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## The Conspiracy Archive: Turkey's 'Deep State' on Trial

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The phrase 'deep state' in Turkish popular parlance refers to powers operating with impunity through and beyond the official state structure.<sup>1</sup> It is considered to be a state within the state, a network of illegitimate alliances crisscrossing the military, the police force, the bureaucracy, the political establishment, the intelligence agency, mafia organisations and beyond; lurking menacingly behind the innumerable assassinations, disappearances, provocations, death threats, disinformation campaigns, psychological operations, and dirty deals of the past several decades. The currency of such a phrase points to a public consensus around the existence of non-democratic leadership, state-sponsored extralegal activities, state protection and perpetuation of particular forms of political violence, and more generally corruption within state institutions. Recently, a number of criminal trials brought the deep state into Turkey's courtrooms. My focus in this chapter is on the most famous of these, the so-called Ergenekon trial. I offer a reading of the Ergenekon case file as comprising an archive of the Turkish deep state, not because it successfully captures its history and facticity, but rather because it allows insight into the rationalities and passionate investments that culminate in the reification of the deep state. Two concerns guide my inquiry here: the problem of producing knowledge about the deep state, and the performative production of the state in trials involving state crimes. These two issues are inevitably related, since ways of knowing the political are intimately tied to ways of reifying it (Abrams 1988). In Pierre Bourdieu's words, the state 'thinks itself through those who attempt to think it' (1994, p. 1). The case file in the Ergenekon trial has its own way of conjuring the state, in a bizarre amalgam of fact, fiction, fantasy, desire and disavowal – an amalgam best understood, I argue, in terms of the conspiratorial imagination. I conclude the chapter with a consideration of a way of knowing the deep state beyond the limits of legal and conspiratorial imagination, an articulation that mobilises the legal archive for a counter-conspiracy against the conspiring case files.

Ergenekon is a sprawling criminal process that began in June 2007 with the police discovery of a cache of hand-grenades in a residential building in Istanbul. The investigation expanded in numerous directions to include coup plots, bomb attacks, assassination plans, further secret arms caches and the like. The first hearing of the first Ergenekon trial began in October 2008 with 86 defendants. By the time the verdict was passed in August 2013, 23 other indictments had been integrated into this trial, raising the total number of defendants to 275.<sup>2</sup> The defendants included retired

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<sup>1</sup> Similar terms are in use elsewhere. I understand that 'para-state' signifies comparable structures of non-transparency in Greece. Since Hosni Mubarak's fall in February 2011, and more frequently since the military coup of July 2013, English language reports have been referring to Egypt's 'deep state'. Occasional references to Russia's 'deep state' are also found in political analyses and commentaries.

<sup>2</sup> At the time of writing, the trial is still at the appeals stage and there will likely be a retrial.

and active senior and junior military officials, police chiefs, civil leaders, ultranationalist militants, politicians, bureaucrats, journalists, writers, academics, lawyers, businessmen, mafia bosses and small-time gangsters. Only 21 defendants were acquitted in the August 2013 verdict, and most of the others were convicted on charges relating to leadership of, membership in, or aiding an armed terrorist organisation, referred to in the main indictment as the ‘Ergenekon Terrorist Organisation’ (ETO). Ostensibly, this is Turkey’s deep state trial, purporting to purge patterns of corruption and illegality within the state. The prosecutors in the indictments, as well as the judges in the verdict, claim that the ETO is synonymous with what has come to be known as the deep state.

An occasion for countless conspiracy theories in its obscurity, the notion of the deep state and the kind of activities and alliances that it refers to have to be understood against the background of Turkey’s extended history of military tutelage (Söyler 2013), its military coup tradition (Ünver 2009) and the special privileges of unaccountability and impunity that the army has enjoyed throughout the republic’s history, up until very recently.<sup>3</sup> Against this background of military tutelage, historians, investigative journalists and commentators attempting to get a more credible hold on this nebulous concept tend to focus on state institutions that are considered to be conducive, due to their structural non-transparency, to the continuation and prospering of such activities and alliances. Focusing on institutions rendered unaccountable by design yields a relatively long history of the Turkish deep state, stretching beyond the republican era to the Ottoman Teşkilat-ı Mahsusa (Special Organisation), an early type of unconventional warfare organisation considered by historians as the key operational structure behind the 1915 Armenian Genocide. Later, an important locus of deep state activity from the early 1950s onwards is identified as the NATO-related Özel Harp Dairesi (Special Warfare Department) (ÖHD). Designed to build an infrastructure of civilian-military mobilisation against a possible Soviet occupation like other NATO stay-behind units in Europe, ÖHD was later revealed to have been behind the 1955 Istanbul pogrom primarily directed at the city’s Greek minority. In the 1970s ÖHD was implicated in assassinations of communist intellectuals and young activists on the left, among other deeds. In the early 1990s, as the war against the insurgent Partiya Karkerên Kurdistan (Kurdistan Workers’ Party) (PKK) was intensified, ÖHD was restructured into Özel Kuvvetler Komutanlığı

