contribute to the polarization of Turkish politics.

As Ali Koç, a lawyer registered at the Bar of Izmir, wrote in an informed analysis titled “Is the Ergenekon Case an Opportunity or a Handicap?”:

At the beginning of the Ergenekon investigation, a positive and optimistic perception and mood were prevalent in many circles. Initially, it was hoped that the investigation would cause the dissolution of illegal structures within the Turkish State, yet formed with the state’s knowledge, supervision and control; that it would illuminate many past dark events and that responsible individuals would be punished, and a genuine and satisfactory confrontation would occur. As such, many people agreed that the Ergenekon investigation and proceedings offered an opportunity for building an open, just, liberal, pluralist and democratic society under the rule of law.

However, the police methods, judicial/legal practice pursued in the ongoing process, and investigations and trials eroded the initial positive air. Exclusion of certain individuals and events, which should have been included in the investigation and trial processes as well as inclusion of certain individuals or events, which are hard to consider as falling within the scope of Ergenekon, and the debate whether means and methods employed during investigations and trials conformed to national and international law, create a dilemma as to whether the Ergenekon Case is an opportunity or a handicap.

In March 2011, three of the Ergenekon prosecutors, including the lead prosecutor, Zekeriya Öz, were removed from the trial and given other duties by the High Council of Judges and Prosecutors. According to *Hürriyet Daily News*:²² “[m]any saw [this development regarding Öz] . . . as a way to depose him from his post rather than a simple reassignment.” Although he was promoted to deputy chief public prosecutor, his special authority was removed, thus ending his involvement in the Ergenekon investigation. This development followed his arrests of two internationally respected Turkish journalists, Nedim Şener and Ahmet Şik, leading to widespread international criticism and speculation in the press that Öz had gone too far.

As the trial moved forward, the judicial proceedings continued to give short shrift to the rights of the defendants and allowed for very little transparency in the cases. In all of the trials of special concern to the delegation, investigations have tended to expand rapidly, and the courts have accepted evidence almost exclusively collected by the police or supplied by secret witnesses without

²²The article is available at: <http://www.hurriyetdailynews.com/default.aspx?pageid=438&n=gov8217t-furious-over-oz8217s-reassignment-2011-03-30> [July 2013].

allowing opportunity for rebuttal. Also, several thorough 2012 investigative reports mentioned the necessity for defense lawyers and public prosecutors to be viewed and treated by judges as equal counterparts and for judges to be—and to be perceived as—independent, impartial, and autonomous.

The Ergenekon trial has 275 defendants, 66 of whom have been imprisoned for more than 4 years pending a verdict. Three other defendants died while in detention, awaiting trial. This trial is being held, as was Sledgehammer, before a special authority court—the 13th High Criminal Court. In this case the indictments are thousands of pages long.

When the court convened on February 18, 2013, to hear the 276th case, according to *Hürriyet Daily News*, the court rejected the suspects' demands and the court postponed the case until March 11. The newspaper reported that the adjournment was necessitated when “more than a thousand people, mostly supporters of the main opposition Republican People's Party (CHP), clashed with the gendarmerie forces to break the security blockages one hundred meters away from the court.”²³ The gendarmerie forces, according to *Hürriyet*, used pepper gas and pressurized water against the crowd, the majority of whom were older than middle-aged, it said. The court was forced to recess on a number of occasions that week because of disruptions by the defense, the accused, and trial observers.

On Monday, March 18, 2013, three specially appointed prosecutors, Mehmet Ali Pekküzel, Nihat Taşkin, and Murat Dalkuş, spent 5 hours reading a 2,271-page opinion. Mehmet Ali Pekküzel, the lead prosecutor, then claimed that the existence of Ergenekon had been proved. Mr. Pekküzel asked for sentences of aggravated life in prison (without the possibility of parole) for 67 of the defendants, including the individuals whose cases are of particular relevance to the Network's mandate—5 medical doctors who are former university rectors (presidents) and the education administrator who was trained as a chemist. Mr. Pekküzel also requested that 96 of the accused be given 15-year sentences and that charges against the 3 members of the military who had died in detention be dropped. Not one of the accused admitted guilt. The prosecutors asked the court to release 6 of the detainees and to arrest 20 individuals who had previously been released pending trial. The court rejected these requests, and the presiding judge, Hasan Hüseyin Özese, adjourned the trial until April 8, 2013, when the accused began the process of presenting their final defenses. A number of subsequent hearings were interrupted, delayed, and adjourned when thousands of demonstrators (as many as 10,000 according to some news accounts and “tens of thousands” according to others) pulled down police barriers and clashed with police in front of the Silivri courthouse.

²³The article is available at: <http://www.hurriyetdailynews.com/ergenekon-coup-plot-trial-delayed-once-again.aspx?PageID=238&NID=41345&NewsCatID=338> [April 2013].



The Case of Mehmet Haberal

Mehmet Haberal is an internationally known professor and transplant surgeon, who has been in detention for more than four years. The Network delegation met with him at Silivri prison for approximately one hour. (We met in the same room in which we would meet Dr. Yarman an hour later.) Although Dr. Haberal, who is 69 years old, looked pale, tired, and perplexed, he was wearing a fine suit, starched white shirt and tie, and he had arranged booklets, photos, letters, CDs, and documents about his many accomplishments on a large table. Before we left, he gave us this information in specially prepared purple document boxes.²⁴

Earlier in the week we met with Dr. Haberal's brother, Dr. Ali Haberal, a professor and gynecologist, in Ankara at Başkent University Hospital. He told us (through an informal interpreter who is a relative of another prisoner) that "Mehmet continues to do some of his hospital work and research from prison." Mehmet Haberal described many visits and letters of support that he has received during his four-year prison stay. He said that this proof of his international friendships gives his spirits a boost and temporarily lifts him out of the indignities of prison life, which are clearly difficult for him. We were served tea, coffee, and cookies by the prison guards, who treated Dr. Haberal with deference. Dr. Haberal said that there are three cells in his unit and that two colonels are in the other two cells. He said that there are two cameras in the cell, which makes him uncomfortable.

In June 2011, despite being detained in prison at the time, Dr. Haberal was elected to the Turkish Parliament as a deputy for the CHP (Cumhuriyet Halk Partisi, Republican People's Party), an opposition party to the ruling AKP. Parliamentary elections in Turkey are held every four years. Dr. Haberal's lawyers requested that he and several other elected lawmakers who were also detained

²⁴We note here only a few highlights from Dr. Haberal's long and distinguished career. In the 1970s and 1980s he performed the first living-related kidney transplantation in Turkey, the first cadaver-kidney transplantation, and the first pediatric segmental living-related liver transplantation. In the 1980s and 1990s he performed the first adult segmental living-related liver transplantation in the world, as well as the first combined liver-kidney transplantation from a living-related donor. By December 31, 2009, he had performed 1,832 renal and 344 liver transplantations.

Dr. Haberal established the first hemodialysis center in Ankara, and he conducted unprecedented research trials on organ cold ischemia time. He established the Middle East Dialysis and Organ Transplantation Foundation and founded and became president of the Middle East Society for Organ Transplantation, and he established Başkent University. From 2006-2008 he served as president of the International Society for Burn Injuries.

and elected to parliament be permitted to take their seats, but the Istanbul 13th High Criminal Court reportedly ruled not to release Dr. Haberal, claiming that he might try to flee the country or obscure evidence. It should be noted, however, that the presiding judge, Köksal Şengün, objected to the decision. Shortly thereafter, the Supreme Board of Judges and Prosecutors stripped Judge Şengün of his special authorities and appointed him to another court.

According to a July 13, 2011, account in *Today's Zaman* (Turkey's largest circulation newspaper), Judge Şengün was outraged by the decision to remove him from the court and described it as "intimidation" in a television interview. He said that he was "considering retiring" because the decision to transfer him was an insult to his job.²⁵

Although jail sentences of more than one year make prisoners ineligible to serve in parliament, Dr. Haberal had not been tried or sentenced. According to Article 83 of the Turkish Constitution:

A deputy who is alleged to have committed an offence before or after the election shall not be arrested, interrogated, detained, or tried unless the Assembly decides otherwise. This provision shall not apply in cases where a member is caught in the act of committing a crime punishable by a heavy penalty and, *in cases subject to Article 14 of the Constitution* [emphasis added], an investigation has been initiated before the election. However, in such situations the competent authority shall notify the Turkish Grand National Assembly immediately and directly.

Because Dr. Haberal had already been accused of being involved in terrorist activities, he was not permitted to take his parliamentary seat.

Dr. Haberal has been in prison since his arrest on April 17, 2009, along with several other academics. To our knowledge, no credible evidence has been presented to date to support the serious charges brought against him. Dr. Haberal gave each of us a book he wrote detailing his verbal deposition and cross-examination at the court.²⁶ According to the book, he was behind bars for 357 days before being called to testify. With regard to this time, he asked the court: "In these 357 or 358 days, how many livers could Mehmet Haberal have transplanted? How many Kidneys? How many congresses could he have attended? How many scientific articles could he have published? Did we take into account any of this?"

²⁵The article is available at: <http://www.todayszaman.com/news-250390-ergenekon-judge-penalized-appointed-to-bolu.html> [May 2013].

²⁶The book, *What Is My Crime? Oral Silivri Deposition*, was published by Can Matermatik Yayinlari in 2011; it is available at: http://www.mehmethaberal.com.tr/en/what_is_my_crime.pdf [April 2013].

Because of his fragile health and repeated hospitalizations (see below), Dr. Haberal gave his deposition by video conference from Istanbul University's Cardiology Institute to the courtroom in Silivri Prison, and an interlocutory injunction had been passed to allow his deposition to be divided into segments lasting a maximum of one hour each. During the deposition, the judge read a list of accusations in the indictment, concluding with a request that Dr. Haberal be punished for the crimes of "guilty of acting as head of the Ergenekon Armed Terrorist Organization" and "guilty of attempting to overthrow the Grand National Assembly of the Republic of Turkey and rendering its role fully or partially incapacitated, with the use of violence and coercion," and "guilty of attempting to topple the executive body of the Republic of Turkey with the use of violence and coercion" (according to Dr. Haberal's book).

On the day that Dr. Haberal was detained and sent to prison, he suffered a heart spasm and was transferred to a hospital for a medical exam. When the doctors confirmed that he suffers from cardiac arrhythmia, he was transferred to Istanbul University School of Medicine Hospital and treated in the intensive care unit for 12 days. He was given an angiography and diagnosed with severe anxiety and depression, in addition to cardiac arrhythmia. He was transferred to prison on March 12, 2011. His heart stopped twice on March 13, 2011, and he has been hospitalized several times since then for heart-related problems. He said that during the March 13 episode, his heart monitor plunged to 200—which is near death. He told us that he continues to have stress-related cardiac attacks and is taking strong medicines. The Ministry of Justice has examined the medical report but said he should remain in prison.

