

# Documento de Trabajo

## Working Paper

**Turkey's Conundrum: Are the Country's Versions of  
Secularism and Political Islam Compatible? (WP)**

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## Summary

Two concepts of secularism are on trial in Turkey, where the Constitutional Court is studying a case to ban the ruling Justice and Development party (AKP). Whatever the outcome of the case, triggered by the government's reform to allow female students to wear an Islamic-style headscarf on university campuses, it will intensify the growing cleavage between the AKP and the secular establishment (the military, the judiciary, large parts of the civil service, the urban professional classes and the intelligentsia) and hence have repercussions on Turkey's already protracted bid to become a full member of the European Union (EU).

## Introduction <sup>1</sup>

Two concepts of secularism are on trial in Turkey, where the Constitutional Court is studying a case to ban the ruling Justice and Development party (AKP), which has Islamic roots, for being the 'focal point of acts against the principle of secularism'. The AKP was re-elected last year with 47% of the vote. Whatever the outcome of the case, triggered by the government's reform to allow female students to wear an Islamic-style headscarf on university campuses, it will intensify the growing cleavage between the AKP and the secular establishment (the military, the judiciary, large parts of the civil service, the urban professional classes and the intelligentsia) and hence have repercussions on Turkey's already protracted bid to become a full member of the European Union (EU).

According to the prosecution's case, 'political parties that take political Islam as their basis do not have anything in common with the Christian-Democratic parties in Europe. Political Islam in Turkey does not remain confined to the area between the individual and God but claims to regulate the rule of state and society. The basic code of political Islam is *sharia* (Islamic law). Political Islam uses democracy as a tool and *sharia* as its goal'. This is tantamount to saying that every devout Muslim is potentially an Islamic fundamentalist and shuts the door on the AKP's attempts to forge a system under which democratic values and a secular democratic state are not incompatible with a Muslim majority. The success or otherwise of this unique process has implications for the wider Muslim world.

Secularism is one of the cornerstones of the Republic founded by Mustafa Kemal Atatürk in 1923 on the ruins of the Ottoman Empire. He created the first Muslim country with Western civil, criminal and economic codes and women received the right to vote in 1930, before France, Italy, Switzerland, Belgium and Spain. Turkey's version of secularism, enshrined in the 1982 Constitution (drawn up during the 1980-83 military junta), is much more rigid than even that of France, the most secular country in the EU. The Presidency of Religious Affairs (*Diyanet*) administers the way the Muslim religion is practiced and even writes the sermons for imams, who are state employees. Nevertheless, Turkey has become more and not less religiously observant over the years, while religion in most of the rest of Europe is in decline.

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<sup>1</sup> I am particularly grateful to Ali Dogramaci, Rector of Bilkent University, Ankara, and to Professor Norman Stone for inviting me back to the university and to Nejat Dogan, Assistant Professor of International Relations at Erciyes University, for arranging a visit to Kayseri. I would also like to thank Professor Orhan Güvenen and David Barchard for sharing their immense knowledge of the country.

The AK government, which has made more progress in preparing Turkey for EU membership than the secular parties, denies that any of its actions favour the establishment of a theocracy or that it has a ‘hidden agenda’ to do so. It views the wearing of the headscarf on university campuses (a ban more strictly enforced since 1997) as an issue of personal freedom and choice. The wearing of it is supported by a majority of the population, according to surveys. The reform was short lived as the Republican People’s Party quickly appealed against it to the Constitutional Court.<sup>2</sup> In its defence document the AKP states that ‘secularism requires an unbiased attitude of the state *vis a vis* all faiths and views in society. The state is obliged to respect individual preferences of people with the condition that they would not hurt others. When a student reaches the age of entering university and wants to cover her head due to her individual preferences, preventing her would mean interference in her freedom and autonomy’. This definition of secularism is very much in line with that in EU countries, although the way in which it is practiced varies from country to country. France, for example, has banned all overtly religious symbols in state schools since September 2004, but the headscarf can still be worn in universities.

President Abdullah Gül’s daughter got around the restriction by wearing a wig over her headscarf and the two daughters of Prime Minister Recep Tayyip Erdoğan studied at universities in the US (an expensive option that is not open to most devout Muslim families whose observant daughters are thus denied higher education). Gül and Erdoğan are both devout Muslims and their wives wear headscarves, to the horror of the secular elite, which sees the lifting of the ban on the headscarf, the most incendiary symbol in Turkish politics, as the beginning of a slippery slope towards Islamic fundamentalism.<sup>3</sup> There are many different ways of wearing the headscarf; it is regarded as a political symbol when it covers the chin and neck and just leaves the face. The Turkish turban –not to be confused with the South Asian male turban– is different from the traditional headscarf or *basörtüsü*, which is not seen as a symbol of political Islam.

‘Everybody under the sun knows AK does not promote *sharia*’, said EU Enlargement Commissioner, Oli Rehn, probably the man most hated by the Kemalist *status quo*, which is increasingly disenchanted with idea of joining the EU as it means dismantling much of the Kemalist ideology, still today a quasi state religion with Atatürk as its prophet (his portrait is everywhere and every November 10 at 9:05am air raid sirens mark the exact time of his passing).<sup>4</sup>

The case against the AKP (see the appendix for extracts from the indictment and the government’s response) is, in essence, ideological. It is also heavily based on statements in newspapers made by Erdoğan and other prominent AKP members and short on hard evidence to support the accusation of anti-secular activities. Some of the text is bizarre. For example, Erdoğan is quoted as saying, ‘Turks prefer the Anglo-Saxon interpretation of secularism’. This is strange since there are no theocratic states in Anglo-Saxon countries. Such a remark would seem to be very reasonable and just the kind of thing one would expect the leader of a country aspiring to join the EU to say. But this is not how the Turkish judiciary sees it because, as the Chief Prosecutor puts it: ‘in order to evade the rules and institutions of democracy, AK uses the method of *takiyye* (dissimulation), which finds its sources in *sharia*’. The prosecution is convinced the AKP has a hidden agenda and

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<sup>2</sup> The changes adopted consisted of adding to Article 10 of the Constitution the sentence: ‘In all their actions, state institutions and administrative bodies shall observe the principle of equality before the law’. Article 42 was amended to include: ‘No one shall be deprived of the right to education because of their apparel’. In a landmark decision in 2004, the European Court of Human Rights (ECHR) ruled that a medical student wearing an Islamic headscarf had not had her human rights violated when she was forced to discontinue her studies in 1998. The ECHR said there could be a ban, but not that there should be one, an important difference. It effectively respected Turkey’s right to regulate the issue.

<sup>3</sup> Gül’s wife brought a legal case against Turkey to the European Court of Human Rights as she was unable to return to higher education after raising her children. She dropped the case in 2003 after her husband entered the government.

<sup>4</sup> Access to YouTube in Turkey was blocked in May after an Ankara court ruled that videos posted on the site were insulting to Atatürk. Insulting him or the Turkish nation is still a crime punishable by prison under the recently reformed Article 301, although it is assumed that such cases will be rare now as in order to proceed they need the green light from the Justice Minister.

is fostering democracy in order to use it as a Trojan Horse to weaken the Kemalist institutions and create a fundamentalist state. And because the concept of secularism in Turkey has a different meaning than in the western world, it requires, according to the prosecution, a different way of implementing it. While secularism in Europe is the separation of church and state, in Turkey it is more the subordination of religion to the state. The prosecution believes its case does not contradict the views of the European Human Rights Court (EHRC). Turkey's Constitutional Court has closed 24 parties since 1961, but only one of its decisions was regarded as not violating the charter of human rights by the EHRC. This compares with the shutting down of three political parties in Europe since the 1950s, two of them in Germany (the Socialist Reich Party in 1952 and the German Communist Party in 1956) and Herri Batasuna in Spain for its organic links with the terrorist group ETA.