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<sup>3</sup> Arguably, the last years of the current Justice and Development Party (AKP) government have witnessed the consolidation of an appearance of representative democracy, owing to a series of ‘purges’ (including the Ergenekon trial itself) aimed at tackling military tutelage, which in turn is often understood to be the sole source of the wide range of phenomena evoked with the phrase ‘deep state’. And yet, as I propose in this chapter, the deep state should be understood not as a field of measurable deviance, the gradual elimination of which will lead to democratisation (as argued, for example, by Söyler [2013]), but rather as a particular amalgam of governmental rationality and fantasy that perpetuates a state tradition. Unlike various analyses that focus on the military as the one and only source of the problem of the deep state, this approach is able to address the recent episodes in Turkish politics whereby the phantom of ‘the state within the state’ continues to hover in new guises.

(Special Forces Command). Another key unit that emerged at this time and was virtually synonymous with the deep state for a while is known as JITEM, an acronym for ‘Gendarmerie Intelligence and Counterterrorism Group Command’ in Turkish. Although it was officially disavowed for many years, and said to have never existed, testimonies implicate JITEM in the majority of the thousands of disappearances and extrajudicial executions that peaked during the 1990s, primarily targeting Kurds, as well as in illegal arms trading and drug trafficking in the Kurdish regions.

While the style and structure of deep state plots render them easily recognisable to a public that has become all too familiar with them, such familiarity does not alleviate the epistemological problem concerning the deep state. Official secrets, denials, cover-ups, suppression or outright elimination of witnesses or researchers, psych-ops, and barrages of misinformation all weave a web of opacity, casting the deep state as a wilderness of mirrors, and endless fodder for conspiracy theories. After all, conspiracy theories may be seen as so many attempts ‘to give form to, and thus exercise a certain amount of control over, a fearful, ghostly reality of violence’ (Aretxaga 2005, p. 197). There was, however, a key moment in the mid-1990s, at the height of the war against the PKK, when a justification offered itself up for a wide array of suspicions, briefly illuminating the murky depths of the Turkish state in a flash of lightning. It took the form of a car accident. On 4 November 1996, a speeding Mercedes crashed into a lorry in the town of Susurluk. The passengers in the car included Sedat Bucak, parliamentarian and the leader of a Kurdish clan in close cooperation with the Turkish authorities in the war against the PKK, providing about 2000 of the notorious paramilitary ‘village guards’. Then there was Hüseyin Kocadağ, the director of the Istanbul Police Academy and former Deputy Police Chief of Istanbul. A third passenger was Abdullah Çatlı, who was wanted by not only the Turkish police for alleged participation in the massacre of seven members of the Turkish Labour Party in 1978,<sup>4</sup> but also by Interpol for his 1982 escape from a Swiss prison where he had been held on drug smuggling charges. Of this unholy trinity of warlord parliamentarian, police chief and nationalist mafia boss, only the first survived, and he claimed a complete loss of memory. At the time of the accident, the mafia boss Çatlı was found to be carrying diplomatic passports and a licence to carry weapons, the latter bearing the original authorisation signature of Mehmet Ağar, the then Minister of Interior. This alone crystallised something of the essence of what the phrase ‘deep state’ tries to communicate: the documents had been forged, but the signatures were authentic. Fourteen individuals linked to the so-called ‘Susurluk gang’ were tried on charges of organised crime, though efforts to bring to light the entire set of connections and culpabilities failed spectacularly. The trial came to a conclusion in 2001, neither addressing the full range of implications, nor satisfactorily ensuring prosecution.

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<sup>4</sup> At the time of the massacre, Abdullah Çatlı was a member of Grey Wolves, the ultranationalist youth organisation that was allegedly recruited by the ÖHD as its ‘civilian elements’ in acts of political violence targeting communists.

According to its prosecutors and judges, the Ergenekon trial picks up where the Susurluk process left off. The claim is seemingly corroborated by the incorporation of some key figures from the Susurluk process into the Ergenekon trial as defendants. The first indictment in the Ergenekon trial provides its own definition and history of the Turkish deep state. It claims that the deep state is ‘a key obstacle to Turkey securing the Rule of Law’, having been ‘active for many years in the country’ as ‘the dark force behind countless actions’, involved in mafia and acts of terror, such as ‘unknown assailant killings of intellectuals’ (First Ergenekon Indictment 2008, pp. 46-47). It further suggests that the Susurluk investigation shed some light on the ETO, but could not be deepened sufficiently due to the organisation’s influence and power at the time (First Ergenekon Indictment 2008, pp. 46-47). Both the indictment and the judgment provide partial and extremely vague histories of the deep state with references to ÖHD. They refer to the purge of NATO-related paramilitary organisations in the early 1990s in other European countries, especially highlighting Italy’s *Mani plute* operation. The prosecutors and the judges thus present the Ergenekon trial as the belated Turkish counterpart to these Europe-wide clean-up operations.