According to the Atatürk Society U.K., in early November 2010, the Turkish Supreme Court's Civil General Council approved a decision by the Supreme Court's Fourth Legal Division that ordered the 9 judges in the Ergenekon trial to pay compensation of TL 1,500 (approximately U.S. \$1,000 at that time) to Dr. Haberal after the judges refused to release him from prison, despite his poor health.²⁷ According to the Turkish newspaper *Today's Zaman* of June 19, 2010, when Prime Minister Erdoğan addressed the members of the Supreme Court of Appeals who made the ruling, he said that "there could only be an ideological reason behind such a ruling," and reportedly added that, because the lower court had not yet ruled on the defendant, the Supreme Court judges did not have the right to make such a ruling, that it had no basis in law, and that it was a violation of the Constitution.²⁸ Shortly thereafter, it was announced that the Turkish government passed a bill (introduced by the AKP) banning lawsuits against public

²⁷ Available at: <http://ataturksocietyuk.com/2010/11/05/prof-haberal-wins-compensation-from-ergenekon-case-judges/> [May 2013].

²⁸ The full article is available at: http://www.todayszaman.com/newsDetail_getNewsById.action;jsessionid=1C8641C8E15477A025FD1AFEA08CF446?newsId=213556 [June 2013].

employees, including judges and prosecutors, thus voiding the compensation that Dr. Haberal was to have received.

We were aware that both Dr. Haberal's mother and father died while he has been incarcerated and that he had been refused permission to see them one last time before they died. He did not talk with us about his parents, and we thought it better to refrain from giving him our condolences so as not to remind him of the sad situation.

As Dr. Haberal hugged us and prepared to return to his cell, he said, "I need justice and freedom. My patients need me. Tell me what I did." In March 2013, Dr. Haberal wrote to us:

Throughout my life, I have aspired to serve my country as a scientist and my efforts and achievements on behalf of my country and my people are clear for all to see. It is therefore a great shame upon justice and law that I have been portrayed as the director of a terror organization in the so-called dictum by the Counsel for the Prosecution.

I reject every sentence and every word in this dictum prepared and presented by the Counsel for the prosecution based on fabricated evidence and abstract accusations and imaginary scenarios of witnesses previously convicted of shameful crimes, and with no regard for the physical evidence, official documents, or the testimonies of impartial witnesses.

It must never be forgotten that the Truth is stubborn. Those that do not or choose not to see it will nevertheless one day have to acknowledge it. I present this to my valued people for their consideration.

On March 18, 2013, lead prosecutor Pekgüzel asked that Dr. Haberal be sentenced to life in prison. On March 19, an article in *Today's Zaman* said that, in a final opinion by Mr. Pekgüzel to the court, he suggested that the accused were intent on reorganizing Turkish politics before the AKP came to power in 2002, "and among its infamous activities to this end was an attempt to remove a former prime minister from power through a false medical plot."²⁹ In his 2,271-page opinion, the prosecutor accused Dr. Haberal of being involved in a 2002 plot to cause the prime minister, Bülent Ecevit, to be removed from office by preparing a fake medical report while he underwent surgery at Dr. Haberal's hospital.

In response, Dr. Haberal was reported to have said in his defense testimony:³⁰

²⁹For the full text of the article, titled "Ergenekon sought to reorganize politics over past several years," see: <http://www.todayszaman.com/news-310176-ergenekon-sought-to-reorganize-politics-over-past-several-years.html> [June 2013].

³⁰For the full text of the article in *Today's Zaman* of March 17, see: <http://www.todayszaman.com/news-315756-haberal-denies-medical-plot-against-former-pm-ecevit.html>.

Ecevit underwent a successful operation at our hospital, and he was treated. I was not part of a team of surgeons that treated the [former] prime minister. Ecevit was able to hold meetings with [political party] leaders as his treatment continued. We treated him, and he was able to stay in office as the prime minister for an extra six months and he lived for an extra four years after the treatment.

A verdict in the trial is scheduled for August 5, 2013. A Turkish lawyer who visited Dr. Haberal in May 2013 told us that he found Dr. Haberal to be feeling “hopeless.”



The Case of Fatih Hilmioğlu

Fatih Hilmioğlu is a medical doctor with a specialization in gastroenterology. He was a student of Dr. Haberal, and he is being held in another prison in the same complex.³¹ He has been held in pretrial detention since 2009. Dr. Hilmioğlu spent several years in the 1980s working as a doctor of internal medicine in Hoya, Germany, and at the University Hospital Essen in Western Germany. He later worked as a gastroenterologist in Malatya for 12 years, eventually becoming the head of surgery and then dean of the hospital there. He subsequently became rector of İnönü University in Turkey, a position he held for eight years.³² At the time of his arrest, Dr. Hilmioğlu had been working with Dr. Haberal at Başkent University Hospital for five months. He and Dr. Haberal were both arrested in April 2009.

We met with Dr. Hilmioğlu in a large room in which several guards sat talking at a table at the far end. He was wearing civilian clothes, including a puffy vest, and carrying a notebook filled with papers. We all sat at a long table. Coffee and tea were brought, and he began to tell us of his plight and that of others in the prison.

³¹Before being driven to visit Dr. Hilmioğlu, the prison director invited us for coffee in his office and introduced us to the director of the prison in which Dr. Hilmioğlu is held. We had requested a meeting with that prison’s only medical doctor, a general practitioner, but he was not at the prison that day. We were given permission to visit the infirmary but, since the doctor was absent and because the various security checks took longer than we had expected, we omitted the visit.

³²Turkish university rectors are elected in a three-phase system. First, faculty members vote for candidates. The six candidates who receive the highest votes are then submitted to YÖK, which selects three candidates (not necessarily the top three). Those candidates are then submitted to the president of the country, Abdullah Gül, who makes the final selection.

Dr. Hilmioğlu explained how, during his 16 years working in positions of authority in the hospital in Malatya, he sent surgeons to the United States for training and built a liver transplant center in Malatya because many young people were dying of cirrhosis of the liver. Today, he said, it is the second largest center in the world. He noted the irony of his having saved hundreds of lives, yet the government is accusing him of being a terrorist and keeping him behind bars for years in pretrial detention. He, like all of the detainees whom we met, asked “Why am I here?”

Dr. Hilmioğlu is suffering from liver disease, most likely a result of having treated many patients with the Hepatitis B virus. He has requested release on health grounds so that he can be treated at the university hospital; his requests have been denied. He noted that all of the stresses of being in prison have negative health effects. Though clearly in anguish, he told us about the death of his 22-year-old son, Emir, in an automobile accident in October 2012. Emir was studying to be a lawyer at the time of the accident. Dr. Hilmioğlu implied that the accident may have occurred because his son was so distressed about his father’s imprisonment and poor health. While we were in Ankara we had requested to talk to Mrs. Hilmioğlu, but she was too ill to meet with us. Their remaining son works in Ireland.

Dr. Hilmioğlu repeatedly expressed concern for others in the prison who, he said, are even more ill than he is, including some who “have no time left” and some who have died for lack of proper medical care. Some have brain and renal cancer, he said. Some are suffering from diabetes but have no insulin, and no diabetic diet is offered at the prison. He noted that the most important human right is the right to live. Yet, he said, “the courts are leaving these people here to die. They are killers. They are killers!”

Dr. Hilmioğlu said that the government has created an imaginary terrorist organization, yet it claims that the trials are being held in the name of democracy. Clearly angry, he said he not only blames the government for the trials, but also Europe and the United States. “You are also guilty,” he said. He spoke repeatedly of his staunch support of Atatürk and what he did to modernize Turkey, comparing Turkey and its secular traditions to the situation in other countries in the Middle East with Islamist governments, where religion plays a significant role in public life. He told us that he made numerous enemies while rector of İnönü University because he strictly enforced his secularist beliefs.

As he got up from the table, he admonished us quite harshly, saying, “Please do not forget, we are here because of the false policies of the United States and Europe. Therefore, you are responsible.” On March 13, 2013, lead prosecutor Pekküznel requested that Dr. Hilmioğlu be sentenced to life in prison.



The Case of Rıza Ferit Bernay

Rıza Bernay is a pediatric surgeon and founding rector of several universities in Turkey. He was detained by police in the Ergenekon investigation, along with several dozen other suspects, on April 13, 2009. He was in the third wave of detentions and arrests in an 18-month period. Four days after his arrest, Dr. Bernay and seven others (including several academics) were formally arrested, while thirty-two were released. He was detained without charge for almost four months, when he and the others were charged with attempting to overthrow the current government by military coup. He was released the following day pending the outcome of

the trial. We did not meet with him during our mission to Turkey.

He was subsequently charged under 2 more indictments, which were merged by order of the Istanbul 13th High Court to form the second Ergenekon trial with a total of 108 codefendants. The trial began in September 2009; just over 3-1/2 years later, in March 2013, lead prosecutor Pekgüzel requested that Dr. Bernay be sentenced to life in prison. The court decided against placing him in detention but has banned him from traveling outside the country. The court reconvened on April 8 to allow each defendant to give a final defense.

According to Dr. Bernay, the evidence presented against him by the prosecution included the fact that the rectors and a few other defendants had his telephone number. "This information," he said, "was presented as evidence of an 'organizational connection'." Although it appears that Dr. Bernay's telephone was tapped for an extended period of time, the prosecution reportedly was unable to produce a single conversation that could be construed as criminal activity.

Dr. Bernay told us in a detailed letter that another argument purportedly demonstrating guilt presented by the prosecution was that he attended various public mass meetings. Those meetings included a demonstration of almost 50,000 people who were opposing a new government law related to universities and one supporting republic values in October 2003 in Ankara. The cited meetings also included a panel discussion related to the Caliphate (hilafet) and the secular educational system, in Ankara in March 2004, with an audience of approximately 1,000 people. Dr. Bernay said that he neither organized nor participated as a panelist in any of these events.

Dr. Bernay said he was also accused by the prosecution because he attended a dinner in September 2003 at the gendarmerie headquarters, along with eight other university rectors, regarding a proposed change by the government in the Law of Higher Education that was opposed by university administrators. In response to a letter from the Network's delegation for information about the accusations against him, Dr. Bernay wrote to us:

During that period, the Turkish army was part of the Higher Educational Council because 22 higher education schools were run by the army. The prosecution claimed that this dinner was a "terrorist organization activity." However, there are no similar accusations against other participants at the dinner, except for three rectors and one general.