## Turkish Secularism

Atatürk, an admirer of the enlightenment, moved swiftly after establishing the Republic in 1923 and within four years repealed the Holy Law and disestablished Islam. He proclaimed that Turkey could not be 'the land of sheikhs, dervishes, disciples and lay brothers'. Religious education was prohibited, European civil and penal codes were adopted, pious foundations were abolished, the brotherhoods dissolved and banned and the power of the *ulema* (Muslim legal scholars) was reduced and then eliminated. He also transformed the symbols of the old way of life: the fez, the gown, the *shalvar* and other traditional garments of Turkish Muslims. A Hat Law in 1925 banned the fez (it produced riots in the rural eastern parts of Turkey) –more than 80 years later another symbol of the dress code is causing controversy–.<sup>5</sup> The coping-stone of the edifice of legal secularism was laid in April 1928, when Islam was removed from the constitution.<sup>6</sup> Most strikingly the great basilica of Santa Sophia in Istanbul, which Sultan Mehmed the Conqueror had turned into a mosque, in the moment of triumph over Byzantium, was made into a museum.

The purpose of the Kemalist philosophy on secularism, which still thrives today in significant parts of society, was not to destroy Islam but to end the power of religion in political, social and cultural affairs and restrict it entirely to the private sphere. Atatürk continued the Ottoman policy of bureaucratisation of the *ulema* and made Islam a department of state: he established a Presidency for Religious Affairs (*Diyanet*), which as the country's highest Islamic authority is responsible for micro-managing the Muslim religion. The *Diyanet* is also active abroad (there are around 3 million Turks in Germany).<sup>7</sup> The Prime Minister appoints the head of the *Diyanet*. According to Ali Bardakoglu, the current President of Religious Affairs, the *Diyanet's* position 'is not in contradiction with secularism because of the following principles that are upheld in Turkey: (1) religions should not be dominant or effective agents in state affairs; (2) the provision of unrestricted freedom for the religious lives of individuals and religious liberty are under constitutional protection; (3) the prevention of the misuse and exploitation of religion is essential for the protection of the public interest; and (4) the state has authority to ensure the provision of religious rights and freedoms as the protector of public order and rights'.<sup>8</sup>

Although Turkey is predominantly Muslim (98% of the population), Islam is not a monolithic religion in the country. Most Turks belong to the loosely defined Sunni interpretation of Islam, but the practice also includes mystical and folk Islam as well as conservative and a more moderate

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<sup>5</sup> Atatürk called the fez a 'symbol of ignorance, carelessness, fanaticism and aversion to civilisation and progress' while the hat was 'the headwear worn by the entire civilised world'.

<sup>6</sup> For a detailed account of the changes wrought by Atatürk, see Bernard Lewis's *The Emergence of Modern Turkey*, Oxford University Press, 2002, p. 404-424.

<sup>7</sup> By 1994, the *Diyanet's* budget was more than that of five ministries combined (Forestry, Labour and Social Security, Finance, Energy and Natural Resources and Tourism). In 2007 its budget was TL1.63 billion (more than €800 million).

<sup>8</sup> Paper presented at the international conference on 'Moderation in Islam', Middle East Center, University of Utah, 21-22 February 2004 and posted on the *Diyanet's* English website.

understanding of Islam. This mosaic of religions as well as sects is a carry over from the multicultural Ottoman Empire, the result of which was that a uniform faith and practice was not imposed on its subjects.<sup>9</sup> The *Diyamet* acknowledges this diversity and promotes a moderate, tolerant and embracing perception of Islam. However, the Alevis, the largest religious minority, do not enjoy the same rights as the majority Sunnis.<sup>10</sup> They are regarded by their Sunni counterparts as being deeply unorthodox, often even as not being Islamic at all. Unlike in mosques, Alevi men and women pray together, facing each other.

Turkey's brand of secularism also does not yet provide sufficiently for the protection of religious (non-Muslim) minorities, something that is inherent in the EU's understanding of religious freedom and the lack of which has been regularly criticised in the EU's Progress Reports on the country, although this is beginning to change.<sup>11</sup> Religious identity is still written on every Turkish ID card, exposing those who are of other faiths.

Despite, or perhaps because of, the secularism policy, the number of mosques attached to the *Diyamet* continues to rise year after year. At the beginning of 2007, according to the latest figures from the *Diyamet*, there were 79,632 mosques in Turkey compared with 67,000 schools and 1,220 hospitals (the latter figures are for 2006). The number of official Koran courses stood at 5,654 in 2007, up from 4,332 in 2004.

## Re-Islamisation

One of the great ironies of Turkey is that despite the extreme form of secularism and a long period of Westernisation, without which Turkey may well not have become the most advanced country in the Muslim world, there has been an inexorable rise in religiously oriented political parties (see Figure 1). This is not a new phenomenon. Islam is too deeply rooted in Turkish life and culture for it not to have been absorbed into political life to varying degrees. The AKP, the latest in a fairly long line of parties with Islamic roots, has 340 of the 550 seats in the Grand National Assembly compared with 183 held by the Republican People's Party (CHP), founded by Atatürk, and the Nationalist Movement Party (MHP). How did this happen?

**Figure 1. Political Islam in Turkey: % of Vote and Seats in Parliament Held by Islamist parties, 1972-2007**

Party	1972		1977		1987		1991		1995		1999		2002		2007	
	V	S	V	S	V	S	V	S	V	S	V	S	V	S	V	S
Nat. Salv.	11.8	48	8.6	24	–	–	–	–	–	–	–	–	–	–	–	–
Welfare	–	–	–	–	7.2	0	16.9	62	21.4	158	–	–	–	–	–	–
Virtue	–	–	–	–	–	–	–	–	–	–	15.4	111	–	–	–	–
AKP	–	–	–	–	–	–	–	–	–	–	–	–	34.0	363	46.4	340

V = votes; S = seats.

Source: Turkish Interior Ministry.

The first open sign of religious opposition to the top-down secularist policy appeared in 1940 over the decision by the Education Ministry to publish a Turkish edition of the *Encyclopaedia of Islam*, the co-operative work published by an international team of European Orientalists. A group of religious-minded Turks protested because they said the book was not about Islam but against Islam and that it was the work of Christian missionaries. They published a rival encyclopaedia. In 1949, religious education was re-introduced to Turkish schools on a voluntary basis. As the overwhelming

<sup>9</sup> The Ottoman Empire was far from being theocratic. Many provisions of Islamic law were rarely if at all applied (for example, the public killing of adulterers or adulteresses by throwing stones – which still happens in Saudi Arabia today – was applied only twice during 600 years and cutting off the hands of thieves was unheard of).

<sup>10</sup> There are no official figures for the number of Alevis because, like other minority groups, they are not included in the 10-yearly census. According to David Shankland, who has written extensively about them, the Alevis account for up to 20% of the population. See his chapter on the Alevis in *Islam and Society in Turkey*, Eothen, 1999.

<sup>11</sup> Under the 1923 Treaty of Lausanne, the only minorities in Turkey accorded official status are the Jewish, Greek Orthodox and Armenian communities.

majority of parents asked for it, in 1950 religious education became compulsory (parents were asked to opt out rather than in). That year the first free elections were held and the Democrat Party defeated the CHP. Adnan Menderes became Prime Minister and adopted a more tolerant stance towards Islam, to the consternation of his Kemalist opponents. He was hanged for violating the constitution after the army's first coup in 1960.

In 1970 Necmettin Erbakan founded the National Order Party (MNP), which advocated the restoration of conservative morals and state-led economic development with reduced ties with Western countries. The MNP was banned after another coup in 1971 but was reincarnated in 1973 as the National Salvation Party (MSP), again headed by Erbakan and offering much the same platform in an approach known as *milli görüş* (national viewpoint). This time Kemalists gave Erbakan more leeway so that his party could be a counterweight to the growing influence of communism: the junta made religious lessons compulsory throughout secondary school for the first time and the number of *imam hatip* schools more than trebled between 1974 and 1978 to 334. These schools were founded in 1951 at the secondary education level initially to train mosque prayer leaders and preachers and became popular among pious Muslim families.<sup>12</sup>

By the end of the decade, the level of left- and right-wing (the Grey Wolves, the unofficial arm of the MHP) violence was such that the generals felt obliged to step in for a third time and banned all political parties. The generals supervised the writing of a new and less liberal constitution, most of which still prevails today and needs to be changed in order to comply with European standards. It included tighter restrictions on religion. Article 24, for example, states that 'no one shall be allowed to exploit religion in any manner whatsoever for the purpose of personal or political influence'.