While the Ergenekon case file merely gestures towards it, the global historical context is indeed quite key in understanding the covert and extralegal functions of the Turkish state over the past several decades. On the one hand, the period we can identify as the ÖHD/NATO stretch (1953-1991) cannot be divorced from the general context of the Cold War and similar extralegal formations in other European countries (Ganser 2005). Turkey’s 1980 coup d’état finds its precursors in the Southern Cone coups of the mid-1970s (Klein 2007) in terms of its economic and political rationales and objectives (Ahmad 1981). Likewise, the extralegal methods utilised by the Turkish state during the so-called ‘low-intensity warfare’ against the Kurdish insurgency are comparable to state-sponsored terror that goes under the guise of anti-terror measures across the world: Britain’s deployment of the Military Reaction Force against the IRA in the early 1970s (*Britain’s Secret Terror Force* 2013); Spain’s grotesque tactics in the Basque conflict (Aretxaga 2000); Argentina’s ‘dirty war’ (Suárez-Orozco 1992); state-sponsored terror in Guatemala (Afflitto 2000) and so on.

Although institutional histories of the deep state are important in revealing what kind of bureaucratic structures allow the monopoly of violence to be distributed beyond the bureaucracy, they also risk a misconception of the deep state as solely a unit within the state, a hub of extralegality within a larger context of constitutional operation, a rotten spot that can be carved out and discarded, isolated and thus easily purged. Indeed, in the aftermath of the Susurluk accident, one of the points that the more theoretical approaches insisted on was precisely that the deep state *is* the state. The editorial preface for the critical journal *Birikim*’s 1997 special issue on ‘the state in Turkey’ suggested that the *état de droit* and the deep state are like the solid and liquid forms of the same matter’ (Türkiye’de Devlet 1997, p. 16). In the same issue, Ömer

Laçiner described the deep state as not so much a special unit within the state system, which carries out and commissions criminal activities and conducts secret operations, but rather institutions and establishments that operate on the basis of the understanding that the state will inevitably engage in such activities (1997, p. 18).

Tanıl Bora advocated for a technical rather than moralising terminology to refer to the kind of operations exposed in the Susurluk accident, because ‘although such activities are indeed “dark”, “dirty” and “horrific”, they are activities that are part of the nature of the modern state apparatus – therefore they are normal. In the case of our particular nation-state these natural organs are especially well developed’ (1997, p. 53).

The governmental rationality operative in these types of activities can be identified very generally in terms of *raison d'état*, whereby the legitimacy of a state's activities is solely grounded in the preservation and perpetuation of the state itself. The self-referential legitimation means that according to this rationality a state's activities should not be subject to any external law – positive, natural, moral, nor divine (Foucault 2007). In Michel Foucault's account, the relationship between *raison d'état* and the sphere of legality is one that is determined according to the convenience of the former. The field of legality is never a proper external limitation to *raison d'état*, but rather always already accessorial – overridden and suspended if need be.<sup>5</sup>

Admittedly, in doctrine, the two concepts of *raison d'état* and the rule of law seem to be diametrically opposed as bases of governmental legitimacy. This opposition is particularly pronounced in the genealogies of the two concepts.<sup>6</sup> In its inception, the idea of the rule of law is understood as an attempt to impose external limitations on *raison d'état* by recourse to law, namely ‘juridical reflection, legal rules, and legal authority’ (Foucault 2008, p. 9). However, the history of the relationship between *raison d'état* and the rule of law may be more complicated than the doctrinal origins suggest.<sup>7</sup> Reflecting on the co-existence of and the tension between *raison d'état* and

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<sup>5</sup> Notably, Foucault identifies the *coup d'état* as the epitome of the absolute priority of *raison d'état* vis-à-vis the field of legality. In the *coup d'état*, *raison d'état* asserts itself unequivocally. The *coup d'état* is ‘the self-manifestation of the state’ (2007, p. 262) It is interesting to consider in this light the analysis one often finds in Turkish political literature to the effect that the country's relatively frequent *coups* are precisely moments when the deep state and the state become one.

<sup>6</sup> Foucault notes that the idea of *Rechtsstaat* (the rule of law) developed in the eighteenth century in Germany very much in opposition to *Polizeistaat* (the police state) which in turn was ‘the form taken by a governmental technology dominated by the principle of *raison d'état*’ (2007, p. 318). Danilo Zolo's broader perspective arrives at a similar conclusion, comparing the different historical experiences that led to the formulation of the analogous concepts of the Rule of Law in Great Britain and North America, *Rechtsstaat* in Germany, and *état de droit* in France (2007).