Apart from the above-mentioned accusations, the prosecution claims that the defendants planned to organize students to revolt against the government of Turkey. Responding to this accusation, Dr. Bernay wrote:³³

Throughout my eight years as rector, our university experienced its most peaceful period. For the first time we had rock music festivals, dance festivals, and numerous sporting events. As a person who believes in democracy with all his heart, I supported student elections and, for the first time in the university's history, the students had a chance to be represented through elections and those who were elected then took part in university management. I also supported the student newspaper so that they could have their own voice regarding university matters. We rarely had student protests and, on those rare occasions when we did, I personally went to the frontlines and convinced the student leaders to resolve matters peacefully. This was all described in press accounts. Yet, despite of all this information, the prosecution still claims that I intended to rouse students to revolt. Apart from the above information, no other so called "evidence," was produced against me.

On another note, in 2009, after I was arrested and detained for four months, the prosecution presented the court with the indictment. When the indictment was accepted, the court decided that there was insufficient evidence against me and ruled that I should remain at liberty during the course of the trial. Ever since my release I have worked as a pediatric surgery academician at Ondokuzmayıs University. I have traveled abroad some ten times over the course of the last four years to attend congresses and to visit family. Still, at the last trial, the prosecution requested my arrest, claiming that I

³³This information was sent to the Network by Dr. Bernay in an email message following our mission. It was written in response to our questions and requests for his personal perspectives.

pose a flight risk, (which the court refused) and it asked that I be sentenced to aggravated life in prison.

Dr. Bernay studied and worked in pediatric surgery throughout the 1980s and 1990s. In 2000 he was appointed rector of 19 Mayıs University by former Turkish President Ahmet Necdet Sezer and served two terms, until 2008. Simultaneously, the president of Turkey's Council of Higher Education appointed him to be founding rector of Amasya, Ordu, and Sinop universities, which were located in different cities, but whose faculties were affiliated with Mayıs University. Dr. Bernay was asked to convert these three institutions into separate universities, which he did. He then arranged for the election of a rector at each university to replace him.

At the time of his arrest, Dr. Bernay was chair of the Department of Pediatric Surgery at the Mayıs University's Faculty of Medicine. He served on both the executive board of the Turkish Association of Pediatric Surgeons and the advisory board of the *Journal of Pediatric Surgery*. He is also a member of the British Association of Pediatric Surgeons.

Although we were not in direct personal contact with Dr. Bernay during the mission to Turkey, we have corresponded with him, and he has lamented that "as a scientist and surgeon who has never been involved in violence or terrorism, I must say that we have been going through times of sorrow." He added that, "as a person who has devoted his life to protect human life, and who has served his country hoping to have a bright, democratic Turkey, lead by science, this situation is very painful to go through."

On March 18, 2013, lead prosecutor Pekgüzel requested that Dr. Bernay be sentenced to life in prison.



The Case of Mustafa Abbas Yurtkuran

Mustafa Abbas Yurtkuran is a medical doctor and former rector of Uludağ University. Although we did not meet with him during the mission, while in Turkey we obtained contact information so that we could correspond with him. He is accused of belonging to an illegal armed terrorist organization and attempting to overthrow the government and the National Assembly or attempting to prevent those organizations from performing their duties. Dr. Yurtkuran was elected to serve two terms (the maximum allowable) as rector of Uludağ University, from 2000 to 2008. While serving as rector, he established international academic and service standards throughout the university by attaining accreditation through reputable international organizations. These accreditations included the European University Association's Institutional Evalu-

ation, which described Uludağ University as “best in capacity for change,” the ISO9001 Quality Management System Certificate, the European Union of Medical Specialists accreditation of several departments at the Medical Faculty, and the Joint Commission International accreditation of the Medical Faculty.

Dr. Yurtkuran is a distinguished scientist who has published 80 refereed articles, 2 books, and numerous conference papers. He is currently serving on the board of trustees of Işık University in Istanbul. In addition to his professional achievements, he has been recognized with many nonprofessional awards, one of which is the 2004 National Award for Contribution to Law by the Bursa Bar, in recognition of his work “enhancing and strengthening the contemporary, secular, and social constitutional state and the cultural environment.” He is also a member of ski, sports, and wildlife organizations. According to Dr. Yurtkuran, the Ergenekon trial and the manner by which it has been conducted, from a legal standpoint, is a fiasco.³⁴

Academics and journalists who posed no flight risk have been imprisoned for years, many suffering from new or preexisting health conditions, aggravated by the poorly-managed trial. I personally was receiving radiotherapy before my arrest and had to undergo heart surgery while still in prison. While unfortunate, this event allowed me to return to my family, home, and work.

During the trial, a hypothetical network of relationships has been constructed, through fabricated and/or manipulated “evidence.” This supposed “network” of relationships, with no apparent leader, purportedly was established to take down the government, but the claim is unfounded. . . .

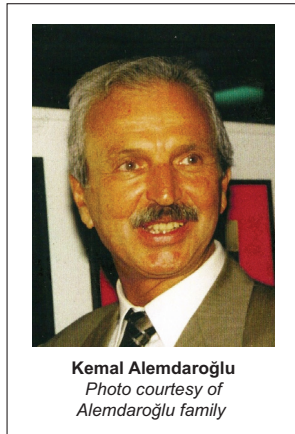
[U]nrelated cases have been merged into a gargantuan, intentionally unmanageable case, with the prosecution’s claim stretching to 2,271 pages (written in single-spaced lines), and “evidence” to another 25,000 pages. Approximately 40 secret witnesses have been allowed to testify against academics and journalists, while no witnesses who could exonerate them have been allowed to testify. These secret witnesses are far from credible; some are also defendants in other cases. The courthouse has been built adjacent to the Silivri Prison, practically incriminating anyone who is already detained there. Judges with integrity, who have voiced their intention to release the academics and journalists, have been coerced to resign or have been relocated against their will.

Media organizations have been silenced under the heavy burden of tax evasion charges—charges have been dropped following a pro-government stance, and the resignation of prominent journalists. Specifically, my personal phone conversations, some obtained without warrant, have been tak-

³⁴Dr. Yurtkuran wrote to the Network at some length after we established contact on returning from the mission.

en out of context, and new meanings attributed to better serve the case against me. Reality has been distorted to facetious dimensions. No level of logic can explain the charges, yet the case has been dragging on for more than four and a half years. Amidst this chaos, I am trying to lead my pre-trial life, contributing to my University as a Professor and medical professional. I am married to Merih Yurtkuran, an academic, and together we have raised two children who are also academics.

On March 18, 2013, lead prosecutor Mehmet Ali Pekgüzel requested that Dr. Yurtkuran be sentenced to life in prison.



The Case of Kemal Alemdaroğlu

Kemal Alemdaroğlu, a former rector of the University of Istanbul who is known as a liberal secularist, is a medical doctor and a certified general surgeon. He has been a professor of surgery since 1978. Our mission delegation was not able to contact him during its time in Turkey. Since our return, at his suggestion, we have spoken and corresponded with his wife, Duygu Alemdaroğlu, because she is fluent in English.

According to his wife, Dr. Alemdaroğlu is accused of opposing the Turkish government and helping to support a revolution against it. “As to any solid proof,” she wrote, “there is none. Rather, any participating in a civil rights organization or any public speech is being stated as a crime. He is also being accused on the basis of 13 phone calls, 10 of which are with people he does not know.” She said: “That is all the accusations against him.” She went on to say that:

Like many other of the people accused in this and the other trials, Dr. Alemdaroğlu has been a university rector: he held that position at the University of Istanbul for the maximum allowable two terms in 1997-2005. He has also served as chief of the Department of Surgery, vice dean of the faculty, a faculty board member, as well as chief consultant to the rector of the university, and a university board member as the representative of medical sciences.

In his professional field, he has been the director of the Center of Surgical Sciences, he is a member of The Turkish Medical Society and the National Society of Surgery, and he has been president of the Society of Turkish Colon and Rectum Surgeons since the late 1990s. He is an honorary president and fellow of the American College of Surgeons and served as governor in 2006-2008. He has also been the Turkish delegate to the

International Society of Surgery since the early 2000s. He has been a visiting professor at the Giessen Medical Faculty in Germany, the University of California at Los Angeles, the Cleveland Hospital, New York Hospital, Creighton University in the United States, and a special lecturer at the National Surgical Congress of Egypt.

He has published five books and more than 100 scholarly articles in national and international journals. He has received more than 70 national and international medical and social honors and awards as a result of his contributions and dedication to the development of culture and science, including the Erich Frank Award from Ludwig Maximilian University of Munich, the Âbdi Ipekci Peace and Friendship Award from Greece, and an honorary doctorate from Ovidius University and Baku Medical Faculty.

On March 18, 2013, lead prosecutor Mehmet Ali Pekgüzel requested that Dr. Alemdarođlu be sentenced to life in prison.

THE POSTMODERN COUP TRIAL

In this section we first present information about the “postmodern coup” trial and then about the Network’s case, Kemal Gürüz, who has a degree in chemical engineering and was a university rector, but dedicated most of his life to high level posts in education administration.³⁵

The Trial and Its Context

The Postmodern Coup trial (sometimes referred to as the “February 28 Process”) derives its name from an unarmed military intervention which originated on February 28, 1997, during a nine-hour meeting of the military-dominated National Security Council (Milli Güvenlik Kurulu, MGK). This meeting was widely seen as a show of power by the military against Turkey’s first Islamist-led government headed by Prime Minister Necmettin Erbakan. The MGK reportedly pressured the prime minister to implement 18 measures aimed at curbing certain practices allowed by his government that the military and others perceived as a growing threat against secularism in the country. Reportedly, additional pressure continued against the government in the ensuing months, using the media and other avenues. In June, when a senior member of parliament left the government’s Welfare Party, Prime Minister Erbakan lost a parliamentary confidence vote by one vote and resigned. He had served just one year as prime minister.³⁶ The cabinet was

³⁵Dr. Gürüz is also charged in the Ergenekon trial, discussed above.

³⁶He died in 2011 at the age of 85, of heart failure.

deposed, though it was not replaced by a military administration as some had expected. Ahmet Mesut Yılmaz became the new prime minister.

Prime Minister Recep Tayyip Erdoğan had been a member of Erbakan's Welfare Party, but he created a new Islamist party (the Justice and Development Party, AKP), which has now been in power for 10 years (see above). Of the 550 seats in the Turkish Parliament, the AKP holds an absolute majority of 326 seats.

Prime Minister Erdoğan, speaking on the occasion of the 15th anniversary of the postmodern coup, was quoted in the Turkish newspaper, *Hürriyet*, as saying that the organizers and supporters of the "February 28 Process" would never be forgiven "even if 1,000 years went by."³⁷ He also supported a controversial education reform bill on the grounds that it would remove the last traces of the February 28 Process.³⁸

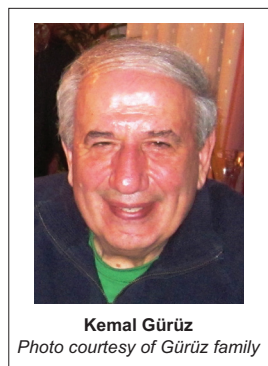
Following the June 2011 elections, an ad hoc committee was set up by consensus among the four main political groups in the parliament to investigate all coups in the history of the republic. Subsequently, further parliamentary committees were created to probe the postmodern coup. Some of the military officers charged in this trial have already been sentenced in the Sledgehammer trial (see above). At least seven former military officers were detained in February and two more retired generals were detained in April and sent to the high-security Sincan prison outside Ankara.

