

AK PARTY-GULEN SPLIT POLITICAL FALLOUT FROM CORRUPTION PROBE



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Yet another political crisis in Turkey has dominated the headlines since December 2013. What should have normally been treated as a judicial case of corruption allegations turned into a major political crisis because of the timing and the way the investigations were carried out. Few doubt that this was a political move against the government from a network of prosecutors, judges, and police affiliated with the Gulen movement. The overall goal of this move remains unclear but it has done enough damage by implicating the ruling AK Party government in corruption charges ahead of the municipal elections in March 2014 and the presidential elections in June 2014. Whether this will cost the AK Party substantial losses in the upcoming elections remains to be seen but the legacy of the political fallout from this episode will determine the future of democratic conservative politics in Turkey.

On December 17, an Istanbul prosecutor ordered the arrests of businesspeople, relatives of politicians and bureaucrats. The corruption allegations in three separate “secret” investigations were bundled together into an overnight string of arrests. In the government’s view, the

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investigations were politically motivated and they were timed and packaged in a way to create an outsized effect to embarrass and perhaps to bring down the government. It was troublesome that both the prosecutor and the police chiefs conducting the raids had kept these investigations secret from their immediate superiors for more than a year. The investigations were not posted to the police intranet to avoid oversight and the prosecutor kept the investigation under wraps from the Chief Prosecutor. Moreover, to win over public opinion in the very first hours of the investigation, the police leaked alleged evidence (such as cash being stored in shoeboxes) to media outlets. Similar tactics had been used before, during investigations into the army officers as well as during the match-fixing investigations into the Fenerbahce football club.

In the latest graft probe, instead of acting at the time of the alleged wrongdoings, a network of police chiefs and prosecutors had compiled dossiers on influential figures close to the government for a politically opportune time in the future. When the time was right, these separate investigations were brought together and put to “good use.” The arrests came in the wake of the political fight over the closure of the university exam prep schools, institutions from which the Gulen movement has benefited over the years both financially and in terms of human capital. On the eve of the upcoming municipal elections in March, the ruling party seemed most vulnerable to political scandals. As the Gulen movement failed to force the government into canceling its plans to close down the prep schools (although a modified version of the law delayed it to 2015), the time seemed ripe for an all-out political assault on the Erdogan government.

A History of Judicial Overreach

The Turkish judiciary has never been depoliticized. In fact, for the longest time, it has been a pillar of the civil-military establishment. With the 2010 referendum, the high judiciary was opened to a broader base of judges and prosecutors under this government’s watch. While the judiciary remained independent and theoretically more broadly based, it has remained closed to the outside world and more importantly to any civilian oversight. Its deeply corporatist culture remains strong and in the absence of a civilian made constitution, the judiciary continues to dist-

tribute justice based on a military-made constitution that is a remnant of the 1980 coup. The logic of this constitution remains such that its main focus is to protect the state against the civilians rather than the reverse. Thus, there are many restrictive and undemocratic laws on the books that can be used to curtail civilians’ initiatives such as the negotiations with the PKK leadership to end the decades-old Kurdish question. The government has to do more to bring the Turkish judicial system in line with democratic norms and practices in order to prevent future incidents of abuse of judicial power as a political tool.

In 2004, the AK Party government transformed the State Security Courts (DGM) – which had caused thousands of human rights cases to be brought against Turkey at the European Court of Human Rights (ECHR) – into civilian courts with special powers that can try military officers as well as organized crime. Prosecuting coup plotters had not been constitutionally possible based on the military-made 1982 Constitution’s articles, which gave virtual immunity from coup charges to military personnel. Special powers were necessary to overcome legal hurdles preventing the trial of planners and instigators of coups in Turkey. However, a close alliance between the prosecutors, police chiefs, and judges led to these courts’ excesses and overreach (long detention periods, extended trials, questionable evidence admitted, arrest-first-collect-evidence-later practices etc.).

More recently, the government ended these special courts but allowed their current cases at the time to continue so as not to disrupt the pending cases. The government defended the prosecution of the coup-plotters in the past but it had to face the political cost created by the judicial excesses. At some point, even the Prime Minister himself complained that the government was running out of generals to run the military because of the judiciary’s excessive zeal in prosecuting so many high-level military personnel (including former chiefs of staff). Over the past several years, an overly aggressive judiciary along with its alliance with some police chiefs and like-minded judges appeared to be going after their rivals (political and otherwise) rather than delivering timely justice.

An Istanbul prosecutor’s attempt to question the chief of intelligence, Hakan Fidan, in February 2012 over his con-

duct of the secret talks with PKK representatives in Oslo was interpreted as the most concrete sign of judicial overreach. This was also the peak of a political struggle simmering under the surface between the Gulen movement and the AK Party government. While the government set out to undertake historic talks with the PKK, the judiciary attempted to question (and possibly indict) the chief of intelligence. In the latest graft probe, the arrows had now turned against the government with which the Gulen movement had a variety of disagreements over several issues including foreign policy items, the Kurdish peace process, and most recently, the proposed closure of university exam prep schools.