Erbakan returned to politics in yet another guise in 1983 when he founded the Welfare Party, but it was disqualified from taking part in that year's elections. In 1987 it gained 7% of the vote but no seats in parliament because it was short of the 10% threshold (established by the military) required to win seats, as a way to discourage political fragmentation and keep Islamist and Kurdish parties from winning seats in parliament. In 1991 Welfare captured 17% of the vote and in 1995 21% and 158 seats, sufficient to head a coalition government headed by Erbakan. By then political Islam was a mass force, whose emphasis on a fairer economic system (Turkey's income distribution is very skewed<sup>13</sup>) and social justice resonated with the influx of migrants from rural areas (many from the south east where a long-running dirty war raged between the army and the PKK Kurdish terrorist group) to the cities, swelling the populations of Istanbul and Ankara. It also appealed to a public fed up with government incompetence, rampant corruption and political deadlock.<sup>14</sup> The 1990s were very much a 'lost decade' in terms of economic and political advancement, although Turkey joined the EU Customs Union at the end of 1995 and was granted EU candidate status in 1999.

The transformation of Turkey from a largely rural society to a predominantly urban one has played a major role, though one difficult to quantify, in the rise in political Islam. The urban share of the population has risen from 30% 1950 when the population was 21 million to 70% today (73 million).

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<sup>12</sup> Recep Tayyip Erdoğan, the Prime Minister, graduated from one of these schools. Today, there are around 500 of them and the pupils at them account for less than 2% of total students. Nevertheless, there are far more pupils at them than needed for the state's administration of Islam, another factor that worries the Kemalists. Most of their students today do not become prayer leaders, but seek to enter the civil service among other careers, raising fears among the secular elite of an Islamisation of the bureaucracy. In 2007, 36,353 of the total 79,807 personnel employed in education by the *Diyanet* worked in these schools. The grades from these schools and other vocational institutions do not count as much as those from the 'ordinary' secondary education schools for university entrance, something which the AKP has so far unsuccessfully sought to change and create a level playing field.

<sup>13</sup> The Gini coefficient is 0.38, according to the United Nations Development Programme (UNDP). The nearer to one, the more even the income distribution. There are huge differences between regional income levels. Taking Turkey as a whole as 100, Agri, Ardahan, Iğdir and Kars, the poorest parts of Turkey, are at 34 and Bolu, Düzce, Kocaeli, Sakarya and Yalova, the richest, are at 191, according to the latest UNDP figures.

<sup>14</sup> A senior adviser to seven Turkish Prime Ministers told this author that 90% of politicians enriched themselves.

Successive governments miserably failed to provide the infrastructure for the millions of migrants to cities such as Istanbul and Ankara, whose passage to what they thought would be a new life was facilitated by the massive building of roads after World War II. As Professor Baskin Oran of Ankara University points out, religious reaction is the standard popular form of protest whenever a society's cohesion is disturbed by modernisation. The steady rise in literacy in Turkey has also made the Koran and other religious texts accessible to more and more religiously observant people, often morally disoriented in their urban environment and at a loss without their oral culture.<sup>15</sup> Simply put, the country has become divided into what are known as 'white Turks' (the secular urban elite) and 'black Turks' (pious Turks).

Welfare's stint at the helm, however, was short-lived. Erbakan's at times radical discourse, his efforts to establish closer relations with Iran, Libya and Iraq, open encouragement of women to wear headscarves and lukewarm support for EU membership alienated the secular elites and the government collapsed in June 1997. A year later the Constitutional Court banned Welfare and the tireless Erbakan came back with yet another new party, Virtue, but it came third in the 1999 election with 15% of the vote. It, too, was banned in 2001 and reappeared as the Felicity Party. By then, the 75-year-old Erbakan faced a revolt within his ranks from a modernist faction, known as the Innovators, led by Erdoğan and Gül, which broke away and established the AKP.

The AKP swept the board in the 2002 election and became the first party to win a clear majority since 1987 with 363 of the 550 seats in parliament. None of the three parties in the outgoing coalition government was returned to parliament as the proportion of their votes was below the 10% threshold. The share of the vote gained by the Democratic Left Party of Bülent Ecevit, the 78-year-old former Prime Minister who headed an unwieldy cabinet of 35 Ministers, plummeted from 22% in 1999 (when it was the largest party) to 1.2%, that of the Nationalist Action Party fell from 18% to 8.3% and the Motherland Party's from 13.2% to 5.1%. This was the largest drop in Turkish electoral history for an incumbent party or coalition (from 54% of the vote to 14.6%) and underscored the depth of a political legitimacy crisis manifested in a massive anti-system vote. The level of ideological volatility (switching votes from one party to another), always high in Turkey, reached an unprecedented level. The Felicity Party, the hard core rump of Virtue, mustered a mere 2.5% of the vote. Only one other party surpassed the 10% mark –the Republican People's Party (CHP)–. The AKP's stunning victory was the political equivalent for Turkey of a tsunami and deepened the polarisation along secular-Muslim lines. It was due to many factors including the AKP's superior organisation and support networks at the local level, particularly in poor areas; its transformation into a broad mosque party that did not just capture the pious Muslim vote (it also appealed to Kemalists disenchanted with the failure of politicians to make much headway in Turkey's slow march toward joining the EU) and the fall out from the deep economic crisis in 2001. To some extent, the AKP is a continuation of Turgut Özal's Motherland Party, which came to power in 1983 with a neo-liberal economic programme and conservative social values. Özal was Prime Minister for most of the 1980s and then president (1989-1993). He was a great economic reformer and during the 1980s, unlike the following decade, Turkey was very much on the move.

In July 2007, the AKP increased its share of the vote by 12 pp to 47% (it won fewer seats in parliament because of the peculiarities of the electoral system) after Erdoğan called a snap election when the armed forces threatened to intervene if the AKP went ahead with electing Abdullah Gül, then the Foreign Minister, to replace Ahmet Necdet Sezer, a former judge, to the presidency (see William Chislett, 'Turkey's Military Throw Down the Gauntlet', ARI 51/2007, Elcano Royal Institute,

[http://www.realinstitutoelcano.org/wps/portal/rielcano\\_eng/Content?WCM\\_GLOBAL\\_CONTEXT=/Elcano\\_in/Zonas\\_in/Europe/ARI+51-2007](http://www.realinstitutoelcano.org/wps/portal/rielcano_eng/Content?WCM_GLOBAL_CONTEXT=/Elcano_in/Zonas_in/Europe/ARI+51-2007)). Voter turnout was a record 84% and the AKP won

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<sup>15</sup> The literacy rate is 88% (96% for men and 80% for men). Turkey translates more books a year than the Arab world combined.

seats in all but one of Turkey's 81 provinces, while the CHP, the second-largest party, failed to win a single seat in 36 of the provinces (many largely Kurdish). Erdoğan skilfully cast the move against Gül, supported by a controversial ruling by the Constitutional Court, as an attempt to block 'popular will' and the election of a 'religious man' to the presidency. When Gül won a first round of parliamentary voting, the CHP successfully appealed to the Court to overturn the vote on the debatable ground of the lack of a quorum (the CHP and the pro-Kurdish DTP boycotted the vote) even though Gül received more votes than the three previous Presidents.<sup>16</sup> In the words of Soner Cagaptay, a Senior Fellow at the Washington Institute for Near East Policy, the AKP's tactic played to the party's 'promotion of itself as the underdog'.<sup>17</sup> After his landslide victory, Erdoğan pushed ahead with Gül's election to the presidency, breaking the 84-year-long secularist hold on this office.