The 13th Criminal Court accepted a 1,300 page indictment, submitted on May 22 by Prosecutor Mustafa Bilgili, in the Ankara Court House on June 6. There are more than 100 suspects with at least 73 people now behind bars in this case, while others have been released on "probationary conditions," including several detainees on Friday, June 14, 2013. The prosecutor has asked that the suspects be tried for "attempting to annul the government of the Republic of Turkey; or attempting to partially or entirely block the government from performing its duties."³⁹

³⁷Erdoğan was elected mayor of Istanbul in 1994 and served until 1998, when he resigned as mayor because, following the February 28 Process, he was sentenced to 10 months in prison for having recited an Islamic poem during a speech he gave while mayor of Istanbul. He served 4 months and was released in early 1999.

³⁸The law mandated a compulsory eight-year primary education for all Turkish citizens, which meant that students could not enter vocational or religious schools (imam hatip) until the ninth grade. Under the law, which was written without public debate, mandatory education was extended to 12 years but, by making it a "4+4+4" system, after fourth grade children must decide on a vocation: critics say children are too young to make such decisions before fifth grade. They fear that children as young as 10 years old will be sent to imam-hatip schools or be enrolled in vocational schools, as permitted under the new law.

³⁹*Hürriyet Daily News*, "Indictment on Feb 28 coup accepted by court in Turkey," June 6, 2013. The article is available at: <http://www.hurriyetdailynews.com/indictment-on-feb-28-coup-accepted-by-court-in-turkey.aspx?pageID=238&nid=48363> [July 2013].



The Case of Kemal Gürüz

Kemal Gürüz began his career as a professor of chemical engineering at Middle East Technical University in Ankara but, he told us during our meeting, he does not really consider himself a chemist or engineer since most of his life has been devoted to promoting higher education. Professor Gürüz was rector of Karadeniz Technical University in Trabzon (1985-1990), president of the Scientific and Technical Research Council of Turkey (TÜBİTAK) (1990-1992), and head of Turkey's Council of Higher Education (YÖK, Yükseköğretim Kurulu), (1995-2003.) He has published three books and many articles about educational policies, higher education governance, and the current political situation in Turkey. Most recently he wrote an article titled, "Turkey: Obstacles to and Examples of Curriculum Reform."⁴⁰

After Professor Gürüz retired from YÖK in 2003, he spent one year at the Weatherhead Center for International Affairs at Harvard University and at the State University of New York and has since been writing, traveling extensively, and participating in and presenting papers at international meetings and conferences. In late June 2012,⁴¹ he was on vacation with his wife outside the country when he was notified that the police wanted to interrogate him. They immediately returned to Turkey, and he was arrested and imprisoned shortly thereafter.

The Network delegation visited Professor Gürüz at the Sincan high security prison. After passing through the first checkpoint, we boarded the prison bus that takes visitors to the assorted prisons in the complex. We then passed through two more checkpoints and were escorted to a large room with tables, similar to those in which we met the prisoners at Silivri prison. While we waited to meet him, a tape recorder was placed on the table at which we were seated and a group of prison guards gathered around a table at the far end of the room.

The Network delegation visited Professor Gürüz at the Sincan high security prison. After passing through the first checkpoint, we boarded the prison bus that takes visitors to the assorted prisons in the complex. We then passed through two more checkpoints and were escorted to a large room with tables, similar to those in which we met the prisoners at Silivri prison. While we waited to meet him, a tape recorder was placed on the table at which we were seated and a group of prison guards gathered around a table at the far end of the room.

⁴⁰The article was published in *Confronting Challenges to the Liberal Arts Curriculum: Perspectives of Developing and Transitional Countries*, Patti McGill Peterson, editor. New York: Rutledge (2012).

⁴¹Professor Gürüz had previously been detained on January 7, 2009; at that time 15 policemen, who came to his apartment in Ankara with a search warrant, rummaged through his belongings for five hours and confiscated the hard drive of his computer, his cell phone, a camera, documents, music tapes, and CDs. He was then flown to Istanbul where he was taken to the organized crimes division of Istanbul Police Headquarters and kept there for four days. His interrogation, conducted in the presence of his lawyer, lasted 11 hours. He was released on January 11, 2009, pending the outcome of the trial. He was charged with "forming and leading an alleged illegal armed terrorist organization [Ergenekon] and obtaining secret documents related to state security" and was subsequently brought to trial. The Ergenekon trial, as noted above, is now nearing its end. The lead prosecutor has asked that Professor Gürüz be given a life sentence.

When Professor Gürüz entered, dressed in civilian clothes, he was all smiles, giving each of us a bear hug, clearly delighted that we had come.

After his interrogation in the new case, while in prison, Professor Gürüz wrote:⁴² “[I am] not aware of the existence of a secret organization called Ergenekon” and that, if one exists, he has “nothing to do with any of its alleged membership, attributes and aims.” He pointed out his strong belief “that the three military coups/interventions in the past have been chiefly responsible for the collapse of the political center in Turkey, eventually paving the way for the Islamist government we have today.”

With regard to the Ergenekon trial, Professor Gürüz wrote, in the same paper: “I now assert without a doubt that the only reasons I was detained for questioning were my staunchly secular, nationalistic and pro-Western views, which have reflected on my executive performance in the three posts I held since 1985.” He went on: “[T]hey first pinned guilt on me and then tried to find evidence to support it, rather than starting from solid evidence to establish guilt. I was, in a way, being forced to prove my innocence without regard to the principle of ‘innocent until proven guilty’.”

With regard to the current Postmodern Coup trial, he said he is perplexed about how he could be accused of being involved when he doesn’t even know any of the other people who have been arrested except for General Çevik Bir. And he knows General Bir only because the general wrote to him in 1998, when he was president of the Council of Higher Education, with a proposal for a new educational system. Gürüz asserts that he never presented the letter to the council. Moreover, he said that he visited General Bir to tell him that the then new educational system, which was developed over two years in cooperation with the Student Selection and Placement Center and the Ministry of National Education, was the opposite of what the general had proposed in his letter.

Gürüz also noted that his position as president of YÖK was a direct appointment by the president of the country. If he is imprisoned because, in his capacity as president, he enforced the law against women wearing headscarves to the universities, he said that he had no choice because it is a law. (The practice of women wearing headscarves or Islamic “hijab”—which are called “turbans” in Turkey—has been banned by Turkish governments since the Republic of Turkey was created in 1923.) “It is in the constitution, and students involved in antiseccular activities should be punished, and they were, but they were perhaps punished more harshly in Turkey than elsewhere,” Gürüz wrote. On this subject, Gürüz has also written (see fn. 21, above):

[T]he banning of the headscarf on university premises by the [Council of Higher Education] dates back to December 20, 1982. This ban was upheld

⁴²The short paper, *Still in the Maximum Security Prison* (dated December 8, 2012), is available at: http://concernedscientists.org/wp-content/uploads/2013/02/Guruz_Prison_days_II.pdf [April 2013].

by the Council of State by its ruling on December 13, 1984, and by the rulings of the Constitutional Court on March 7, 1989 and on April 9, 1991. The Council of State reaffirmed the actions of the universities in implementing this ban by its interpretive and binding ruling on June 17, 1994.

Gürüz also noted the June 29, 2004, judgment by the European Court of Human Rights (in *Leyla Sahin v. Turkey*) that banning of headscarves at the University of Istanbul did not violate the European Convention on Human Rights.⁴³

Conversely, according to a headline in the *Hurriyet Daily News* newspaper, on February 27, 2013: “The Turkish premier says there is no ban against headscarves in the Constitution, signaling that hijab might soon be allowed in the public sector.” The newspaper further quoted the prime minister:⁴⁴

[T]here is a place and a time for everything. Holy birth is painful. It has been 10 years since we came to power and some bans that were the legacy of the Feb. 28 [1997 postmodern coup] were lifted during the 10 years. Some unjust treatments, which prevailed until our government took office, have been eliminated.

In 2007, Erdoğan, whose wife wears a turban in public, had campaigned for reelection, proposing to lift the ban on headscarves in public institutions, calling it, in various speeches, “discriminatory,” “a violation of the right to education,” and “an abuse of religious freedom.” His secular opponents viewed his efforts to lift the ban as reflecting a desire to Islamize the country. The focal point of the headscarf issue has nearly always involved the universities, and it continues to be a divisive issue in the country.⁴⁵

⁴³The ruling is available at: <http://eu.vlex.com/vid/case-of-leyla-sahin-v-turkey-26810422> [April 2013].

⁴⁴The full text of the article is available at: <http://www.hurriyetdailynews.com/turkish-pm-signals-freedom-of-headscarf-for-public-workers.aspx?pageID=238&nid=42128> [July 2013].

⁴⁵In February 2008, following Erdoğan’s successful reelection, the Turkish parliament passed an amendment to the constitution (in the face of considerable controversy) that would allow women to wear headscarves at universities, on the basis that everyone should have the right to equal treatment at state institutions. However, in June 2008, Turkey’s Constitutional Court ruled that the amendment went against the founding principles of secularism in the constitution. The court’s decision could not be appealed but a new constitution is currently being written.

Nonetheless, in 2010 the Higher Education Board informed universities that the headscarf ban had been eliminated. Then, in January 2011, the Council of State, in a move that Erdoğan characterized as “highly politicized,” “unfounded,” and “unlawful,” enforced the ban for female academic candidates during admissions examinations. In January 2013, however, the same Council of State ruled that women lawyers and paralegals no longer needed to observe the headscarf ban in court, although there are reports that some judges have strongly and vocally objected.

With regard to his confinement, Professor Gürüz wrote (see fn. 20, above) about a visit he received in prison from Minister of Justice Sadullah Ergin:

It was before the religious feast following the month of Ramadan. He brought a box of chocolates, a necktie, a towel and worry beads, all manufactured by prison inmates. He was accompanied by his undersecretary and a number of other high-ranking ministry officials. It was very nice of him. He asked me about prison conditions. I told him that “good prison conditions is an oxymoron and that no such thing exists.” But, I said, “do not worry about this. Instead you should concern yourself with what is going on in the courts.” I gave him one of the rulings of a judge who had refused to release me. I told him that some of these judges were, legally speaking, committing crimes by disregarding their legal obligations to provide concrete evidence for their rulings. He was very apologetic; but to what avail. Apologies are of no use to me.

