JUDICIAL SCANDAL: A TEST CASE FOR TURKEY

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Muriel Mirak-Weissbach, Global Research, December 12, 2010

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His primary concern, both in his writings and his daily activity, has been to work through the cases of genocide in the twentieth century, emphatically including the Young Turks' genocide of the Armenians in 1915. In the last book of his trilogy, Die Richter des Juengsten Gericht (The Judges of the Last Judgment, 1999), he dealt with the Armenian genocide, the first Turkish novelist to do so. Raising the issue of the 1915 genocide is against the law in Turkey, specifically, a violation of Article 301 of the legal code, which forbids belittling or insulting "Turkishness." When he arrived at Istanbul airport on August 10, to visit his dying father, Akhanli was immediately arrested by the authorities. But he was not charged with violating Article 301. Instead, he was accused of having participated in a case of armed robbery of a currency exchange shop in 1989, during which the shopkeeper was killed. After his arrest at the airport, Akhanli was thrown into jail. Although the defense hoped for a speedy trial that might begin by September, the authorities kept him in prison for four long months. During that time he wrote letters that he planned to give his father as soon as they could meet. Shortly before his trial opened on December 8, his father died, without having seen his son. Akhanli's request for a prison leave to attend the funeral was denied.

Travesty of Justice

The entire process, from his arrest to the trial, was characterized by heavy-handed tactics which fly

in the face of justice. The prosecution had buttressed its case on the testimony of a witness who had identified Akhanli when interrogated in 1992. He later officially retracted his statements, asserting in an affidavit that they had been obtained under duress, i.e. through torture. Two other witnesses, sons of the murdered man, who had also been interrogated in 1992, later denied statements attributed to them, adding that they had never been shown photographs of Akhanli for identification. When, for the first time, they were shown photos of the accused on August 13 of this year, they said they did not recognize him as one of the perpetrators. Finally, when the Turkish investigators 21 years after the fact (!) examined fingerprints on two bags that the robbers had left at the scene of the crime, they found none of them matched Akhanli's.

On the basis of these facts, defense lawyer Haydar Erol repeatedly lodged formal complaint against the arrest and demanded that Akhanli be released. Three times the court rejected the complaint and continued to hold him in a high security prison in Tekirdag. Not only: following the first complaint, the prosecution expanded the charges against him to include a political crime: it claimed that he had planned the robbery in order to finance a terrorist organization in its attempt to overthrow the Turkish government. Akhanli's comment on his absurd status was: "If I were not threatened with a life sentence, I could really laugh about my situation. I see myself like the character in Franz Kafka's novel, Josef K. -- not only because I was arrested though innocent." Kafka's novel, The Trial, recounts the drama of an innocent man taken prisoner who, entrapped in a maze of burocratic procedures and intrigues, is incapable of ever finding out what is happening to him.

International Mobilization

Akhanli knew before he left for Istanbul that he was on a watch list and might be arrested, but he went ahead with his plans, determined to see his father before he died. As a precaution, he alerted associates from Recherche International and Tueday (a Turkish human rights group), as well as friends, and arranged for them to respond if he were detained. As he told me in a phone call on the eve of his departure, I and others would be informed if anything were to happen. In fact, as soon as the news of his arrest reached his associates, they mobilized his legal defense and a public solidarity campaign which ultimately tipped the balance in favor of his release.

The campaign to secure Akhanli's freedom targeted those political institutions which had the power to influence events. Letters of protest flowed into the Turkish Justice Ministry, copies of which were also sent to the Turkish Embassy in Berlin. At the same time, protesters flooded German Foreign Minister Westerwelle's office with demands that he intervene to secure the freedom for Akhanli -- after all, a law-abiding German citizen. Westerwelle's office seems to have taken the messages seriously, as indicated by the lengthy and articulate responses it issued; and the German consulate in Istanbul did at least contact the prisoner and his lawyers. The Turkish Embassy in Berlin, on the contrary, adopted a position of sheer denial, rejecting any and all insinuations of a political dimension to the case, and reiterating the catalogue of alleged "facts" pertaining to the armed robbery and murder.