Professor Metin Heper, a political scientist at Bilkent University, who has studied Erdoğan over the years, says the Prime Minister has a Sufi take on Islam, and as such 'believes in higher *cihad*, or efforts to upgrade one's own morality and that of others, and not in lower *cihad*, of forcefully converting others to Islam'.<sup>18</sup> The son of a migrant to Istanbul and very much a man of the people, Erdoğan sees Islam as a means of moral self-improvement. He is given to making emotional and rather reckless statements (some of them are included in the indictment against the AKP in the appendix), particularly given the staunchly secular establishment's deep suspicions of him.<sup>19</sup> When he was mayor of Istanbul (1994-98) he prohibited the serving of alcohol in restaurants run by his municipality, but he did not restrict other restaurants from doing so, including those operating in places let to them by the municipality. And the reciting of a poem in public ('Our mosques are our barracks, our domes our helmets, the minarets are our bayonets and our believers are soldiers') landed him in jail for four months in 1999 and got him banned from politics. Paradoxically, the same lines, written by Ziya Gökalp, Turkish ideologue and nationalist, can be found in government textbooks in state schools. Erdoğan proved to be a much more competent and effective mayor than those from the secular parties in delivering services and efficiently running the city whose population exceeds that of many EU countries. His administration earned a reputation for sobriety and not being corrupt. In a poll taken in the province of Istanbul in July 1998, which was a damning indictment of the political class, 15.2% of respondents said Erdoğan was Turkey's best politician. Support for Ecevit, the former Prime Minister, was 7.6%, for Süleyman Demirel, a former Prime Minister and President, it was 7.4%, for Erbakan 6.8%, for Mesut Tilmaz, a former Prime Minister, 4.6%, and for Tansu Ciller, Turkey's first female Prime Minister 2.8%.

As well as the headscarf issue, other actions that have enraged the secular establishment include the attempt to criminalise adultery in 2004, which the government backed down in the face of protests from women's rights organisations and raised eyebrows from the European Commission,<sup>20</sup> an attempt to make an executive at an Islamic-style bank head of the Central Bank and Erdoğan's repeated calls for larger families (he has publicly said he is against contraception). Turkey's population is beginning to age as the birth rate has fallen sharply. In 2007, however, 28% of the population was under the age of 14, a much larger share than EU countries, and the population of

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<sup>16</sup> Following a referendum on October 21, 2007 Presidents will no longer be elected by parliament, but by direct vote. The government's reform was supported by 69% of voters and turnout was 67.5%. The presidential term was also reduced from seven to five years and a president can be re-elected. General elections will now be held every four and not five years.

<sup>17</sup> See 'Ankara's Quite Revolution' (*Newsweek*, 14 April 2008).

<sup>18</sup> See 'The Justice and Development Party Government and the Military in Turkey', *Turkish Studies*, vol. 6, nr 2, p. 215-231, June 2005.

<sup>19</sup> Erdoğan's discourse is far less radical than that of Erbakan who denounced the 'order of slavery' imposed by 'Zionism and Western imperialism' and prescribed 'disinfectants' for the 'microbes' of the capitalist banking system.

<sup>20</sup> Ann Dismorr, Sweden's former Ambassador to Turkey, said Erdoğan told her the move was a way of protecting abandoned wives, left without alimony and child support, who had husbands living with another woman. See *Turkey Decoded*, p. 90 (Saki, 2008).

73 million was growing at an annual rate of 1.2% (around 900,000 more people a year).<sup>21</sup> Despite the adultery issue, the AKP's record on enhancing women's rights is relatively impressive. For example, it made rape in marriage and sexual harassment in the workplace criminal offences, and sexual crimes in general were classified as violations of the rights of the individual. They were previously classified as crimes against society, the family or public morality. According to the Berlin-based think tank European Stability Initiative the AKP's reforms are 'the most radical changes to the legal status of Turkish women in 80 years'.<sup>22</sup>

In Heper's view, 'when Erdoğan sticks to his own terminology, he is often misunderstood' but he is sincere in his efforts to achieve a harmonious marriage between democracy and Islam. However, the majority of the secularist elite is not prepared to give him the benefit of the doubt and accommodate the AKP, and this has not been helped by Erdoğan's careless remarks such as attacking the prosecutor's case by citing the Koran's Arafah sura, which states that people who refuse to acknowledge religion 'are like cattle'.

### **Islamist Capital: On the Rise**

Not only is Islam politically stronger in Turkey, but it also has burgeoning economic muscle as a result of the significant rise in religiously-minded businessmen, particularly in the Central Anatolian province of Kayseri (population around one million), which over the last 30 years has been transformed from a backwater dependent on the state for agricultural subsidies and industrial investments into a thriving entrepreneurial centre exporting to Europe and the US, notably textiles and furniture. The AKP's headquarters in Kayseri was one of its first to be established and it won 70% of the vote in the 2004 municipal election, its highest in the country.

The privatised sugar refiner has doubled its daily processing capacity and today is the country's second-most-profitable refinery. The 20,000 inhabitants of Kayseri's industrial district of Hacılar have produced nine out of Turkey's top 500 companies, while Orta Anadolu, one of the 'Anatolian tigers', manufactures 1% of the world's denim. In 2004, Kayseri applied to the *Guinness Book of World Records* for starting the construction of 139 new businesses on a single day. This Islamist capital is mainly represented by MUSIAD (Association of Independent Industrialists and Businessmen).<sup>23</sup>

Restaurants in Kayseri rarely serve alcohol, unmarried men and women do not mix on the streets, and there is little in the way of nightlife. Businessmen go on the pilgrimage to Mecca, contribute to the building and upkeep of mosques, finance courses on the Koran and help poor young people to go to university. Erciyes University in Kayseri, for example, has received substantial funds from the private sector. The richest ones have large houses in Istanbul and villas on the coast, and circumvent the headscarf ban by sending their daughters to universities abroad. Gül, the President, hails from Kayseri and is reverently known as Brother Abdullah. The city's Chamber of Industry, an enthusiastic supporter of EU membership, proudly boasts of its direct contact with him whenever they have an issue to raise or a problem to solve.

This form of Turkish Islam, which is pro-business and pro-free market, has been labelled Islamic Calvinism, to the furore of some because it mixes religions and suggests a conspiracy to Christianise Islam. The expression, based on the thesis that the strong work ethic of the Protestant

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<sup>21</sup> A report by the Social Security Institution (SGK) says Turkey's population will reach 109.4 million in 2075, 29% of whom will be over the age of 60, compared with 9% today. The report said that in France 14% of the population was over the age of 65 and it took 115 years to reach that level whereas Turkey will attain it in 25 years.

<sup>22</sup> See *Sex and Power in Turkey: Feminism, Islam and the Maturing of Turkish Democracy*, European Stability Initiative, 2007.

<sup>23</sup> The other business association is called TUSIAD (Turkish Industrialists' and Businessmen's Association). The 'M' in MUSIAD represents independent, although it is widely assumed to mean 'Müslüman' (Muslim).

movement gave rise to capitalism, was the subject of a much noticed report in 2005 by the European Stability Initiative.<sup>24</sup> Gül had no qualms about declaring himself an Islamic Calvinist.

### **Political Opposition to the AKP: Ineffective**

The various components of the traditional status quo (the military, the judiciary, the upper echelons of the civil service, the urban professional classes and large parts of the media) have not been able to come together and channel their dissent sufficiently through the political system to achieve strong representation in parliament. While the predominantly secular media, particularly the biggest conglomerate, the Dogan group, headed by Aydin Dogan, Turkey's equivalent of the tycoon Rupert Murdoch, relentlessly attacks the AKP, the secular political opposition in parliament –the Republican People's Party (CHP), Atatürk's heirs, the second-largest party, and the Nationalist Movement Party (MHP)– is divided and ineffective.<sup>25</sup> Both parties are paranoid about secularism.