Gürüz said to us that, under Turkish law, pretrial detention must be justified or the detainee must be released. In his case, he said, the reason given for the refusal to release him pending the outcome of his trial is that it is a “precautionary measure” taken because he could flee the country or tamper with evidence. Gürüz pointed out that he has not gone near the YÖK offices since his retirement on December 5, 2003, and that he has been out of the country on several occasions since his 2009 arrest and always returned. He further emphasized that he had returned home from vacation when he was notified of the latest request from the police to appear for questioning, which led to his imprisonment. He has been imprisoned since June 2012 and yet he has not seen an indictment against him. He told us he does not understand why he is behind bars and asked: “What have I done?”

After we left Turkey, Professor Gürüz wrote a note to the Network titled *Now I Have a Slightly Better Idea about What My Crime Is*, which is dated February 5, 2013. He mentions that it is his 226th day in prison and offers his thoughts on developments related to his situation:

Last July, the Turkish Penal Code was amended, establishing the ‘freedom judges’ to review pre-trial detention decisions every month and making it mandatory to provide detailed justification for their rulings. . . .

Despite the amendment, the three ‘freedom judges’ reviewing the detention of some sixty retired officers of the Turkish Armed Forces (TAF), and my humble self as the only civilian, had so far neglected to provide justification for our continued detention. They had limited themselves to simply citing the wording of the law, such as the potential for fleeing and tampering with evidence, etc. What the new amendment actually requires them to do is to argue why they are sure that the suspects may flee or tamper with evidence. They blatantly choose to ignore their legal obligation.

Today I was served the ruling of the freedom judge concerning my detention, dated January 25, 2013. This time, it is six-pages of writing and the ruling, as expected, is continued detention. Again, there is no justification as to why I might flee or tamper with evidence. But this time, there is a statement on why he thinks the 28 February Process is tantamount to a coup attempt and why the West Working Group (WWG), established within the Turkish General Staff (TGS,) is an illegal entity. There is a two-page section on why members of the TAF are not under obligation to obey unlawful orders, which have nothing to do with me. There is another page and a half section on a document entitled ‘WWG Action Plan’. The judge cites this document as proof for the existence of a concerted coup attempt.

In this document there are only two references to universities. According to Action 1-c, political parties, universities, labor unions, NGOs [nongovernmental organizations] and the media should be encouraged to promote the democratic and secular nature of the state and the rule of law in accordance with the central tenets of the Turkish Republic as set forth by Atatürk. The second reference to universities is in Action 18-b, which says that university administrations should be encouraged to take action against those students who are proven to be engaged in illegal activities.

Again, let me emphasize that I had become aware of the existence of a document called ‘WWG Action Plan’ during my interrogation on June 25, 2012, but the prosecutor had not allowed me to read it in detail. Now, I know what its contents are that, according to the prosecutor and the ‘freedom judge,’ constitute a case against me. If ever there was a travesty and abomination of law, I cannot think of a better, (or, more aptly, worse) example than this.

Professor Gürüz ended his note with, “I do not know what else to say.” The trial for the postmodern coup has yet to begin, but on Monday, March 18, 2013, lead prosecutor in the Ergenekon trial, Mehmet Ali Pekgüzel, requested in a 1,300 page indictment that Professor Gürüz be given a life sentence.⁴⁶ The prosecutor in the Postmodern Coup trial has asked for charges of “attempting to annul the government of Turkey; or attempting to partially or entirely block the government from performing its duties.” The first hearing in this trial of more than 100 military suspects and Professor Gürüz has been announced for early September.

On Friday, June 14, 2013, Professor Gürüz attempted suicide. He was found by his lawyer and was taken to the prison hospital. His wife told us several days later that his physical condition was satisfactory but that he had been demoralized because, once again, he had not been granted permission to leave

⁴⁶As noted above, the final defense arguments of the accused in the Ergenekon case began on April 8, 2013.

prison pending the outcome of his trial, although 37 of the 75 detained suspects were released. His lawyer has told Mrs. Gürüz that there is no sound legal basis on which to keep him in prison.

THE KCK OPERATIONS TRIAL

In this section we first present information about the KCK Operations trial and then about the Network's case, that of Büşra Ersanlı, professor of political science and active member of the Peace and Democracy Party.

The Trial and Its Context

Beginning in April 2009, there have been numerous arrests of journalists, academics, and politicians, primarily Kurdish, who are members of the Peace and Democracy Party (Barış ve Demokrasi Partisi, BDP), a legal pro-Kurdish political party. The detainees are accused of links to the Turkish Assembly of the Union of Kurdistan Communities (Koma Civakên Kurdistan, KCK), which is an umbrella organization comprised of several groups, including the outlawed and violent Kurdistan Workers' Party (Partiya Karkerên Kurdistan, PKK), which has fought for cultural and political autonomy for Turkish Kurds. The government alleges that the KCK is an urban terrorist organization and that the BDP has links to it; although the European Union and the United States consider the PKK to be a terrorist group, neither of them considers the KCK to be a terrorist group or violent, and both countries have resisted efforts by the Turkish government to convince them of those designations. It is difficult to get an up-to-date figure for the number of detainees in this trial; estimates are as high as 4,000 as the number of people who have been formally arrested but a figure of more than 2,000 seems more accurate, with about 175 defendants in the particular trial that the Network is following. We quote again from the EC report cited above (see fn. 5):

The investigation into the Union of Communities of Kurdistan (KCK), the alleged urban wing of the PKK, significantly expanded. Increasing numbers of BDP-affiliated Kurdish politicians, locally elected mayors and members of municipal councils were detained, adversely affecting regional and local democracy. . . . According to official statistics, 31 mayors and 226 local representatives are currently detained in connection with the anti-KCK case.

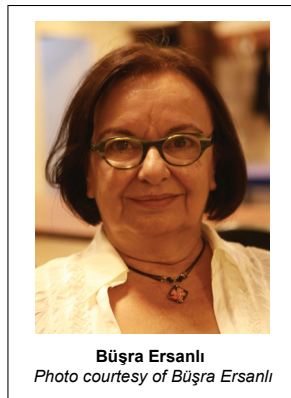
In mid-February 2013, Reuters announced that “ten Kurdish defendants, including six former mayors, were released from jail . . . in a trial of 175 people accused of links to militants, a further small step in Turkey's efforts to end a Kurdish insurgency. More than 100 suspects remain in custody.”⁴⁷

⁴⁷Seyhmus Cakan, “Turkey frees Kurdish ex-mayors, peace process edges forward,” February 19, 2013. The full article is available at: <http://www.reuters.com/article/2013/02/19/us-turkey-kurds-idUSBRE9110GV20130219> [July 2013].

The BDP was created in 2009 after the Democratic Society Party (Demokratik Toplum Partisi, DTP) was forced to shut down following accusations of having links to the PKK. Although the BDP has formally stated that it has no relations with the PKK, hundreds of BDP members and former DTP members have been arrested over the past two and a half years under Turkey's antiterrorism law, which contains a vague and overly broad definition of terrorism that the United Nations has stated "should be brought in line with international norms and standards."

According to the Human Rights Commissioner for the Council of Europe, in a report on arrests in Turkey following a visit to the country from October 10-14, 2011:⁴⁸ "[I]n the ongoing KCK group of cases, many non-violent and otherwise lawful acts have been included in the indictments as acts carried out under the instructions and furthering the aims of an illegal organization."

The Case of Büşra Ersanlı



Büşra Ersanlı is a faculty member emerita in the Department of Political Science and International Relations at Marmara University in Istanbul. She was interviewed at her family home in Istanbul, with a view of the Bosphorus, by Network delegates Corillon and Diamond on February 28, 2013. Professor Ersanlı is the author of more than 50 scholarly works on Central Asia, the Caucasus, the Russian Federation, Eurasia, and Turkey. As a socialist, she is interested in delving deeper into such concepts as autonomy, federalism, and decentralization. Between 2004 and 2009 she worked on a peace initiative, and in

2007 she helped organize a large peace assembly with regard to the Kurdish Issue. Professor Ersanlı has been a devoted peace advocate throughout her life. She told us that she was imprisoned for 2-1/2 years when she was in her early 20s for distributing leftist newspapers. Prior to her most recent arrest, Professor Ersanlı had been working with the BDP to draft proposals for the new civilian constitution.

Professor Ersanlı told us that in October 2011, she was on the Turkish coast near the town of Bodrum, preparing to participate in a panel discussion called Peace Now. Shortly thereafter, while she was in Datça in her summer house, the special police assigned to fight terrorism accused her and about 140 other people of being members of an illegal firearms organization and of the PKK. They asked her to sign a paper to that effect, and she refused. They took

⁴⁸The report is available at: <https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=2005423&SecMode=1&DocId=1842380&Usage=2> [April 2013].

away her notes and a copy of the Spanish constitution that she had with her. She subsequently was taken back to Istanbul Police Headquarters accompanied by anti-terror police.

The police asked her such things as whether or not she was related to Doğu Perinçek, the leader of the Turkish Labor Party; why she didn't see her ex-husband, who is Jewish; whether Molotov cocktails were being made at the BDP's party headquarters; and whether she has participated in demonstrations. Professor Ersanlı told the delegates that she is an active member of the BDP and doing research on autonomy and decentralization which is both political and academic. "Somehow this makes me a criminal," she said, ironically. Because she has written about issues of peace and autonomy, her police interrogators accused her of giving "insurrection lessons" at the BDP Party Academy and "creating militants to support the PKK."

The police asked Professor Ersanlı about a lecture, titled "Introduction to Political Science from the Women's Point of View," that is part of a course she has given in some 20 cities. It is designed to train women candidates for political office, and she has given it at the political academy of the BDP. She speaks to women candidates running for office to help raise the rate of women politicians in parliament through an organization created in 1997 named KADER, which means "fate" in English. KADER is supported by the Swedish Consulate General and works toward equal representation between genders by politicians.

The police searched her home in Istanbul for 14 hours and confiscated her personal notes from various party and academic conferences over the last 10 years. They then claimed that because she had written something in her notes, what she had written were her personal thoughts. Her phone was tapped, and she was asked seemingly irrelevant questions about what had been recorded, such as why she had received a dinner invitation from a particular German nongovernmental organization.

The lead prosecutor, Adnan Çimen, sent Professor Ersanlı to Bakırköy Women's Prison, where she remained for roughly 8 months before being transferred to Silivri prison, from which she was released on July 13, 2012, along with another 15 of the 140 suspects, pending trial. She told us that the charge was originally that of being "one of the leading cadres of the terrorist organization, PKK," as well as participating in press conferences, for example, against the annulment of Hatip Dicle's parliamentary membership. She noted that he had received almost 90,000 votes in his region in Diyarbakır, but he is still in prison. The prosecutor charged her with separatism and initially asked that she be sentenced to 22-1/2 to 38 years. Then, however, she said, when they released me they said, "probable change in the quality of her crime." That is all they said, nothing else. The actual indictment filed in late March 2012 urged that she be given a sentence of between 15 and 22-1/2 years.