<sup>7</sup> This complication can also be traced, albeit somewhat circuitously, in Foucault's genealogy of governmental rationalities (2007). While the emergence of the rule of law doctrine is intimately bound with the attempt to propose an external limitation on *raison d'état*, its proper appropriation within a governmental rationality occurs with liberalism, and only as a principle of internal limitation, that is, solely to do with formal interventions in the economic order. In other words, in liberalism, the rule of law is not an end in itself, but a principle defining the scope of legal interventions by the state in the

the rule of law, Turkish legal scholar Mithat Sancar suggests that the two doctrines are not as incommensurable as they may seem (1997; 2000). Sancar identifies the different ways in which a combination of the two can be brought about: in a normativist interpretation of the rule of law, *raison d'état* can be incorporated into legal norms (1997, p. 84). In an approach that may be referred to as the '*raison de l'état de droit*', *raison d'état* can be rendered the organising principle of the constitution (Sancar 1997, p. 84). Sancar further proposes that the entire history of the bourgeois constitutional state can be read as the history of its marriage to the doctrine of *raison d'état* (1997, p. 85). While opposition is weak and the system has confidence in itself, the rule of law can be foregrounded. But in times of crisis or a substantial opposition, a variety of methods can be employed to render *raison d'état* operative (Sancar 1997, p. 85).<sup>8</sup>

The ultimate instability of the opposition between *raison d'état* and the rule of law creates complications for legal processes like the Ergenekon trial. The rule of law is idealised in liberal democracies as the sole basis and legitimacy of political decisions, whereas the extralegal activities of a state stem from certain political decisions that operate beyond the sphere of legality and override the rule of law. The criminal prosecution of such activities is usually meant to subject the entire affair to the rule of law. In transitional justice settings or in trials that involve a jurisdictional remove, this dynamic can be stage-managed to maximal effect as a grand 'return' to the rule of law. Both scenarios allow at least the appearance of a conflict between the prosecuting authorities and the defence concerning what a state's relation to legality ought to be. Thus in a felicitous prosecution in either type of scenario, the trial may serve to performatively enact the very rule of law to which it purports to submit. However, in the absence of either a transitional framework or jurisdictional remove that allows for a high enough definition of the line that separates the prosecutors and the prosecuted, we have a particularly complex political trial scenario. When state crimes come before the law of the very state suspected of criminal activity, the state becomes both the law and its transgression (Aretxaga 2000, p. 60). In trials involving the public prosecution of a state's own crimes, this blurring of the prosecution, the defence, and the court as arbitrator produces a surplus of meaning that cannot be easily managed.

In the Ergenekon trial, this surplus is evident already in the criminal legal framing of the matter: the object of prosecution, the deep state, translates into criminal legal perception as a 'terrorist/criminal organisation'. In turn, the alleged crimes of the deep state translate into 'crimes against the state'. The former designation recasts the

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economy. This shift from external limitation to internal rule regulation can be understood to take the rule of law out of an axis of opposition to *raison d'état*.

<sup>8</sup> Sancar summarises such methods under three general headings: those that stay within the purview of legality (i.e. partial suspension or relativisation of human rights); those that blur the limits of legality (i.e. state of emergency); and those that dispense with legality altogether (i.e. counterinsurgency tactics such as extrajudicial executions) (1997, p. 85-86).

ghostly agency of the deep state in terms of a willful aggregation and co-operation of individuals, who can be held liable collectively and separately. The latter designation does two things at once: it indemnifies the state as perpetrator, and relegates it to the status of injured party. Beyond the structural failures of the criminal legal imagination (Sabuktay 2010), a more significant way in which the unmanageable surplus emerges in the Ergenekon trial is as a deep ambivalence on the part of the prosecutors concerning how much state there actually is in the 'deep state'. The first indictment purports that 'it is obvious that the Ergenekon terrorist organisation has crucial contacts within state institutions' (2008, p. 47). But then it disavows this claim at every opportunity. In a section entitled 'Could there be such a structure as Ergenekon within the State?' the prosecutors serenely explain that they have officially written to the offices of the Chief of General Staff, the secret service and the police, to ask 'whether there is such a formation within their organisation' (First Ergenekon Indictment 2008, p. 48-50). Having received negative answers from all these official bodies, the prosecutors conclude that:

The Ergenekon organisation which describes itself as the 'deep state' has no connection or relation to any official institution of the state ... [it is thus understood that] the Ergenekon organisation masquerades as the deep state ... but unlike the definition of the deep state which involves the benefit and vested interests of the state, it attempts to govern the state in accordance with its own ideological views. (First Ergenekon Indictment 2008, pp. 54-55)

Amidst a plethora of inconsistencies that make up the first Ergenekon indictment, perhaps this is the most significant one: the defendants are at once identified as 'the deep state' and as people who 'masquerade as the deep state'; while the deep state is at once described as the dark force behind countless bloody actions and as the body that protects the interests of the state. Here, *raison d'état* rears its head to reveal a prosecutorial rationality that is deeply ambivalent about the rule of law, to which the Ergenekon trial is supposed to represent a return. The trial is supposed to purge the deep state, but the only way the prosecutors can bring themselves to do so is by denying that the prosecution has anything to do with the state. It is as if the purge of extralegality from within the state is magically enacted by a prosecutorial disavowal: 'Now you see it, now you don't! It never was there anyway, but we will get rid of it!'