The investigations launched on December 17 led to the resignation of four ministers and a major cabinet reshuffle (which was in the works prior to this incident). While addressing the charges leveled against the government ministers, the Prime Minister has also taken measures to ensure that such a political move cannot be repeated in the future. Reassigning and demoting hundreds of police chiefs throughout the country should be understood in this context. The government submitted legislation to restructure different branches of the High Council of Judges and Prosecutors (HSYK) to bring it under further civilian oversight through the parliament. This body oversees the handling of judicial cases and assignment of judges and it is widely believed to be dominated by Gulenist sympathizers. Politically, the latest measure aims to decrease the dominance of Gulen affiliated judges and prosecutors in this body. The AK Party and opposition party lawmakers are currently working on a compromise over a constitutional change that would allow the members of the HSYK to be nominated by the parliament. The goal and strategic impact of such a change would be such that a single group could not dominate this council.

While there is nothing wrong with a judge or any government employee to belong to any religious or cultural group, the issue at hand is whether the members of such a group are acting in unison for political purposes beyond what their bureaucratic or judicial offices allow them to. Also, whether they use the power of the bureaucracy and the courts to go after their political rivals. There is a strong conviction among many in Turkey that this is the case with the followers of the Gulen movement. While this problem

should be dealt with – as no state would allow its bureaucracy to operate outside its mandate and beyond the limits of the rule of law – it should not lead to curtailing of any corruption allegations. The AK Party government has to show that it has no tolerance for corruption. In the meantime, there is an urgent need to reform the judiciary in Turkey to move it away from delivering political blows from one group to another so that it can focus on delivering timely justice to all.

Political Implications

The AK Party government's alliance with the Gulen movement seems to have come to an end as the government believes the movement's followers within the state overstepped the bounds of state power for the political purposes of and the interests of their own movement. The political fallout from this episode has been quite significant. In the short-term, it looks to be beyond repair. The government is engaged in reshuffling police chiefs under the Interior Ministry's authority to prevent a similar political operation from happening again. It will likely introduce legislation to establish a judicial police force. The government also introduced legislation that would bring some sort of parliamentary oversight of the judiciary. The AK Party government has signaled that it will make every effort to ensure that no networks entrenched within the state can utilize the state's power to operate according to their own political agendas.

The government can be criticized for not doing enough in the past against the judiciary's excesses during the prosecution of the coup cases although it was deemed to be a necessary evil by many. The military had appeared invincible and being able to even try officers before the civilian courts was an accomplishment in itself. However, this should not have been a reason to tolerate violations of the alleged coup-plotters' civil rights. In the end, the psychological affect of finally being able to go after the military establishment resulted in a network of over-zealous prosecutors and police chiefs who feel ever powerful to go after any political rival. The reform of the judiciary for the well being of Turkish democracy is unavoidable but the government needs to take great care not to allow the perception that it is trying to curtail the independence and effectiveness of the judiciary in Turkey.

The ultimate goal of the Gulen movement in making this political move against the Erdogan government remains open to speculation. One obvious theory is that they seized the moment when the government needed stability and calm most ahead of the local elections to force the government to abandon its plans to shut down the prep schools. More broadly, the aim seems to have been to prevent a weakened Erdogan from becoming the next president of the country. What is clear, however, is that this is a major turning point between the two former allies, the AK Party and the Gulen movement. A major split is unfolding and we have yet to see how this might impact the upcoming municipal and presidential elections in 2014.

The true measure of the support of the Gulen movement to the AK Party during the past elections has remained elusive. It is unclear how the movement's supporters will vote in the upcoming elections and whether they will actively work against the AK Party. Either way, electoral losses, if any, will be sustainable for the party. Yet, the pro-Gulen media outlets have already done much damage to the country's image abroad, which they have been critical in helping to build over the past several years. If the AK Party continues to be successful at the ballot box, the

Gulen movement will have lost much political leverage with the party. There is already a deep lack of trust and goodwill between the movement's sympathizers and the party's base. This split may have been unavoidable but the definitive consequence will likely be a loss of strategic influence for the movement within the bureaucracy and the judiciary.

Everyone in Turkey, including the Gulen movement's members, acknowledges that no "parallel structures" can or should exist within the state. If Turkish democracy can emerge out of this episode with its judiciary reformed along democratic lines, it will be a win for the country despite all the political damage. It will help the Gulen movement's members in public service to recognize the importance of operating within the laws and rules of the offices they hold. The AK Party government needs to go beyond resolving the current crisis and create long-term strategies to democratize the state even further. A more transparent state in which public servants act within the confines of the law and prioritize the rule of law will be beneficial for all.

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