According to an article dated July 19, 2012, published by the Turkish daily, *Sabah*, titled "AK Party's Judicial Reform Results in Academic Ersanlı's Re-

lease,” Minister of Foreign Affairs Ahmet Davutoğlu, reportedly said, in a statement made shortly before her release.⁴⁹ “Ms. Büşra is an academic who took on an extremely democratic stance during the February 28th era. I don’t believe she is a terrorist. However, the fact that I do not accept the situation as a minister does not give me the right to intervene in the judiciary.”

Professor Ersanlı, who remains a member of the Constitutional Commission of the BDP, said to us: “How can you have a political opposition if there is no freedom of expression or academic freedom to do one’s research?” She explained that she joined the BDP party because it supports ecological issues and is connected to labor rights, Kurdish rights, and women’s rights. But now the government claims she is a criminal because she joined the BDP party, which is legal and provides a little opening for democratization, she said. After the July 2011 elections, the BDP gained 36 seats in the parliament, but now 6 of those new members are in prison and 1 was also denied his seat. And now, because of the KCK trial, 37 mayors, 119 municipality assembly members, and 13 city general assembly members are also in prison, she said.

The KCK trial reconvened on March 4, 2013, in the 15th High Criminal Court in Istanbul, with Chief Justice Ali Alcik presiding. Of the 205 defendants charged in the case, 124 remained in custody. There is a 2,400-page indictment, which is being read aloud. Professor Ersanlı is number 128: because defendants are called to testify in order, her number means that she will not be called to testify until more than one-half of the accused people have given testimony.

⁴⁹To read full article, see: <http://english.sabah.com.tr/National/2012/07/14/ak-partys-judicial-reform-results-in-academic-ersanlis-release> [July 7, 2012].

Part III

Conclusions

We undertook the mission to Turkey on behalf of our academies' human rights committees and as representatives of the International Human Rights Network of Academies and Scholarly Societies (Network) in response to disturbing information and deep concerns about the legal situations of five colleagues and to learn about those of three others and how best to contact them for further details. Specifically, we sought to learn more about the charges against all eight of them; the long-term pretrial detentions of some; the fairness of their trials; and any evidence produced that would justify the 13-year sentence imposed on one of them. (The other cases had not reached the sentencing stage in their trials.) Before, during, and since our mission, we sought information from a wide range of officials and observers within and outside Turkey, as well as directly from five of the accused themselves during personal meetings—four of whom were interviewed in their prisons—and through correspondence following our mission with the other three.

THE INDIVIDUAL CASES

As mentioned above, the mission to Turkey was undertaken specifically to investigate the cases of eight colleagues, which are detailed in Part II of this report. The cases are those of Dr. Kemal Alemdaroğlu (retired surgeon and former rector, University of Istanbul), Dr. Rıza Ferit Bernay (medical doctor and former rector of 19 Mayıs University), Professor Emerita Büşra Ersanlı (political scientist and academic, Marmara University), Professor Kemal Gürüz (chemical engineer, education administrator, and former chair of the Council of Higher Education), Dr. Mehmet Haberal (transplant surgeon and rector of Başkent University), Dr. Fatih Hilmioğlu (medical doctor and former rector of İnönü University), Dr. Faruk A. Yarman (engineer and former business executive), and Dr. Mustafa Abbas Yurtkuran (medical doctor and former rector of Uludağ University). On the basis of all of the information available to us and given what the various prosecutors claimed to be evidence of guilt, we conclude that the evidence does not support the conclusion that any of our eight colleagues is guilty of committing the crimes of which they have been accused.

The system of justice under which these colleagues have been charged (and in five cases detained pretrial—some for more than four years, and in one case sentenced) is far from a system that would satisfy international standards of justice.¹ Indeed, analyses of their trials, along with hundreds of other defendants, have repeatedly found the police, the prosecutors, and the judges to be in contravention of their internationally-recognized legal obligations and Turkish due process laws.

Faruk A. Yarman is one of only two people not in the military who were tried and sentenced in the Operation Sledgehammer trial, and no convincing

¹Amnesty International: <http://humanrightsturkey.org/2013/02/24/amnesty-on-new-judicial-package-time>. [July 2013]; Human Rights Watch: <http://www.hrw.org/world-report/2013/country-chapters/turkey> [July 2013].

evidence was produced that he committed any of the crimes of which he is accused. The evidence that was brought forth is, according to many independent and reliable reports, flawed, as detailed in Part II. We believe that Dr. Yarman's sentence should immediately be abrogated, and that he should be released from prison. If considered necessary, he should be afforded a new trial that meets international fair trial standards.

In the Ergenekon trial (which is now in its final phase) we conclude that our colleagues—Dr. Kemal Alemdaroğlu, Dr. Rıza Ferit Bernay, Professor Kemal Gürüz, Dr. Mehmet Haberal, Dr. Fatih Hilmioğlu, and Dr. Mustafa Abbas Yurtkuran—did not receive fair trials. The chief prosecutor has asked that each of these colleagues—all of whom are nonviolent—be given a life sentence. They should all promptly be granted a general amnesty or released and given a new trial that meets international standards of justice.

In the Postmodern Coup trial, (which has not yet begun), we conclude that our colleague Kemal Gürüz, who has been held in Sincan high-security prison since June 2012, awaiting trial, should be released without delay pending the outcome of this trial. We note that he returned to Turkey from abroad several times since he was initially charged in the Ergenekon trial, and it is difficult to understand how there could be concern by the courts that he could tamper with evidence when his computer and all related documents were confiscated by the courts long ago. Additionally, because he attempted suicide on June 14, 2013, his emotional state after a year in pretrial detention is clearly fragile.

In the ongoing KCK trial, in which our colleague Büşra Ersanlı is a defendant, we were encouraged when she was released from prison, although it was only after she had been behind bars for seven months. We urge the Turkish judiciary to take immediate and concrete steps to ensure that her trial is expedited and that it meets international standards of justice.

TURKEY'S CONSTITUTION, LAWS, AND LEGAL PROCESSES

The current constitution was authorized by a military junta and dates from 1982, following the military coup of September 12, 1980. It stresses Turkish ethnicity and language, and generally it is viewed as not providing protections against arbitrary power and in support of basic human rights and freedoms. Parliament has enacted various constitutional reform packages in the past few years. However, they are widely viewed as not going far enough with democratic initiatives, many have not been implemented, and some appear to promote authoritarianism rather than public participation. More broadly, Turkey often fails to implement the new laws that the parliament enacts, some of which could enhance human rights for our colleagues and thousands of others.

Turkey's current constitution and laws are also weak in terms of international human rights standards. Despite legal reforms last spring related to terrorist propaganda, charges of membership in a terrorist organization still stand, regardless of whether a person has advocated or practiced violence. Additional-

ly, the procedural laws that do exist are too narrow and do not conform with international human rights norms. Thus, we cannot help but note that many have concluded that Turkey's constitution is inadequate and contains articles that are unacceptable for a true democracy.

Other reforms are needed in the operations of the judiciary in Turkey. Indeed, the four trials with which we have been concerned are widely viewed as political trials, not attempts to achieve justice.

The definitions of terrorism offenses being used in the four trials are so broad that they can cover almost any act or speech that a government may find offensive or contrary to its political views, including attendance at a legal rally or publication of a political commentary.

In Turkey's negotiations with the European Union regarding entry, one important topic has been human rights standards. Those changes made to date by Turkey to better conform to European human rights standards appear to have been beneficial, and we urge Turkey and the European Union to continue negotiations while Turkey also continues to make genuine efforts to meet accession requirements.

It is important to note that Turkey is a signatory to several international agreements, including the European Convention on Human Rights,² the International Covenant on Civil and Political Rights,³ and the Final Act of the Conference on Security and Cooperation in Europe,⁴ all of which protect the rights to freedom of expression and association. And, of course, as a member of the United Nations, Turkey is expected to adhere to the Universal Declaration of Human Rights.⁵ Moreover, as a member state of the Council of Europe, Turkey is also required to protect freedom of thought, expression and assembly. Lastly, these rights are also enshrined in articles 25-27 of the Turkish Constitution.⁶

HOPES FOR THE FUTURE

We respectfully submit these findings and conclusions to the Network and, in its behalf, to the government of Turkey. Many of our conclusions echo those in other, more comprehensive, reports, such as those cited in Part II. The Network's primary goal in undertaking the mission to Turkey was to obtain as much firsthand information as possible about its eight colleagues and the trials in which they are enmeshed. We trust that the Turkish government will seriously consider our findings with regard to these colleagues.

²Available at: http://www.echr.coe.int/Documents/Convention_ENG.pdf [April 2013].

³Available at: <http://www1.umn.edu/humanrts/instate/b3ccpr.htm> [April 2013].

⁴Available at: <http://www1.umn.edu/humanrts/osce/basics/finact75.htm> [April 2013].

⁵Available at: <http://www.un.org/en/documents/udhr> [April 2013].

⁶Available at: http://www.anayasa.gov.tr/images/loaded/pdf_dosyalari/the_constitution_of_the_republic_of_turkey.pdf [April 2013].

The International Human Rights Network of Academies and Scholarly Societies, for which we speak, is also anxious to support Turkey in moving its democracy and economy forward by encouraging strong and sustained international scientific exchange.

Appendix A

The Committees and the Network

This appendix presents descriptions of the Committee on Human Rights of the National Academy of Sciences (NAS), National Academy of Engineering (NAE), and the Institute of Medicine (IOM) in the United States,¹ the Human Rights Committee of the German National Academy of Sciences Leopoldina and the International Human Rights Network of Academies and Scholarly Societies.²

Committee on Human Rights of the NAS, NAE, & IOM

The Committee on Human Rights (CHR) was created in 1976 in response to concern by members of the NAS about widespread abuses of human rights, particularly those of scientists. In 1994, the NAE and IOM joined the NAS as full sponsors of the committee.

The CHR is composed of up to 15 members drawn from the membership of the three institutions. It has the active support of more than 1,700 members of the NAS, NAE, and IOM, who assist it as "correspondents" in its human rights work by writing appeals in behalf of and letters of encouragement to unjustly imprisoned scientists, engineers, and health professionals. The committee is financially supported by the NAS, NAE, and IOM, and contributions from private donors. It does not solicit or accept any U.S. government funding.

The work of the committee is grounded in principles set forth in the Universal Declaration of Human Rights (UDHR), primarily Article 19. In the United States, the committee also addresses select science-related civil rights cases and issues, work underpinned by the U.S. Constitution. The committee does not support or oppose any government or political system; it does hold governments responsible for conforming to international standards for the protection of human rights and accountable when they do not.

The committee uses the influence and prestige of the institutions it represents in behalf of scientists, engineers, and health professionals anywhere in the

¹For more information, see: <http://www7.nationalacademies.org/humanrights/> [June 2013].