If the consideration of institutional histories, global politico-economic context and governmental rationalities are indispensable to a knowledge of the deep state, the Ergenekon case file betrays that affective investments into a notion of the state are also quite crucial. In other words, the unmanageable surplus is not only a surplus of meaning but also one of affect. In the Ergenekon trial the blurring of the differences between the prosecution and the defence becomes most pronounced around these passionate investments. They can be traced in the disavowals of the prosecution and the judges in the indictments and the first verdict, as well as in the correspondences



and wire-tapped phone conversations of the defendants – the latter making up a significant part of the indictments themselves. While it is impossible to attempt to address the various configurations of fantasy and desire in the Ergenekon case file in detail here, I will highlight one general configuration that marks the case as a whole, and is perhaps best described in terms of what we may call ‘the conspiratorial imagination’. This is, first of all, evident in the legal idiom of the trial, as the crux of the prosecution is an allegation of conspiracy among the defendants.<sup>9</sup> Secondly, it is discernible in the public life of the trial, since trial is widely perceived as a government conspiracy against the old guard: those suspicious of the governing party AKP’s commitment to secularism have been concerned that Ergenekon is a witch-hunt carried out by the pro-Islam government against the deep-seated secularist establishment whose ranks include the Turkish army. But there is a third and more significant way in which the conspiratorial imagination is operative: the case file as a whole comprises an enormous conspiracy archive.

There are specific reasons for this. One is that some of the better-known Ergenekon defendants happen to be prominent conspiracy theorists. For example, defendant Erol Mütercimler is a writer, researcher and public figure, famous for hosting TV shows with names like ‘Conspiracy Theory’ and ‘Behind the Mirror’. The Ergenekon judges identify him as ‘an expert on conspiracy theories and strategy’ and quote a high profile journalist’s description of him as ‘one of the most important conspiracy doctors in Turkey’ (Ergenekon Detailed Judgment 2014, IIA, pp. 116-167). Similarly, defendant Yalçın Küçük, once a widely respected socialist intellectual, now almost exclusively trades in conspiracy theorising, with a particular obsession about the ‘Sabbatian Jewish’ plot. Defendant Doğu Perinçek, the leader of the Maoist-turned-ultranationalist Workers’ Party, has been publicly conspiracy theorising for decades with remarkable consistency in style, though the contents or ‘plots’ of his theories have changed considerably. The public utterances and writings of these figures are incorporated into the case file as evidence and drawn upon in the indictment. But the conspiratorial archive is not solely down to these figures. Other materials integrated into the case file as evidence include the personal documents and notes of almost all of the defendants, third-party testimonies, as well as the archives of Perinçek’s party, mainly consisting of documents and information leaked from official bodies, as well as faked official leaks. Ploughing through this material, which adds up to tens of thousands of pages, it is staggering to notice the currency of the conspiratorial imagination in how the defendants and other trial participants conceive of the world and the political.

The conspiratorial imagination contaminates the entire case file, particularly through the pivotal role accorded to a collection of documents obtained by the police from Ergenekon defendants. According to both the prosecutors and the judges, these

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<sup>9</sup> Although there is no conspiracy doctrine as such in Turkish criminal law, the specific offences that the defendants are charged with would best correspond to the common law conspiracy offence.

documents comprise the main body of evidence concerning the very existence of a terrorist organisation called Ergenekon, as well as certain defendants' affiliation with it. The indictment refers to this collection as 'organisational documents'. They consist of structural guidelines, action plans and reports on contemporary events produced by and for a secret organisation that refers to itself alternately as 'the deep state' or 'Ergenekon'. In addition to serving as a trail in the police operations, these documents assist the prosecutors in making their case: the indictment directly quotes them in describing the overall structure, different units, as well as the functions and aims of Ergenekon. There are approximately 20 of these documents, adding up to 700-800 pages in total. The avowed centrality of these documents to the case file is somewhat astonishing as they read like a mishmash of internal bureaucracy and wild conspiratorial fantasy. One entitled 'Ergenekon Analysis Restructuring Management and Development Project' is considered by the prosecution to be Ergenekon's 'constitution' and a cursory summary of the document will perhaps explain what I mean by mishmash. The document begins by stating that 'it aims to contribute to the reorganisation of Ergenekon which operates from within the Turkish Armed Forces' (First Ergenekon Indictment 2008, Appendices vol. 236, p. 85). The proposed restructuring is for Ergenekon to organise and incorporate influential members of the civilian public. It is indicated that Ergenekon's 'own successful JITEM experience' must be seen as a precursor to this restructuring (First Ergenekon Indictment 2008, Appendices vol. 236, p. 96). Then the following suggestions are made: Ergenekon needs to establish its own non-governmental organisations and gain control over foreign-funded NGOs that are currently active in Turkey; it must secure control over the media and establish its own media outlets; it must attain ideologically desired politico-economic conditions by becoming a key player in international trade and banking; it must gain control over drugs trafficking; it should consider undertaking chemical weapons production so as to exercise control over terrorist organisations worldwide, and so on. Whether fabricated or genuine (i.e. whether produced by the police force tasked to investigate the case or by deep state actors) the very existence of these documents and their incorporation into the case file as the crux of the evidence against the defendants convey something of the fantasies of the deep state that are operative in the trial.