Deniz Baykal, the autocratic 69-year-old CHP leader who has lost five general elections since taking charge of the party in 1992, was re-elected in April at his party congress for a tenth time without opposition. In order to oppose Baykal for the leadership, a candidate was required to garner the support of nearly one-third of the party's delegates, which was difficult given that delegates were handpicked by Baykal.

The CHP, the oldest party in Turkey, has moved from being a modernising force to a major obstacle to change and hence impeding the country's efforts to become a full EU member (Turkey became a member of the Council of Europe in 1949 and an associate member of the then EEC in 1963). Until the AKP's landslide victory in the 2002 general election, the CHP, representing the old elite, supported EU membership, albeit not very enthusiastically, but it and other political parties (to its left and right) never managed to open accession negotiations during the lost decade of the 1990s as Turkey failed to meet the Copenhagen political criteria. That victory was achieved by the AKP (negotiations were opened as of October 2005), which skilfully used the prospect of EU membership during its electoral campaign as a leverage to make Turkey more democratic and once in office followed through with a batch of reforms, though the pace has slowed down and a lot more still needs to be done.

Judging by the CHP's fierce resistance to reforms since the AKP came to power, it is doubtful whether had it become the majority party in 2002 it would have managed to open the door to EU membership. It is an open question whether Atatürk himself would have wanted Turkey inside the EU (he died in 1938). Given that Atatürk wanted the country to reach the level of 'contemporary civilisation', it is likely that he would have wanted Turkey to be an EU member although this would have meant changing the core elements of his ideology.<sup>26</sup> Instead of making EU membership a common cause, the CHP has opposed virtually every move by the AKP. Getting the ultra-nationalist and xenophobic MHP on board is impossible.<sup>27</sup> The CHP opposed the AKP-sponsored bill in April to amend the infamous Article 301 of the penal code, which has been used to prosecute hundreds of writers and academics for insulting Turkishness, and when the armed forces threatened a coup last year to stop Gül's election by parliament to the presidency, because his wife wears the Islamic-style headscarf, it did not raise its voice against it. The MHP supported in parliament the AKP's lifting of the ban on Islamic-style headscarves on university campuses. It, too, courts votes

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<sup>24</sup> See [www.esiweb.org/index.php?lang=en&id=156&document\\_ID=69](http://www.esiweb.org/index.php?lang=en&id=156&document_ID=69).

<sup>25</sup> Turkey's second-biggest media conglomerate, Sabah ATV (a newspaper and a TV channel), which was placed in government hands after it went bust last year, was sold to Ahmet Calik, a close associate of Recep Tayyip Erdoğan, the Prime Minister, in December. His son-in-law, Berat Albayrak, is chief executive of Calik's holding company.

<sup>26</sup> The 'six arrows' of Kemalism are republicanism, populism, secularism, reformism, nationalism and statism.

<sup>27</sup> In early 2005, the MHP, which subscribed to the theory of a Jewish-US conspiracy in the region, made Adolf Hitler's *Mein Kampf* recommended reading. It became a bestseller.

from devout Muslims, although the real reason, according to some sources, is that it laid a trap for the AKP, knowing how the judiciary would react.

The CHP's discourse has become very anti-imperialist. It, and the MHP, believe there is some kind of conspiracy from a united front made up of the EU and the US and the AKP to destroy the Republic. The commentator Mustafa Akyol noted that the CHP has stopped referring to the Westernising reforms of Atatürk and instead focuses on his earlier period (1919-22) in which he led Turkey's 'War of Liberation' against the European powers after World War I.<sup>28</sup> The CHP's version of Kemalism is becoming more and more reactionary and isolationist. This has led to calls for the CHP, which labels itself social democratic, to be expelled from the Socialist International (SI). In May the SI's Ethics Committee decided to examine the party's commitment to democracy.

### **The Armed Forces, Guardians of Secularism**

Turkey's armed forces, the second-largest among Nato countries after the US, have staged three coups since 1960, one coup that was termed 'post modern' in 1997 (when it forced a government to resign) and another labelled an 'e coup' in 2007. Each direct or indirect intervention has been aimed at correcting what they viewed as a severe veering from the Republic's basic principles, and they have always returned to their barracks once they believed the country was back on course. They have never sought power for themselves and today are still the most respected institution in Turkey. The bloodiest coup was in January 1980 when it seized power to put an end to the spiralling violence between the right-wing Grey Wolves (an unofficial arm of the MHP) and the radical left. During this junta, which lasted until November 1983, a new constitution was drafted, most of which still prevails today.

The military's political influence has been reduced in the last few years under the process of reforms required to join the EU. A civilian now heads the National Security Council (NSC), in the past a kind of shadow government. The number of civilians on the NSC was increased to eight while the military retained five and the body no longer makes recommendations but conveys its views upon request. Yet the military's *de facto* influence is largely unchanged as it continues to issue its opinions on matters that it views as affecting the Republic's core values. The most strident example of this was its so-called 'e coup' last year when the Chief of the General Staff's Office posted a statement on its website threatening, as the 'resolute defender of secularism', to take action against the election of Gül as President (see the Appendix for the full text). Its action was counterproductive as the AKP did not back off. Erdoğan, unlike his mentor Erbakan in 1997, stood up to the military and called a snap election, which he won, and Gül became President. Significantly, the military did not intervene, raising the question of whether it has become a paper tiger.

The military established a *modus vivendi* with the AKP for most of its first term in office and accepted reforms that reduced its role in political decision-making, granted greater rights to Kurds and, generally, went along with greater freedoms. General Hilmi Özkök, the previous Chief of Staff, who retired in 2006, even mooted the idea, which would have been heresy not so long ago, to take a fresh look at Atatürkism, saying: 'The Atatürkist way of thought, which is free from dogmas and based on reason and science, can and should be reinterpreted. Only then will it continue to be a guiding light for future generations'.<sup>29</sup>

However, since the re-election of the AKP and the elevation of Gül to the presidency in 2007 (the President is Commander-in-Chief of the armed forces and is not just a symbolic post) and the

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<sup>28</sup> See 'The Kemalist Crusade Against "Imperialism"', [www.thewhitepath.com/archives/2008/05/the\\_kemalist\\_crusade\\_against\\_imperialism\\_aka\\_the\\_eu.php](http://www.thewhitepath.com/archives/2008/05/the_kemalist_crusade_against_imperialism_aka_the_eu.php), by Mustafa Akyol, published in *The Turkish Daily News*, 1<sup>st</sup> May 2008.

<sup>29</sup> Interview in *Milliyet*, 31 August 2003.

headscarf issue this year, relations between the military, headed by the more hard-line General Yaşar Büyükanıt, and the government have become more those of hostile than friendly adversaries, although in some key areas, such as the fight against resurgent Kurdish terrorism, the two sides basically see eye to eye. In essence, the top brass no longer gives the AKP the benefit of doubt because of the creeping Islamisation of political life and society including the military. The High Military Council has expelled some commissioned and non-commissioned officers on the grounds that they 'had subscribed to political Islam'.

### **A Stronger Economy**

The AKP's six years in office has been bad news for the secularist elite, but good for the economy which since 2002 has been growing at a strong pace and has achieved a degree of macroeconomic stability not seen for a very long time. The political stability emanating from a single party government, after so many ineffective coalition governments, has fostered economic stability.

The AKP inherited an economy that had shrunk by 7.5% in 2001 during a devastating financial crisis triggered by a weak banking sector and years of economic mismanagement. One US dollar reached more than one million lira. Between 2002 and 2007 real GDP growth averaged 7%. Inflation has been in single digits for the first time in more than 30 years, enabling the Central Bank to knock off all the zeros and introduce new lira notes, and the budget is much more under control. The AKP cannot claim all the credit for this as emerging markets, in general, benefited from a buoyant global economy during this period, and in Turkey's particular case the mere prospect of EU membership has helped to fuel foreign direct investment (FDI), which in 2007 reached a record US\$21.9 billion (up almost 10% on 2006, also another record). The government, however, was wise to continue Turkey's programme with the IMF and step up privatisations (earning US\$1.9 billion from Turk Telecom's IPO).