²For more information, see: www.nationalacademies.org/hrnetwork [June 2013].

world who are unjustly detained or imprisoned for exercising their basic human rights as promulgated by the UDHR. Each individual case is carefully investigated, using a variety of sources, before being adopted by the committee. The individuals cannot have been known to use or advocate violence. The committee also intervenes in behalf of nonviolent colleagues who are the recipients of death threats, and it works to promote just prosecution in cases of individuals who have been killed for political reasons.

Activities of the committee include private inquiries, appeals to governments, moral support to prisoners and their families, and consciousness-raising efforts, such as workshops and symposia. Periodically, it undertakes a mission of inquiry to a country. It issues public statements regarding a case or reports on the human rights situation in a country only when significant private efforts have proved unsuccessful and after the council of the NAS and the presidents of the NAE and IOM have approved such action by the committee. The committee also is a catalyst for institutional studies of science-related human rights issues of concern to the members of the academy complex.

The committee serves as the secretariat for the International Human Rights Network of Academies and Scholarly Societies (see below).

Human Rights Committee of the German National Academy of Sciences Leopoldina

The Human Rights Committee (HRC) was established in 2001 and consists of members of the Leopoldina from Germany, Austria and Switzerland. The current chairman is Professor Hans-Peter Zenner. In 2003, the HRC joined the International Human Rights Network of Academies and Scholarly Societies (Network). As a member of the Network, the HRC assists scientists and scholars around the world who are subjected to severe repression. It also focuses on bioethical issues. The HRC occasionally takes on special projects. For example, it has arranged for seriously wounded Syrian medical personnel to be treated in German university hospitals. Every year the HRC organizes the symposium “Human Rights and Science” to present human rights issues and bioethical questions in science and to discuss worldwide cases of scientists and scholars who are victims of human rights violations. This year, the symposium will take place on 12 and 13 September in Warsaw. The event will be organized in cooperation with the Polish Academy of Sciences and focus on the topics “Human Rights and Education” and “Human Rights and New Media”. The symposium participants will primarily be scientists and academy representatives from Germany, Poland and other European countries.

International Human Rights Network of Academies and Scholarly Societies

The International Human Rights Network of Academies and Scholarly Societies assists scientists, scholars, engineers, and health professionals around the

world who are subjected to severe repression solely for having nonviolently exercised their rights as promulgated by the Universal Declaration of Human Rights. It stands in solidarity with sister national academies and scholarly societies worldwide to support their independence and autonomy, and it promotes institutional human rights consciousness-raising and commitment to supporting such efforts.

The Network was created in 1993 and meets approximately every 2 years. Each meeting is hosted by a national academy or scholarly society in a different country.

National academies and scholarly societies that have human rights committees or otherwise actively support the work of the Network are considered to be members. Currently, 79 national academies are members. They intervene on cases and issues brought to their attention by the Network's secretariat. Because academies and scholarly societies are held in high esteem, their efforts, through a worldwide network, are a powerful and effective tool in advancing respect for human rights.

The Network is administered by an executive committee of up to 14 members, with an executive director. The staff of the Committee on Human Rights of the NAS, NAE, and IOM in Washington, D.C., serves as its secretariat.

Appendix B

Biographical Sketches, Delegation Members

CAROL CORILLON has worked with the Committee on Human Rights (CHR) of the National Academy of Sciences (NAS), National Academy of Engineering, and the Institute of Medicine since 1980, becoming its first director in 1984—a position which she continues to hold. She is also executive director of the International Human Rights Network of Academies and Scholarly Societies, which was created at her initiative in 1993.

Ms. Corillon has organized, directed, and given lectures at Network symposia and workshops on human rights at national academies in France, Italy, Morocco, the Netherlands, Sweden, Switzerland, Sri Lanka, Taiwan, the United Kingdom, and the United States. She has also given conference talks at national academies in Canada, France, Germany, Hungary, and Turkey.

Since 1992 Ms. Corillon has been a member of the Committee on Freedom and Responsibility in the Conduct of Science, of the International Council for Science (ICSU). She has also served as a member of the advisory committee of Human Rights Watch/Africa, the Foreign Policy Roundtable of the Fund for Peace, the advisory board of the Centre for Constitutional Governance in Nigeria, the advisory board of Friends of the Institute for Practical Research and Training in Somaliland, and as director of Friends of IPSO, USA, which supports the Israeli-Palestinian Science Organization.

From 1980 through 1984 Ms. Corillon worked and traveled widely in Africa as a staff member of the Advisory Committee on the Sahel of the National Research Council (of the NAS). Its focus was on agroforestry, environmental change, and dune stabilization in the West African Sahel. Between 1970 and 1980, she was a freelance print and broadcast journalist in Kinshasa, Democratic Republic of Congo (formerly Zaire), working for the BBC radio (reporting for the Africa Service in both French and English), Reuters, *The Economist*, and several other news organizations.

PETER A. DIAMOND is an institute professor at the Massachusetts Institute of Technology (MIT). He was awarded the Nobel Memorial Prize in Economic Sciences in 2010 (with Dale T. Mortensen and Christopher A. Pissarides) for “analysis of markets with search frictions.” Professor Diamond has served as president of the American Economic Association, the Econometric Society, and the National Academy of Social Insurance.

In the late 1990s Professor Diamond cochaired of a panel convened by the National Academy of Social Insurance to study proposals to privatize Social Security. In the 1970s, he served on the Panel on Social Security Financing of the Senate Finance Committee, and he has served on panels of technical experts convened by the President’s Advisory Councils on Social Security.

At MIT, Professor Diamond has served as head of the economics department, held the John and Jennie S. MacDonald professor of economics chair, and the first Paul Samuelson professorship in economics. He has been an institute professor, the highest honor the MIT faculty can bestow on a colleague, for more than a decade.

Among Professor Diamond’s many honors are the Erwin Plein Nemmers Prize in Economics from Northwestern University, the John Simon Guggenheim Memorial Fellowship, and the Mahalanobis Prize, as well as the Nobel Memorial Prize. He has been a research associate of the National Bureau of Economic Research, and he was a founding member of the National Academy of Social Insurance. He is an elected member of the National Academy of Sciences, an elected fellow of the American Academy of Arts and Sciences, and an elected fellow of the Econometric Society.

Professor Diamond has written many books and articles, including *A Search Equilibrium Approach to the Micro Foundations of Macro-economics* (MIT Press), *On Time* (Cambridge University Press), and *Social Security Reform*. He holds a B.A. in mathematics, summa cum laude, from Yale University and a Ph.D. in economics from MIT.

HANS-PETER ZENNER is distinguished professor and chair of the Department of Otolaryngology and Head and Neck Surgery at the University of Tübingen in Germany.

He is chair of the Ethics Commission, chair of the Human Rights Committee, and a representative on the member council of the German National Academy of Sciences Leopoldina. He recently served a term as the president of the German Association of Sciences and Medicine from 2009 to 2010. He has also served as president of the Society of German Natural Scientists and Doctors, president of the German Academy of Otolaryngology, Head and Neck Surgery, and president and secretary-general of the German Society of Otolaryngology, Head and Neck

Surgery. He has been a member of the Scientific Advisory Board of the German Medical Association and the Ethics Committee of the International Federation of Otorhinolaryngology Societies.

Prior to his position at Tübingen, Professor Zenner taught in the Department of Otolaryngology at the University of Würzburg. He was a founding spokesperson of the German Federal Ministry of Education and Research's Interdisciplinary Centre for Clinical Research, the Tübingen Hearing Research Centre, the Cochlear Implant Centre Tübingen, and a Clinical Research Unit of the German Research Foundation. He also participated in the German Federal Chancellor's Advisory Council for Research and Technology.

Among Professor Zenner's awards are the Gottfried Wilhelm Leibniz Prize, awarded by the German Research Foundation and the Shambaugh Prize, awarded in the field of Otology. Professor Zenner holds honorary doctorates from several European universities. He received a doctor of medical sciences in cancer research and an M.D. from the University of Mainz.

Appendix C

Report from the International Workgroup on Academic Liberty and Freedom of Research in Turkey

The report that follows is provided by the International Workgroup on Academic Liberty and Freedom of Research in Turkey (GITTurkey). GITTurkey is a solidarity network of 400 or so academics from some 50 Turkish universities, created to follow and publicize problems and issues encountered by academics, researchers, students, and intellectuals that affect their ability to carry out their academic inquiries and overall work. The GITTurkey website can be found at: <http://gitturkiye.org/>.

The report is not available on the Internet in English so we have included it here. The Network has not verified the information but it is useful as background to the issue of academic rights and freedoms in Turkey and its description of individual cases provides substance about ongoing concerns regarding human rights and academic freedoms in Turkey that the Network endeavors to promote.

An Assessment of Violations of Academic Rights and Freedoms in Turkey

GITTurkey

The International Workgroup on Academic Liberty and Freedom of Research in Turkey (GITTurkey) report entitled “Violations of Academic Rights and Liberties” was publicized on June 26, 2012 to draw public attention to the dramatic increase in academic rights violations in Turkey in recent years.

The report lists nine cases under three categories: 1) interventions, pressures and intimidations encountered by PhD candidates at the start of their academic careers; 2) arbitrary practices in the selection and promotion of assistant professors, associate professors and full professors; and 3) the dismissal of academic personnel holding the positions men-

tioned in the previous category. In preparing the first report, GITTurkey focused particularly on cases already subject to judicial action. We asked the victims of violations to use a particular style when narrating their cases and to present the critical details in a chronological order.

Some of the cases to be included in our second report, which is currently under preparation, have not yet been subject to the judicial process. The victims of these cases were asked to provide documents and relevant correspondence to support their cases and are being encouraged to pursue legal action as well as to make these violations public. The next step will be to build up a support team to give legal advice to and defend the rights of scholars and researchers who are being subjected to rights violations.

Besides creating a database by compiling violations of academic rights and liberties, GITTurkey aims to categorize the violations experienced by university staff and independent researchers, and to offer an assessment of these categories. The main purpose of this categorization and assessment is to inform the public and raise awareness about academic violations, in addition to shedding light on possible methods of solidarity and struggle.

Issues Leading To Violations

One conclusion to be drawn from the amount of pressure faced by academics and researchers working on “sensitive” political matters is that the Kurdish issue stands out as a taboo within Turkish academia. It has become apparent that particularly scholars who conduct research on this issue and who take political and social stances that concur with their academic work have become the targets of both university administrations, and of political and judicial authorities. In a similar vein, scholars and researchers working on other minority groups and non-conventional gender identities in Turkey have frequently been attacked. Furthermore, academics conducting research on issues that are not political in nature, but that have political repercussions regarding human and public health or the protection of nature, have also been subjects of unfair practices.