Further, the prosecutors pile together potential though unverified fragments of information pertaining to past deep state activities, gleaned from secret witnesses, tapped phone conversations and the vast cache of confiscated documents. This compilation amounts to a bewildering amalgam of fact and fantasy whereby the two cannot be told apart. Thus the case file operates as a chaotic archive of conspiracy in which the conspiracy theories cannot be distinguished from actual conspiracies pertaining to the past. In this sense the case file itself can be said to conspire to obfuscate the truth of past atrocities. The judgment makes strategic use of this mess to simultaneously include *and* exclude the past deeds of the deep state. It evokes them constantly to capitalise on their rhetorical uses and cites them explicitly to demonstrate the self-evident existence of the deep state. Past atrocities are also

brought in as instruments of self-justification, meant to verify not only the necessity but also the soundness of the judgment itself. However, all the cited deep state activities are then fully excluded as actual objects of judgment. Instead, the only non-inchoate or complete criminal acts that the defendants are convicted of pertain to a number of violent attacks from 2006. The rest of the offences that the defendants are convicted of are either possession crimes or inchoate offences, including incitement and the Turkish anti-terror version of the crime of conspiracy.

As evinced by their oddly defensive preamble to the judgment, the judges are fully aware of the glaring absence of any proper inquisitorial process concerning the past deeds of the deep state in the trial. Responding to challenges that the court should expand the purview of the trial to adjudicate the state-sponsored activities of the late 20<sup>th</sup> century, the judges suggest that such a proposal:

has no standing in practice. First and foremost, a court judges the acts involved in the case before it. Further, it is also evident that it is very difficult to take into consideration events that have taken place in the distant past. Additionally, there is neither a legal nor a conscientious basis for an approach that says ‘How can you judge the present if you are not judging the past’. (Ergenekon Detailed Judgment 2014, p. 1)

The judgment’s inclusion/exclusion of the past activities of the deep state bolsters the zone of unaccountability that these deeds have traditionally occupied by reframing it within an insufficient legal account of the past. In other words, the judgment empowers the ghostly hold of past atrocities on the present by letting them remain apparent but not established, rousing them but not laying them to rest, conjuring them but not demystifying them.

The relation between actually existing conspiracies and conspiracy theories requires careful thought. Often conspiracy theories are dismissed as pathological at the expense of the possibility of producing knowledge about actual conspiracies. Carlo Ginzburg touches on this matter in *The Judge and the Historian* (1999), his book about the miscarriages of justice in the 1988-91 trial of Adriano Sofri, a leftist leader accused and eventually convicted of ordering the murder of a policeman in the early 1970s in Italy. The murder was an integral part of a series of acts of political violence that are understood to have launched the Italian ‘Years of Lead’ (*anni di piombo*), a period that could be attributed to the Italian ‘deep state’, if that usage were in place.<sup>10</sup>

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<sup>10</sup> Following the bomb planted in the Agricultural Bank in Milan in 1969, ‘the first major event that revealed the conspiratorial character of Italian politics’ (Aureli 1999) widely known as the Piazza Fontana bombing, two anarchists were arrested as suspects. One fell off the window of a police station and died, an incident which inspired Dario Fo’s famous play *The Accidental Death of an Anarchist* (1970). The window from which he fell was that of the office of the policeman whose eventual murder Sofri was accused of. The period launched by the Piazza Fontana bombing is attributed to the ‘Strategy of Tension’, which refers to the engineering of political instability in order to prepare the grounds for

Convinced of his friend Sofri's innocence, Ginzburg has to work with this labyrinthine backdrop of the trial. His account is legibly haunted, if not driven, by a sense that the entire judicial process may be a conspiracy. In trying to make sense of the machinations involved, Ginzburg has to negotiate a potential accusation of engaging in *dietrologia*, a pejorative term coined in Italy to refer to conspiracy theorising.<sup>11</sup> While acknowledging that narratives concerning conspiracies amount to 'a vast library of foolishness, often with ruinous consequences', Ginzburg notes that conspiracies do exist in the world, as evidenced by the period in question (1999, p. 64). So how to make sense of conspiracies without lapsing into conspiracy theorising?