The AKP's relative success in the economy has boosted its standing with the business community and enhanced its grass roots support.

### **Conclusions**

The evidence so far suggests that the AKP is not bent on creating an Islamic state, but this does not mean that religion is not entering more forcefully into politics. The question is whether this really represents a serious threat over the long term to Turkey's secular democracy. As far as the secular establishment is concerned, the AKP has already crossed a thick red line separating religion from politics by lifting the ban on the wearing of Islamic-style headscarves on university campuses. Ideally, this issue would have been resolved by an all party consensus, but the depth of polarisation precludes this.

To accusations that it has been too hasty, the AKP can point to the fact that it waited until its second term of office before making a move on the issue and after winning a massive mandate. Instead of engaging with the AKP, difficult though this may be, the secular elite's paranoia on the headscarf issue runs the risk of pushing the AKP into a corner from where it could well lose patience.

It is widely assumed that the Constitutional Court will not dismiss the charges and, at the very least, will cut off the state's funding of the AKP and ban some if not all of the 71 people, including Erdoğan, that the prosecution says should be barred from politics. If the Court decides to outlaw the AKP it will simply reinvent itself with another name (as has happened with previous religiously oriented parties) and almost certainly be re-elected as it enjoys wide support. Such a cat and mouse game could go on indefinitely, to the detriment of Turkey's EU accession process and economic stability.

The message that outlawing the AKP sends to its supporters, particularly in the south east of the country where Kurdish terrorism has flared up again and the party did well, is a very negative one as it is tantamount to saying their vote is useless.

Part and parcel of the AKP's drive to make Turkey more democratic is to ease the ban on the headscarf. During the brief window of opportunity earlier this year between the lifting of the ban and the appeal against it to the Constitutional Court, female students began to wear it on university campuses. It is impossible to know how many did so because they wanted to and how many were following the instructions of religiously observant parents. Anecdotal evidence suggests that not all were wearing it voluntarily, so their rights, too, need to be protected.<sup>30</sup>

The case against the AKP is proceeding at the same time as the country's Presidency of Religious Affairs is preparing to publish a document that could represent a revolutionary reinterpretation of Islam. A team of theologians is reviewing the Hadith, the second most sacred text in Islam after the Koran. The Hadith is a collection of sayings reputed to come from the Prophet Muhammad and as such is the principle guide for Muslims in interpreting the Koran and the source of most of Islamic law, or *sharia*. Some sayings –for example one restricting the free movement of Muslim women accepted as being genuinely spoken by Muhammad– were altered or reinterpreted. This project squares well with the AKP's attempt to show that a tolerant version of Islam is not incompatible with democracy as understood in the Western world.

The current crisis shows the urgent need for a new and more democratic constitution in Turkey. The current one gives too many rights to the state and not enough to individuals, an issue that needs to be addressed. Were a new one to be in place before the ruling on the AKP and it included a more flexible definition of secularism and new rules regarding the closure of political parties, the Constitutional Court would have to abide by it. This would then make secularism and democracy in Turkey compatible, at least from the legal standpoint although it would not change the mindset of the secular elite. A team of constitutional lawyers has prepared a draft, but the AKP seems to be reluctant to press ahead with getting it approved, perhaps out of fear of provoking the secular establishment even more.

In the likely event that the AKP is punished in one way or another, the European Commission will have to come up with an adequate response that firmly lets the secular elite know that governments are chosen by the people and not by lawyers. Suspending EU negotiations is an option, albeit a drastic one –it would require a qualified majority vote by EU countries (possible but unlikely) and a unanimous vote to restart negotiations (impossible in the current climate given the opposition against Turkey's membership of countries such as France)–. But this would play right into the hands of the AKP's enemies in Turkey and leave the country facing an uncertain future.

*William Chislett*

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<sup>30</sup> At Bilkent University in Ankara some male students threatened to boycott classes if they were attended by headscarf-wearing girls, further complicating the issue.

## Appendix 1.

**Extracts from the indictment against the Justice and Development Party brought by the Court of Appeals Chief Prosecutor on 14 March 2008, for becoming the centre of acts against the principle of secularism.**

### **A. Preface**

Due to their impact on the state administration and their role in realising the national will, the drafters of the Constitution treated political parties –which are national tools of freedom, political participation and legality that are regarded as indispensables and *sina qua non* of democracy– in a different way to other legal entities. It specifically determined the principles that would govern their works and the methods and rules to be followed for their closures.

Although they are indispensable elements of democratic political life and have an intensive relationship with state organisation and public services, political parties are not provided with an unlimited area of operation and opportunity of freedom. Their freedom of establishment and functioning is limited by the Constitution and the laws that regulate this field.

### **B. Reasons to Close a Political Party**

#### **1 – From the Aspect of International Law**

*In this section the prosecutor notes that political parties are protected by the UN Individual and Political Rights Charter and also by the European Human Rights Convention.*

In accordance with the Charter that creates and protects the European public order, if acts of a political party contradict the European public order and if they go out of the sphere that is protected by the Charter, by basing on the reasons that are mentioned in the Charter, bans and limitations can be foreseen for those parties. As stipulated by paragraph 2 of Article 11, it is possible to impose sanctions on political parties including closure.

Taking into consideration this provision, foreseeing closure sanction against a political party that has a political project that would endanger the democratic regime in the country and for political parties that aim to resort to violence for their political purposes when needed, is not against the European Human Rights Charter (Toil Party vs Turkey case).

The issue of closure of political parties based on paragraph 2 of Article 11 of the European Human Rights Charter was studied by the Council of Europe Venice Commission and put into a report titled Principles of Venice. Parties can be closed for encouraging ‘racism, terrorism, xenophobia, violence, call to violence’ or for ‘intolerance’.

Closure of a political party is the heaviest sanction that can be implemented. Since this is the heaviest measure to be taken, it follows that the acts of the party should be of a certain weight in order to implement the closure measure.

Closure of a political party is interference in freedom of organisation. For this reason a closure measure against a political party should be done in compliance with European Human Rights Charter which means that for this interference to be regarded rightful, it should be approached from the light of European Human Rights Court decisions.

## **2 – From the Aspect of Internal Law**

### **(a) Constitutional Arrangement:**

Article 69 of the Constitution regulates closure of political parties and states under which conditions party closures are possible. According to paragraph four of this article, the dissolution of political parties shall be decided finally by the Constitutional Court after the filing of a suit by the office of the Chief Public Prosecutor of the Republic.

Closure of political party can only be possible due to three reasons. They are:

- when its by-laws and programme violate the provisions of the fourth paragraph of Article 68 of the Constitution;
- when the party in question becomes a centre for activities that are in violation of paragraph four of Article 68 of the Constitution;
- when the party in question accepts financial assistance from foreign states, international institutions and persons and corporate bodies that are not Turkish citizens.

### **(b) Legal Arrangements:**

The Political Parties Law, by taking into consideration Articles 68 and 69 of the Constitution lists the sanctions that can be implemented against political parties as:

- depriving the political parties of state assistance partially or totally
- and closure

Political Parties Law Article 101 says that political parties can only be closed for being against the Constitution and for three reasons:

- if a political party's by-law and program is against independence of the state, its indivisible unity with its country and nation, human rights, principles of equality and state of law, sovereignty of the nation, principles of democratic and secular republic, its defending and aiming to establish class or group dictatorship or any kind of dictatorship and encouraging committal of crime;
- when the Constitutional Court decides that the party in question becomes a centre of activities that are in violation of paragraph four of Article 68 of the Constitution;
- when a political party accepts financial assistance from foreign states, international institutions and persons and corporate bodies that are not Turkish citizens.