Besides these political reasons, pressures have not been spared from academic personnel who are union members and struggle for the job security and employee rights of university staff. Continuous intimidation, administrative investigations, such penalties as disciplinary action and pay cuts, obstacles in the way of appointments to posts, dismissals on unjustified grounds or for economic reasons can be listed among the violations of academic rights and liberties on a predominantly economic basis.

We also deem it important to include mobbing among academic violations, since academics undergoing mobbing and intimidation have

specific political stances and work on sensitive political and economic issues, and several such cases have been referred to the judicial process.

Mechanisms of Violation

Rights violations have generally been perpetrated by university administrations, that is, by the colleagues and administrators of academics in the institutions where they work. The perpetrators tend to disallow research on “sensitive” political and economic issues, open investigations against those who work on such issues, and dismiss or intimidate them through various means. Ethical committees within the same institutions are political biased regarding research projects; they assume an active role in preventing the production of scientific knowledge and, hence, in reproducing the existing hegemony. Academics who are victims of academic violations and who make these violations public are penalized by university administrations for standing against them. This is why a considerable number of cases are not revealed to the public and even to the university’s own staff.

The history of academic violations in Turkey goes as far back as the 1960s to include the cases of İsmail Beşikçi, Behice Boran, and Server Tanilli. In the 2000s, the cases that have come to the forefront are those of Bülent Tanör, Turgay Ünal, Mesut Yeğen, Nesrin Uçarlar, Özgür Sevgi Göral, Ergun Aydınöğlü, Alper Kaliber, Cumali Aksu, Onur Hamzaoğlu, İzge Günel, Lütfiye Bozdağ, Tülin Ural, and Beyza Üstün.

Academics such as Prof. Dr. Büşra Ersanlı, Cihan Deniz Zarakolu and Osman İşçi, who have caused “annoyance” due to their political and social stances in addition to their academic work, on the other hand, are directly taken into custody, arrested or put on trial by political authorities or judicial organs acting in accordance with the provisions of the Turkish penal code. Terms like “terror” and “terrorist organization” are used quite flexibly and expanded in such a way as to encompass the academic work and research activities of scholars and researchers. Since 2012, a number of international and regional organizations have drawn the attention of Turkish authorities to these violations in an attempt to uphold academy and freedom of expression in line with universal standards.

Victims of Violations

Those targeted by political authorities and judicial organs due to their scholarly work or research are not only the members of academia in universities. Independent researchers including İsmail Beşikçi and, more recently, Pınar Selek, Müge Tuzcuoğlu, and A. Kerim Gültekin have also been subjected to judicial decisions that lack any legal basis.

Apart from independent researchers, the liberties of postgraduate or doctoral students such as Nesrin Uçarlar and Cumali Aksu have also been restricted through interventions in their thesis topics and/or in their thesis juries.

As for academic staff holding positions as research assistants, assistant professors, associate professors or full professors, their academic liberties have been constrained through redundancy, denial of posts or promotions, administrative investigations, disciplinary penalties or salary cuts, recourse to mobbing strategies, and the restriction of research topics in indirect ways. The cases of Bülent Tanör, Turgay Ünal, Mesut Yeğen, Nesrin Uçarlar, Özgür Sevgi Göral, Ergun Aydınoglu, Alper Kaliber, Onur Hamzaoğlu, İzge Günel, Lütfiye Bozdağ, Tülin Ural, and Beyza Üstün are examples of such violations.

Academic liberties not only of individuals, but also of academic institutions or institutes have at times been restricted. A striking incident recently took place when the publications of the African Studies Centre at Ankara University were censored through a change in its administrative body.

Our new report on the violation of academic rights and liberties will include similar cases. We are aware that the first report predominantly included cases from the social sciences but not from various other disciplines. This can partly be explained by the fact that the members of the GITTurkey work group are composed mainly of academics from the social sciences.

Violations of Rights in the Academy: Some Cases

It is beyond doubt that the abovementioned pressures and constraints are not unfamiliar to academics in Turkey. The price that Dr. İsmail Beşikçi had to pay as an intellectual is a matter of common knowledge: at a time when he was academically the most prolific, Dr. Beşikçi was sentenced to a seventeen-year-prison term due to his work on the Kurdish issue. After his release in 1999, he faced another confinement in 2011 for an article he wrote on the same issue.¹

The case of Pınar Selek, an independent researcher who is known for her research on women's issues, LGBT individuals, and the Kurdish question, and who was associated with an act of violence in 1998, tainted Turkey's recent history owing to the unlawful judicial process to which she was subjected.²

Similarly, the case of Prof. Dr. Bülent Tanör, who was dismissed by the Rectorate of the Istanbul University from his post in 2001 due to his work on the democratization process in Turkey, remains unforgotten.

¹<http://ismailbesikcivakfi.org/>

²<http://www.pinarsелеk.com/public/Default.aspx>

The investigation initiated by the Rectorate of Hacettepe University against Assist. Prof. Dr. Turgay Ünal, who conducted research on the forced displacement of Kurds in Turkey in 2005, as well as the case of Prof. Dr. Mesut Yeğen, another well-known figure in Kurdish studies who endured arbitrary and unscientific treatment by jury members appointed by the Middle East Technical University's Department of Sociology in 2006 and 2009 for his promotion to professorship, are but a few examples demonstrating the nature and content of the pressures on academic staff in Turkish universities.

The abovementioned violations, as well as the cases of Dr. Nesrin Uçarlar and Özgür Sevgi Göral in the first report, demonstrate the fact that the pressures have mostly targeted those conducting academic research on the Kurdish issue. The case of Assoc. Prof. Dr. Ergun Aydinoğlu, who went through a similar pressure due to the public support he provided to Özgür Sevgi Göral, is significant in the sense that it illustrates the degree and scope of such pressures.

Cihan Deniz Zarakolu, a PhD student who was arrested in 2011 for books and publications seized in his house and for teaching at the Political Academy of the pro-Kurdish Peace and Democracy Party (BDP), has been a distinct case in Turkish legal and academic history, since it demonstrates how ambiguous the category of crime can become.

Attempts to subjugate and intimidate universities and academics reached a peak with the arrest of Prof. Dr. Büşra Ersanlı's in October 2011 in accordance with the provisions of the Anti-Terror Law in Turkey on grounds that she was associated with terror and terrorist organizations. This was also a turning point in the country.³ In the aftermath of Ersanlı's arrest, statements made by members of government as well as news reports in the Turkish press played a significant role in associating her with violence and influencing the ongoing judicial process. This served not only to discredit Ersanlı, but also to intimidate other academics and intellectuals in Turkey.

Although not included in the first report, there exist a number of academics and researchers who sought to conduct or have conducted academic research on the Kurdish issue and were penalized through various means. A remarkable case has been that of Dr. A. Kerim Gültekin, who conducted ethnographic research on the Alevi and Sunni Kurdish and Turkish communities in Dersim (Tunceli) and was arrested upon unsubstantiated claims.⁴

In a similar vein, Müge Tuzcuoğlu, known for her work on the so-called "stone throwing kids", that is, on children who are convicted through the Anti-Terror Law, was arrested in association with the KCK,

³<http://www.busraersanli.com/>

⁴http://ahmetkerimgultekineozguruk.blogspot.com/2012/12/who-is-ahmet-kerim-gultekin-and-why-is_7085.html

the purported urban extension of the armed Kurdish movement.⁵ Dr. Alper Kaliber, who wanted to conduct research on civil society organizations involved in two of the most controversial public debates in Turkey—the rise of political Islam versus secularism and Kurdish claims versus Turkish identity—was fired by Yaşar University. Cumali Aksu faced various pressures while working on his Master's thesis on the Kurdish issue in Beykent University. A similar case has been that of Osman İşçi, a human rights activist and research assistant at Hacettepe University, who was detained and arrested during police operations against the Confederation of Public Workers' Unions and the Education and Science Workers' Union.

The cases of Prof. Dr. Onur Hamzaoğlu, Prof. Dr. İzge Günel, Yrd. Doç. Dr. Lütfiye Bozdağ and Dr. Tülin Ural included in the first report constitute dramatic examples of psychological violence and mobbing perpetrated by various political authorities and university administrations. Academics who undertook research on “sensitive” social issues or criticized the unlawful or anti-democratic practices of university administrations encountered another mechanism of pressure and intimidation: they were deprived of the posts they were holding or applying to, as well as of their employee rights or benefits. These “sensitive” issues can have a political character or can involve, as in the case of Prof. Dr. Onur Hamzaoğlu, practices that endanger human health, uncontrolled industrialization, the construction of hydroelectric power plants, and the commodification of energy and water, etc.⁶ Although not included in the first report, the case of Prof. Dr. Beyza Üstün, who faced administrative investigation from her university due to her research on hydroelectric power plants, has been a recent example of this new strategy of pressure and intimidation.⁷

The case which has come to be known as the “Bilgi University Redundancy” represents the most striking example of the violation of the basic citizenship rights of academic personnel who want to adhere to or participate in the activities of a union. In addition to the violation of basic rights, this case also illustrates the destructive effects of the commercialization of education, especially in the social sciences, and represents a striking example of the perilous transformation the universities and their culture of education are undergoing in Turkey in recent years.

Rectifying the grave contraventions illustrated by each and every case above, securing academic autonomy and scientific freedom, emancipating all of the university's constitutive elements and of the scientific production and dissemination of knowledge, as is implied in the wider

⁵<http://www.bianet.org/bianet/insan-haklari/141068-muge-tuzcuoglu-dahil-9-tahliye>

⁶<http://www.onurumuzusavunuyoruz.org/>

⁷http://www.onurumuzusavunuyoruz.org/index.php?option=com_content&view=article&id=188&Itemid=223&lang=tr

meaning of the term “academic environment” mentioned in documents on universal norms of academic freedom, from political and administrative pressures and constraints will not only set the foundations of a real democracy, but will also serve as its indicator for universities as well as for Turkish society in general.

As stipulated in the Lima Declaration (1988), “Academic freedom is an essential precondition for those education, research, administrative, and service functions with which universities and other institutions of higher education are entrusted. All members of the academic community have the right to fulfill their functions without discrimination of any kind and without fear of interference or repression from the State or any other source” (Article 3).⁸ The same approach is embraced in the “Recommendation Concerning the Status of Higher-Education Teaching Personnel” (Section IV) adopted by UNESCO (1997).⁹ Considering the fact that the universities in countries that have achieved contemporary standards of academic freedoms feature among the most prestigious and reputable higher education institutions in the world, the path to be taken by universities in Turkey is very clear. At this critical juncture, the primary objective of GITTurkey is to strive to open this path.

⁸<http://www.onurumuzusavunuyoruz.org/dokumanlar/lima.pdf>

⁹http://portal.unesco.org/en/ev.php-URL_ID=13144&URL_DO=DO_TOPIC&URL_SECTION=201.html