Ginzburg does not rule out the latter as a form of methodology, especially in trying to decipher affairs as murky as the one under consideration. On the contrary, he suggests that an outright dismissal of '*dietrologico* attitudes' would be detrimental to the effort 'if by *dietrologia* we mean a clear-eyed interpretative scepticism, unwilling to settle for the surface explanations of events or texts' (1999, p. 65). However, while Ginzburg's preferred methodology may share a spirit of inquiry with conspiracy theorising, he suggests that the problem with conspiracy theories is their inability to take into account the rule of heterogeneity that presides over how wills are executed, intentions are materialised, and actions are enacted:

every action directed towards an objective –and therefore, *a fortiori*, every conspiracy, which is an action directed towards particularly chancy objectives – enters into a system of unpredictable and heterogeneous forces. On the interior of this complex network of actions and reactions, which involve social processes that cannot easily be manipulated, the heterogeneity of objectives with respect to the initial intentions is the rule. (1999, p. 65).

Thus conspiracy theories err because they do not take account of the necessary and myriad infelicities that can interfere between the will and its execution, the intention and the action, the action and the objective it is meant to achieve. The equation of individual intentions with objectives reduces the causes behind events to individual wills. Notably, Ginzburg identifies this kind of equation posited by conspiracy theories as an 'extreme form of judicial historiography', which reduces the task of understanding an event to the attribution of liability to individuals (1999, p. 65).

In a short essay on this problem of knowing that conspiracies pose, and the need to address actually existing conspiracies without falling into the traps and limitations of

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an authoritarian takeover. A series of terrorist attacks, later found to be carried out by neofascist groups (Bull 2012) linked to the Italian NATO stay-behind unit Gladio, were used both to create an eminently governable atmosphere of terror and to target those on the left by attributing them the responsibility for these incidents.

<sup>11</sup> *Dietrologia* literally translates as 'behindology', i.e. the science of uncovering 'what lies behind'. Ginzburg offers a number of definitions of the term in a footnote (1999, p. 126 n 45).

conspiracy theorising, Ferhat Taylan turns to another text by Ginzburg, his famous essay 'Clues: The Roots of an Evidentiary Paradigm' ('Clues'), to formulate the problem with what he refers to as 'the conspiratorial perception' in a slightly different register:

Conspiratorial perception does not interpret traces, it contents itself with presenting them as the evidence for an unarticulated 'theory'. In this sense, it is like a child who points at the traces and shouts 'there!': traces alone enable the emergence and the verification of the so-called 'theory'. The trace, deemed to be the evidence, turns into the sole constituent of the hypothesis that is expected, in and of itself, to yield an explanation. (2011, p. 17)

What is at work in conspiracy theorising is a metaphysics of presence whereby signs and traces are perceived to unambiguously stand for, and therefore reveal, the content they are assumed to originate from. Against this, Taylan proposes something like a conspiriology based on what Ginzburg delineates as the conjectural paradigm (2011, p. 16).

Ginzburg's formulation of the conjectural paradigm in 'Clues' departs from a consideration of the similarity of methods in the works of the art connoisseur Giovanni Morelli, Sigmund Freud's psychoanalysis and the detective-work of Sherlock Holmes in Arthur Conan Doyle's novels. Ginzburg suggests that it is the key significance of minor details in their methodology that bring these figures together: 'In each case, infinitesimal traces permit the comprehension of a deeper, otherwise unattainable reality' (1990, p. 101). Noting that Morelli, Freud and Doyle were all physicians, Ginzburg connects the conjectural paradigm to traditional medical semiotics whereby the analysis, classification and interpretation of directly observed symptoms lead to hypotheses about underlying causes. Though he understands this form of knowledge to have emerged in the humanities sometime around the late 19<sup>th</sup> and early 20<sup>th</sup> century, he suggests that its roots may be traced back to the kind of knowledge practiced by the hunter, who had to be attuned to traces, smells, and minute signs, such as clusters of hair, excrement and broken branches in the chase of the prey (1990, p. 102). Pitting the conjectural paradigm against a natural scientific paradigm of knowledge that is anti-anthropocentric, anti-anthropomorphic and quantitative, Ginzburg describes it as a form of sentient knowing that draws on our animalistic properties of senses, instincts, insights and intuitions. These 'imponderable elements' provide passage from directly observed and/or experienced data to knowledge concerning what is, strictly speaking, unknowable.

Notably, Ginzburg's main examples for the conjectural paradigm pertain to resistant objects of knowledge. Morelli's was a technique developed to distinguish original artworks from their copies which strove to pass for the original. Sherlock Holmes attunes himself to details that are imperceptible to most in seeking authors of crimes,

who were clearly invested in covering over their tracks. Freud attempted to formulate a methodology for ‘divin[ing] secret and concealed things from unconsidered or unnoticed details, from the rubbish heap, as it were, of our observations’ (cited in Ginzburg 1990, p. 99), despite and against what he identified as a complex psychic apparatus of repression. They are similar in this sense to the deep state, which is by definition secretive and non-transparent – it jealously guards evidence of itself, and presumably mobilises the entire state apparatus to do so. In all of Ginzburg’s scenarios the clues are revealed when the sovereign agency of the ‘authors’ falter: the art historian looks for the unimportant details that the copyist paints inattentively, Holmes and Freud seek clues in details that escape intentional control. Thus the conjectural paradigm presumes what the conspiratorial imagination denies: the field of unpredictability and heterogeneity that every action and intention is subject to.