The law also in its Fourth Chapter (from Articles 78 to 89) lists the conditions that political parties should comply with: Article 78 –to protect democratic state system–; Article 79 –to protect nation state characteristic–; Article 80 –to protect uniqueness of the state–; Article 81 –to prevent creation of minorities–; Article 82 –to prevent regionalism and racism–; Article 83 –to preserve principle of equality–; Article 84 –to protect Atatürk's principles and reforms–; Article 85 –to respect Atatürk–; Article 86 –to protect the principle of secularism–; Article 87 –to prevent exploitation of things that are regarded sacred for religion–; Article 88 –prohibition of performing religious demonstrations–; and Article 89 –to preserve the position of the Diyanet (the Religious Affairs Directorate)–.

## **C. Explaining the reasons of party closures in the case of being a focal point for acts against secularism**

### **1 – From the Legal Perspective:**

*The Chief Prosecutor said that secularism is the assurance of freedom of conscience. Secularism is not a philosophical concept in Turkey. It is put into life through laws and gained legal value. It is protected by the Constitution.*

Political parties that take political Islam as their basis do not have anything common with the Christian Democrat Parties in Europe. Political Islam in Turkey does not remain limited within the area between the individual and the God but claims to regulate the rule of state and society. The basic code of political Islam is *sharia*. Political Islam and its constitution *sharia* are not democratic but totalitarian. Political Islam uses democracy as a tool and *sharia* as its goal. In order to evade the rules and institutions of democracy, it uses the method of *takiyye* (dissimulation), which finds its sources in *sharia*.

Supreme Court decisions pointed out that the concept of secularism has a different meaning than the western world, thus it requires a different way of implementation.

Due to its historical experiences the principle of secularism is of special importance for Turkey and on this issue Turkey has a broad right of discretion. This does not contradict the views of the European Human Rights Court. For this reason closure of a political party is in compliance with the legal purpose stated in paragraph two of Article 11 of the European Human Rights Charter. The concept of secularism is also protected within the European public order. Within this context, *sharia* does not comply with European public order (Welfare Party vs Turkey decision).

### **D – The demand against the political party which is in the position of defendant**

When the by-law and programme of the Justice and Development Party are studied, one can see there are no provisions to establish an anti-secular model. However, the party went beyond its by-law and program with anti-secular acts and rhetoric.

#### **Acts and statements of Justice and Development Party Chairman and Prime Minister Recep Tayyip Erdoğan.**

Sixty-one are mentioned, mostly reported in newspapers including:

- In his speech at Oxford University on 29 May 2004, Erdoğan said ‘there is only one Islam. No adjectives can be put in front of it. This is a thesis aiming to hurt Islam. Secularism is a totally different issue. People can display the requirements of their religion. It would be wrong to bring together Islam and secularism in definition. Individuals cannot be secular’.
- On his arrival in Turkey from New Zealand and Australia on 11 December 2005, when asked whether he had said ‘the main element that connects ethnicities in Turkey is religion’, Erdoğan responded ‘I know what I said... There are around 30 ethnic groups... 99% of the country is Muslim. Religion is a cement in Turkey’.
- On his arrival from Kazakhstan in May 2005, he said in response to questions about Koran courses that were opened without permission, ‘This is a very ugly reference. Koran courses cannot be illegal. This is wrong... Koran is learned. No one can be attributed with a crime just for learning Koran. This nation is Muslim and this Muslim nation can learn its own book Koran comfortably. There are no law provisions saying “illegal Koran courses’.

- On the plane while going to the US in June 2005, Erdoğan said ‘we have no problem with secularism... As an individual I am not secular. The state is secular. But I have the duty of protecting the secular system’.
- In an interview with Germany’s *Welt am Sonntag* in February 2005, when asked why his daughters wear the turban, he said ‘we are pious Muslims. The Koran says that women should wear the turban in society. ‘I regard turban ban in high schools as a mistake. A democratic country should provide freedom of religion. This includes citizens expressing their religion through symbols’.
- On his way back from Germany in November 2005, Erdoğan linked the violence in ghettos of France with the turban ban. He said ‘banning of headscarf had an impact. With such attitudes isolating migrant societies, (French officials) ignited acts of violence...’.
- While meeting with administrators of the *Zaman* daily in April 2005, Erdoğan said ‘the problem of headscarf cannot be talked about. It is experienced in life. There is an agreement among people. We need an agreement within parliament. The parliament does not reflect the will of the people’.
- Erdoğan telephoned two students who were said to have been prevented from receiving their awards at essay contests because of their headscarves. The PM reportedly conveyed his regrets. He also gave instructions to open an investigation into public employees who did not allow these students. Right after this incident, Minister of Education Celik gave an award to a junior high school freshmen wearing a turban and AKP deputy Husrev Kutlu had a picture taken with that student.
- In Spain where he attended the Forum of Alliance of Civilizations, at a breakfast hosted by Europa Press, Erdoğan said, in response to a question, ‘you said symbols. In my party there are women with the turban, this is so in other parties as well. This is their political preference. They are told that they wear the turban as a political symbol. Let us assume a woman wears the turban as a political symbol. Can you regard wearing it as a political symbol as a crime?’.
- The Religious Affairs Directorate issued a regulation on 24 November 2003 allowing Koran courses in the summer and in the evening. As a result of reactions it made changes in the regulation on 23 December 2003. Erdoğan then gave the message that he was in favour of the November arrangement.
- In an interview with ATV on 17 February 2008 Erdoğan said ‘I am the representative of silent masses. See some people gather at squares (to protest against the headscarf). They are my citizens as well. I watch them with patience, as a requirement of the office I am occupying. But if I position myself as a party of tension, we can gather crowds ten times bigger. For five years we did not say anything about the headscarf, we always said patience’.

## Appendix 2

### Extracts from the preliminary defence of the Justice and Development Party, April 30, 2008

#### A. Preface

In politics, there may be serious differences between the facts and perceptions and the facts can be interpreted differently depending on political views. In the field of jurisprudence however, it is a requirement to evaluate facts, factual realities, specific incidents and acts with objective norms and rules rather than subjective assessments and perceptions.

This indictment is not based on the objectivity, causality and rationality which are the basic characteristics of the legal system and it displays –with the most optimistic approach– the existence of a problem of perception. The indictment reflects a prejudiced approach which totally reverses the facts, confuses the values and concepts and, moreover, damages the values it claims to protect. This indictment does not have anything to do with what had happened in reality.

This indictment is a web of contradictions. It is a contradiction to claim that a political party, which has been marching determinedly since its establishment towards the target of reaching contemporary civilization as directed by Mustafa Kemal Atatürk, the founder of our Republic and taking all kinds of necessary steps for the realisation of full EU membership (the most important turning point of this march), has become a centre of anti-secular acts.

It is also a serious contradiction to say that the political project of a political party –which has been exerting efforts to make democracy get rooted and expand the sphere of freedoms with a new mentality of politics– does not comply with democracy.

The biggest contradiction of all is to accuse a political party of having a ‘secret agenda’ and making *takiyye* although it has adopted the principles of transparency and accountability since its establishment and proven this with its practices. We never had a secret agenda other than the ones we had announced and put into practice, and there will not be any from now on either.

The AK party emerged with a new mentality and method of politics in a period of adverse effects of economic and political crisis; tensions in the relations between religion and the state and the state and society were intensively felt. The party developed a conservative democrat political identity, aimed at normalizing politics.

We are a centre party with votes from all sectors, every region and from all economic and sociologic strata. Our party is the only one with deputies in parliament from all, but one, of the 81 provinces in the 2007 general elections. The emphasis on unitary state, secular state, democratic state is our basic political mission. The party is a movement which is not a centre against secularism but one that socializes secularism.

Parliament is the heart of democracy and political parties are the main veins that carry blood to this heart. Closing down parties abolishes the function of pluralist democratic politics to produce solutions. It deeply hurts the belief and trust of our nation in democracy.

This indictment is based on the assumption that the qualities of the Republic are not defended by our nation sufficiently and makes the loyalty of our nation to its state and Republic debatable. It is not possible to accept this unfair assumption which means denial of all achievements of our Republic. Atatürk strongly believed that it is not possible to make the basic principles of the Republic and revolutions survive without entrusting them to the nation and with this belief he put into life all elements of the new regime with the democratic willpower of the Turkish Grand National Assembly (TGNA). For this reason it is the TGNA and the Turkish nation as whole that is the protector and implementer of Atatürk’s principles and reforms.