At the same time, an impressive array of intellectuals, both Turkish and German, assembled to circulate petitions demanding his release, flanked by mass actions in the form of solidarity meetings as well as street demonstrations in Berlin, Cologne, and Frankfurt. Significantly, the Armenian Community in several German cities officially joined the mobilization. Among those leading the campaign were Guenter Wallraff, an author and well-known investigative journalist; author Guenter Grass; filmmaker Osman Okkan, and others. On December 6, a group of Turkish intellectuals issued an appeal for his freedom, signed, among others, by Nobel prize winner Orhan Pamuk. When the trial opened in Istanbul, a delegation of 20 observers from Germany was on hand, officially representing the German PEN center, the Union of German Writers, the Academy of Arts Berlin, the Union of Democratic Jurists, the Austrian Writers' Union, and several human rights groups, including Akhanli's Tueday, KulturForum Tuerkeideutschland, Medico International, as well as the Bundestag factions of Die Linke and the Buendnis 90 - Die Gruene parties. Amnesty International also sent an observer.

It was this massive show of support especially from Germany, evidently unexpected by the Turkish authorities, which was to be decisive. “Without the huge attention that Dogan’s arrest drew,” said Wallraff, “they would certainly have sentenced him to life imprisonment. He would have become one of those prisoners whom the Turkish government at some time, on some likely occasion, would have pardoned.”

Prior to the session, a large crowd gathered outside the courtroom sporting posters demanding “Justice for Dogan Akhanli” while members of the delegation briefed the press. Inside the courtroom, the head judge, a hardliner, was “visibly strained,” according to a Frankfurter Allgemeine Zeitung report, but, evidently impressed by the show of international support for the accused, behaved in a civil manner – quite out of profile. Akhanli, who had repeatedly stated his innocence to the magistrate, chose not to speak at all, and had a statement read for him. His lawyer Erol said his client’s silence was a protest against the fact that he was not allowed to visit his dying father. His lawyers again went on record rejecting any and all charges. The judge, given the lack of credible evidence, and having no grounds for suspicion that the defendant would commit a crime, was forced to announce his release, and grant him permission to leave the country, pending continuation of the trial next March. Later that evening, Akhanli was set free and made his way to his home town where he could join relatives in mourning the loss of his father. He is expected to return to Germany sometime in December.

Turkish Denial Policy On Trail

It is clear to those who have moved in Akhanli's defense that the charges against him were hoked up, and that his only "crime" was his principled commitment to lay bare the historical facts of the 1915 genocide, in the pursuit of justice, truth, and recognition. As his publisher Regip Zarakoglu put it, “They can’t punish Dogan Akhanli for his books, so they’re trying to attribute another crime to him.” Wallraff, according to Hurriyet on December 8, said he thought that a 2003 work by Akhanli, Talaat

Pasha Minutes, was the reason behind his detention.

Although a growing number of Turks in civil society are opening their eyes to the historical truth and seeking ways to deal with it, the hard-core Kemalists can react only with brute force whenever the issue is touched. The reason lies not only in fears of demands for costly reparations along the model of German payments to Holocaust victims, or in fears of claims on historical Armenian territories; the nationalists reject acknowledgement also because their very identity is inextricably linked to the mythology associated with nation founder Ataturk, who laid down the official line on the 1915 events. Although the Young Turk leaders were tried, convicted, and most sentenced to death by a Turkish court in 1919-1920 for their responsibility in the deportations and massacres that led to the genocide, after coming to power in 1923 Ataturk rehabilitated them post mortem. The remains of Talaat Pasha, who had been assassinated in Berlin by an Armenian in 1921, were returned to Turkey where he was given a hero's burial. Streets named after Young Turk leaders bear witness to this incontrovertible fact that the Turkish republic was founded on a tragic falsehood. The articles introduced into the legal code (later Art. 301) condemning any mention of the genocide as an offense to "Turkishness" are a logical consequence of this policy.

So Akhanli, who has been an outspoken proponent of the demand for Turkish recognition of the genocide, qualified as a likely candidate for harassment.

Dogan knew what might await him in Turkey, as he had alerted friends, but he nonetheless nurtured hopes that perhaps the situation in his homeland had improved over the last 20 years. As Der Spiegel reported in its December 6 issue, Akhanli said he had reckoned with an arrest when he flew to Turkey. "But also, that I would be released after a short while and not locked up possibly for life," he was quoted saying. "I thought that my country was freer, more democratic today." The weekly went on to report that Akhanli viewed the violence, arbitrariness, and torture existing in Turkey as connected to the policy of denial regarding 1915. And his recent odyssey is proof positive of this fact.