The conspiratorial imagination that pervades the Ergenekon case file can be identified as one that sustains a fantasy of absolute sovereignty on the part of the deep state and its agents, whose wills are understood as fully self-present and their acts as absolutely felicitous. Although the trial has so far played out as a classic political trial with the usual clamour of a seemingly radical, incommensurable difference between the defendants on the one hand and the prosecutors and the judges on the other, the shared conspiratorial imagination reveals a deep consensus among the warring parties. Beyond all the noise and commotion, the accusations and counter-accusations of conspiracy, this consensus produces the ‘deep’ state as something of a fetish in the scene of the trial. The state is co-produced and reproduced through the case file that functions as a conspiracy archive. The trial becomes the scene for the performative enactment of the public thing called the state, which comes into being as a collective misrepresentation (Abrams 1988).

But there may be other ways of knowing the deep state without investing it with the power of a fetish, and Taylan may be correct about the potentials of conjectural knowledge here. One such vein of inquiry is undertaken by lawyer Fethiye Çetin who has been involved in another deep state trial, albeit one that is not officially identified as such. The trial concerns the assassination of the Armenian-Turkish journalist Hrant Dink in Istanbul in 2007. Although the deep state is inscribed all over the case file, including the chain of events that led to Dink’s assassination, the assassination itself, as well as the ensuing criminal process, the entire investigation and trial has been marked by its disavowal. Thus the criminal justice process operates as an extension of the crime itself. As the Dink murder trial has been mostly concurrent with the Ergenekon process,<sup>12</sup> its spectacular, though convenient failures, can be interpreted as revealing the disingenuity of the claim that the Ergenekon trial is a wholesale purge of extralegal operativity within the state. The Dink murder trial operates on a logic of discontinuity, disconnection, dissociation and fragmentation all meant to cover up

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<sup>12</sup> Underway since 2007, the Dink murder case is currently being retried after the verdict of the first trial was appealed.

state involvement in the assassination. Çetin represented Dink in the trials that plagued him in the lead-up to his assassination. After the assassination, Çetin acted as the representative for the Dink family in the murder trial, through a provision in Turkish criminal procedure that allows the victim (or in case of homicide, their relations) rights of representation in the trial.

Çetin eventually wrote a book about the assassination and its aftermath, to make public her knowledge of the case, her findings as well as intuitions. She points at certain figures who may be key to the assassination but have never been investigated, and tries to make sense of a wide range of connections, events and dynamics in seeking the truth of the assassination. Her methodology is, indeed, conjectural. She writes of frequently encountering ‘traces and signs’ of cover-ups in the case files: ‘I had intuitions but was not able to demonstrate anything concretely’ (Çetin 2013, p. 24). She also writes of a solution based on experiential knowledge:

What I knew of, lived through, saw in the case files and read in the press made me realise that the truth must be sought not in what is shown and visible in the case files but rather in what is not shown, what is hidden. (Çetin 2013, p. 227)

Çetin proposes the study of the negative spaces of the case files, of the traces and signs of that which has been deleted or not presented. Notably, she reads not only the Dink murder case file, but also the Ergenekon case file closely for signs of Dink’s assassination. She scans what has been left out and trains her gaze to focus on the gaps and absences. On a number of occasions, she specifically focuses on the ellipses, literally, in the Ergenekon case file. Honing in on what has been left out by the Ergenekon prosecutors in their quotations of the Ergenekon defendants’ online chat records and wiretap transcripts, she conjectures on the basis of that which has been rendered invisible behind three dots.

The conspiracy archives of the Ergenekon trial hide, rather than reveal, the truth unless one devises ways and means of deciphering them. A reading practice like Çetin’s mobilises the traces of that which has been left out, censored and repressed, against the conspiring case files. This is something of a counter-conspiracy, a kind of knowing that at the same time divests the fetish of the ‘deep’ state of its powers. It requires attunement to the mishaps and vagaries of intentionality, the inadvertent omissions in the tightly-woven plot, and the heterogeneity of forces that all actions and intentions are subject to. The counter-conspiracy works with and against law: rather than staking claims on the legal spectacle and therefore allowing it to fulfil or frustrate (and thus orchestrate and co-opt) the desire for truth and justice, it mobilises law’s archive against itself. The aim is not only to seek the truth of past violence but also to discern the traces of the forces, patterns, imaginaries and affective investments that facilitate the perpetuation of particular forms of violence. The line between conjectural knowledge and conspiratorial imagination is perhaps fine and shifting, but

treading it with care may be the only way to strike a judicious balance between working with and against law in addressing the petrifying memory and ghostly reality of state violence.



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