## **B. This Case is Political, Not Legal**

### **(1) In General**

The text of the indictment is a fictional text based on speculations, ignoring performances of the government, rather than being a legal text.

Opposition parties may resort to such methods, but the judiciary should be based on concrete facts, documents and evidence.

The essence of the indictment is based on the assumption that the democratic change and transformation that our party has been trying to realise does not comply with democracy.

## **(2) Political/Ideological Language of the Indictment**

An office which has the authority to open a court case on behalf of the public should be using a politically neutral language and limit claims and allegations with law. However the indictment reflects a political and ideological preference and with that structure it bears the nature of being a political declaration where political prejudices prevail rather than being a legal document.

In countries where the duty of the political opposition is assumed openly or covertly by the judiciary, where the judiciary interferes in politics and where it adopts the decisions that should be adopted politically, democracy is under great threat.

Establishing links between preparing a new constitution and a so-called political Islam project that can never be attributed to the AK party is totally baseless. For many years several political parties and institutions have been working on a new constitution.

Our work on a new constitution is aimed at getting closer to the contemporary world in a country which had received a negotiating date from the EU. Everyone knows that the constitutional draft, which has not yet been given the final shape by our party, strengthens the principle of secularism compared to our current constitution.

## **C. Freedom of Political Parties and its Limits in Democracies**

### **(1) Democracy and Political Parties**

*This section notes that in Europe since the 1950s, three political parties have been closed. Two of them were in Germany (Socialist Reich Party in 1952 and German Communist Party in 1956 and the other in Spain in 2003, the Herri Batasuna Party for having organic links with the separatist group ETA).*

The Constitutional Court had closed down 24 political parties in Turkey since 1961. This does not include political parties that were closed during military intervention periods.

The clearest indication that the practice in Turkey does not comply with universal standards is that all but one of the political party closure decisions by the Constitutional Court were regarded as a violation of the charter of human rights by the European Court of Human Rights.

### **(2) Universal Standards in Banning of Political Parties**

Although the indictment makes reference to the European Human Rights Charter and the Venice Commission principles while talking about the reasons for closure of political parties, it ignores what kind of a protection system the Venice Commission introduced for political parties and that only those that adopt violence can be shut down.

The indictment uses the criteria displayed in the decisions of the European Human Rights Court for banning political parties, but it does not show that the AK party should be closed based on these criteria. On the contrary, if the criteria of the European Human Rights Court were taken into consideration, this case should never have been opened.

The indictment seeks to show our party as the continuation of some other parties of the past. The goal here is apparent. Acting upon the resolution of the European Human Rights Court on one political party, it attempts to give the impression that closing down our party could be in compliance with the Charter. The AK party was established in 2001 as a totally new political party.

### (3) AK Party's Understanding of Secularism

One of the basic reasons of opening of this case is the difference between the understanding of secularism as defended in the indictment and the understanding of secularism by our party. The indictment regards secularism as a single dimension concept and presents it as a 'civilised way of life' that should be adopted by the individuals and a 'philosophy of life'. Such an interpretation of secularism is based on rigid 'progressive' understanding of 19<sup>th</sup> century positivism.

The contemporary understanding of secularism states, on one hand, that the state system cannot be based on religious rules and, on the other, that the state gives assurances on freedom of religion and conscience of the individuals. Throughout our rule of the country, we have never performed a practice that would hamper either one of these basic two legs of secularism.

Linking freedom of headscarf in higher education institutions with secularism is not correct conceptually and empirically. Secularism requires an unbiased attitude of the state *vis à vis* all faith and views in the society. The state is obliged to respect individual preferences with the condition that they would not hurt others. When an adolescent student who has reached to the age of entering university, wants to cover her head due to her individual preferences, preventing her would mean interference in her freedom and autonomy. Banning certain types of clothing that are preferred by university students due to this or that reason in a democratic country is a practice that would eliminate pluralism, a desire to live together, tolerance and dialogue.

### Appendix 3

#### **A statement about the presidential elections and the Festival of Youth from the Chief of General Staff's Office, 27 April 2007.**

Certain circles are engaged in an unceasing effort to wear down the basic values of the Turkish Republic and above all secularism. It is observed that these efforts have recently increased. These activities, which are being conducted by certain quarters are constantly coming to the public's attention. They cover a wide spectrum of activities ranging from calling into question and refining basic values to organising alternative celebrations of our national public holidays which symbolise the independence of our state and the unity and togetherness of our nation.

Those who engage in these activities do not hesitate to exploit the sacred religious feelings of our people and are concealing these efforts which have become an open challenge to the state behind an outward front of religion they are working to hide their real aims. In particular the way in which they bring women and small children to the fore in these kinds of activities has an outstanding resemblance to the destructive and divisive armed actions which are being carried out against the unity and integrity of our country.

In this connection, we can mention the celebrations for a Koran reading competition, which were organised for the day of national hegemony and children's holiday on April 23 but were cancelled as a result of pressure from sensitive media and public opinion.

On 22 April 2007 in the provinces of Sanlurfa'da, Mardin, Gaziantep and Diyarbakir hymns were chanted by a chorus of little girls dressed in anachronistic costumes unfit for their age and at an hour when they should have been in bed. The fact that that at this time there were efforts to take down pictures of Atatürk and the Turkish flag demonstrates very clearly the real aims and purposes of the organisers.

Furthermore, in the Altindag province of Ankara at a festival on 23 April, to which all headmasters in the province had been ordered to attend, hymns were chanted by primary school students whose

heads were covered at a function organised jointly by the mufti of Denizli. Although there are four mosques in the market town of Nikfer in the Tavas district of Denizli news was received with anxiety that a sermon was preached to women and religious discussions were held in the Atatürk primary school.

The functions which may be held in schools are specified in the relevant directives of the National Education Ministry. But it has been established that these functions took place on the basis of instructions outside the directives and the office of the general staff has detected that although the relevant institutions were informed no preventative measures were taken.

The fact that the public authorities who should have prevented these activities and stopped them gave permission for them and were aware that they were taking place makes matters even graver. It would be possible to give more examples of such activity.

This reactionary outlook, which is opposed to the Republic and has no aim other than to wear down the basic qualities of our state, has been becoming bolder in its activities and utterances in recent days and is broadening the range of its activities.

Developments in our region are full of examples of exploiting religion and faith for political purposes and goals and make it necessary to issue a warning about the disasters to which they could open the way. A political slogan or ideology, which is attempting to base itself on a sacred belief, is being converted into something completely different and may be observed both in our country and beyond it. The events which took place in Malatya may be described as a striking example of this. There can be no doubt that the sole condition for the Turkish Republic to live in peace and stability as a modern democratic state is for it to possess the basic state qualities set down in our constitution.

Activities and practices of this kind as the Chief of General Staff stated in his press conference on April 12, 2007 conflict completely with the principle of being not just verbally but genuinely committed to the Republican regime and reflecting this in one's actions, and violate the basic principles of the constitution and its provisions. This is a clear fact.

In recent days the issue which has come to the fore in the process of the presidential elections focuses on the debate about secularism. This situation is being followed with anxiety by the Turkish Armed Forces. It must not be forgotten that the Turkish Armed Forces are a party in these discussions and are the resolute defender of secularism. Furthermore, they firmly opposed to the discussion which is going on and the negative interpretations of them. If it is necessary they will demonstrate in an open and firm fashion their attitude and actions. Let no one be in doubt about this.

In summary, everyone who opposes the view of our great leader Atatürk, founder of our Republic ('blessed is he who calls himself a Turk') is an enemy of the Turkish Republic and will remain so.

The Turkish Armed Forces are maintaining their unshakeable determination regarding carrying out in full the public duties assigned them by law to preserve these qualities. Its faith in its commitment to this resolve is firm.

This is respectfully conveyed to the public.

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