One should view the entire affair against the backdrop of internal political conflict in Turkey. As seen in the recent referendum, as well as in a series of legal cases brought against leading Turkish personalities -- including military figures -- accused of plotting against the State, the hardliner faction, which is linked to the notorious Ergenekon apparatus, is facing an existential threat. Its control over the justicial apparatus is being challenged in particular. And it is fighting back. Akhanli's lawyer Erol stated, "Unfortunately, it is not here a matter of solving a crime. It is a show of force on the part of revanchist circles in Turkey." Halil Oezcan of the Turkish PEN organization had this to say: "It was clear from the beginning that it would be difficult to put the 1980 putschists, the generals, on trial…. In the Akhanli case," he went on, "we see that, not only have we not succeeded in putting them on trial, but also that none other than a victim of the military putsch is jailed. With this, the putschists and their followers want to demonstrate that they still wield juridical power and can convict people at will. And indeed they can."

But can they, really? The pressure which has come down on Turkey in this case must have been significant. Although the German authorities have not publicized their actions, it is hard to imagine that Akhanli would have been released on the first day of trial without some behind-the-scenes intervention. More than government action, the pressure mounted by the defense committee succeeded in putting the public spotlight on the case, as indicated by a two-page spread by the weekly of record Der Spiegel. Since the DecEMBER 8 session, the case has grabbed the attention of the international press, including in Turkey.

If public and political pressure continues to grow -- and it will --, it is considered likely that Akhanli will be acquitted, perhaps during the next trial date on March 9, 2011. That happy event would constitute a signal defeat, not only for the political forces identified as Kemalist revanchists etc., but for the denial policy laid down by Ataturk regarding 1915. Dogan Akhanli is a well-known and respected novelist, who has courageously spoken out about the Armenian genocide, and his notoriety and stature will only be enhanced by this recent attempted frame-up. In addition to his writing activity, he has been engaged in a continuing process of education about the Armenian genocide and other crimes against humanity in the 20th century. This work, carried out through his Recherche International and Tueday associations, has taken shape in seminars, conferences, and educational trips, for example, to Berlin, where landmarks of these events are to be seen. Scholars on various aspects of the historical events -- the Armenian genocide, the suppression of the Pontic Greeks, the plight of other minorities like the Assyrians, the drama of the Kurds, the role of Germany -- have contributed to such seminars, and Akhanli has personally led tours through the historical sites. Prior to his arrest, he was involved with a number of Armenian, German, Kurdish, and Turkish intellectuals in expanding this work, to engage Turks and Armenians in particular in joint historical and personal biographical research aimed at reaching an understanding of the 1915 genocide, and seeking recognition and reconciliation on that basis.(1)

Such a collective effort is particularly effective in Germany, which hosts the largest Turkish community outside of Turkey. Furthermore, Germany's own involvement as an ally of the Young Turk regime has been extensively documented in Foreign Ministry archives from World War I and published. This mass of governmental documentation facilitates the task of establishing the historical record and educating the broader public, including Germany's citizens of Turkish descent, as to what really occurred.(2)

Dogan Akhanli is absolutely right in believing (as Hrant Dink did) that the democratization process in Turkey can only develop in conjunction with Turkish acknowledgement of the genocide in 1915. Only when official Turkey recognizes the truth and finds the appropriate means to morally redress the crime can justice be accorded the victims and the burden of collective guilt be lifted from the collective Turkish consciousness. When that time comes, there will no longer be any need to persecute journalists and authors who study Turkey's past.

If the Turkish judicial authorities thought they could make an example of Akhanli and, by inflicting

severe punishment on him, terrify anyone else dealing with the Armenian question into silence, they were dead wrong. The lesson of Akhanli's case, which neither the Turkish government nor the judiciary can ignore, is that such illegal prosecution will no longer be tolerated today. It will backfire, further fuelling the process of social and political awareness among Turkish intellectuals and others -- at home and abroad – who insist that Turkey's past will continue to haunt its elite until they find the courage to face it.

1. See my article **Imprisonment of Human Rights Activist Puts Turkish Establishment on the Dock**
2. See **Armenocide** for documentation
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A group of scholars has initiated a petition in support of Dogan Akhanli. It reads:
Dear Minister of Justice,

The arrest and the criminal proceedings against the German-Turkish writer and human rights activist Dogan Akhanli (Cologne), who is currently detained in solitary confinement inTekirdağ appear legally highly questionable. I appeal to you:

1) Please prevent the criminal justice system to be abused as an instrument of punishment of dissenters!

2) Arrange for a closure of this case, for which there is no convincing legal reasons!

3) Stop immediately the confinement in a high-security prison with restricted outside contacts!

Click here to get to the website and scroll down to sign the form if you so wish.