

# POLITICAL REFLECTION

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**Back to the Hardest:  
The U-turn of Turkish Foreign Policy**  
*by Dr Federico Donelli*

**The State and Society  
In Contemporary Turkey**  
*by Dr Görkem Altınörs*

**Why should Democratic Governance be a  
Matter of International Concern?**  
*by Anthony Ellington Wenton*

**Why did Turkey Crash the 'Western-  
promoted' Gains of PKK-led Kurds?**  
*by Associate Professor Ali Balci*

*Interview with*  
*Dr Sharifullah Dorani*  
**on**  
**American Foreign Policy**  
**under the Trump Presidency**  
*by Dr Rahman Dağ*







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“ADVANCING DIVERSITY”

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## Contents

- |  |         |   |
|--|---------|---|
|  | 05 - 08 | <b>World News</b><br><i>by Furkan Sahin</i>   |
| <b>Back to the Hardest:<br/>The U-turn of Turkish<br/>Foreign Policy</b><br><i>by Dr Federico Donelli</i>                                    | 11 - 15 |   |
|  | 17 - 21 | <b>The State and Society in<br/>Contemporary Turkey</b><br><i>by Dr Görkem Altınörs</i>   |
| <b>Why should<br/>Democratic<br/>Governance be a Matter<br/>of International<br/>Concern?</b><br><i>by Anthony Ellington<br/>Wenton</i>      | 23 - 29 |   |
|  | 31 - 37 | <b>Why did Turkey Crash<br/>the ‘Western-promoted’<br/>Gains of PKK-led<br/>Kurds?</b><br><i>by Associate Professor Ali<br/>Balci</i> |
| <b>Interview with<br/>Dr Sharifullah Dorani<br/>on American Foreign<br/>Policy under<br/>the Trump Presidency</b><br><i>by Dr Rahman Dag</i> | 39 - 64 |   |

# Why should Democratic Governance be a Matter of International Concern?

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**T**his short article seeks to demonstrate that the promotion of democratically legitimate governance as a right of all peoples should be a matter of utmost international concern in order to protect human rights within States and promote peace between nations.

## **The promotion and protection of human rights:**

Although democracy is a contested concept, it is possible to identify the elements commonly understood as the core definitional features. In “The Emerging Right to Democratic Governance” Thomas Franck explains how democracy is made up of a bundle of interconnected and mutually reinforcing human rights: the right to self-determination, expressed through the right to equal political participation in free and fair elections. Free and fair elections in turn requiring rights to freedom of expression of opposing political opinions and freedom of association and assembly so that a range of political parties can organise.<sup>ii</sup> Thus, a number of human rights are automatically upheld by a democratic system, as they constitute the very definition of democracy. Indeed, democracy inherently promotes greater individual liberty.<sup>iii</sup> The fact that human beings yearn to be free and desire to have a say in the decision-making process regarding issues that affect their lives is why, as Claude Ake states, “there is no part of the world where democracy is not relevant, if only as an emancipatory project. There is no undemocratic country I know of where democratic struggles are not being waged.”<sup>iv</sup>

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A system of democratic governance is also an essential prerequisite for the promotion and protection of all other human rights.<sup>v</sup> It is only when the people

are empowered to influence the government and hold it to account that other rights can be secured.<sup>vi</sup> It is submitted that in a democratic system where there is lawful opposition to the government, a competitive struggle for the popular vote, and regular transfer of power, the government is much more accountable to the people and thus is much less likely to deprive citizens of their human rights.<sup>vii</sup>

It follows logically that if human rights are an international concern then so too must be democracy. The broader corpus of international human rights law and the more specific right to democratic governance share a common goal: government that acts as an agent of the people, representing the people's interests not just the interests of the rulers. It could be argued that a benevolent dictatorship could uphold human rights with no need for a democratic system. However, in such a situation, human rights are not really "rights" at all; in fact they are better described as "gifts". It is submitted that a right by its very nature is not merely a choice for a government to respect or to disregard. Rather a right implies obligation and a means of enforcing that obligation. In this regard, human rights are inseparable from a democratic system.

As Michael Ignatieff has highlighted, human rights are much more effectively protected in a democratic state, with a representative and accountable government, than in an authoritarian state subject to human rights monitoring.<sup>viii</sup> Democracy puts more control in the hands of the people so that they may better protect themselves. As Tesón observes, human rights have never been respected by despotic regimes and this is why the right to political participation is enshrined in the major human rights conventions.<sup>ix</sup>

History tells us that lack of accountability results in grave violations of human rights. Amartya Sen has explored the link between famines and democracy. He points out that India was plagued by famines while under British colonial rule. However, as soon as multiparty democracy was established the famines stopped. The reason is very simple: The British regime was not accountable to the people through elections and was not subject to the scrutiny of opposition parties and a free media. This allowed the regime to rule with little regard for

the wellbeing of the indigenous population. He concludes that "in the terrible history of famines in the world, no substantial famine has ever occurred in any independent and democratic country with a relatively free press."<sup>x</sup> The truth is inescapable, democratic accountability promotes human rights and the dignity of the individual.

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Rummell's research demonstrates that there is a sliding scale of regimes with violence increasing as democratic accountability decreases.<sup>xi</sup> Rummell estimates that "absolute—totalitarian—Power has murdered nearly 138 million people" in the 20th Century.<sup>xii</sup> He draws particular attention to the Khmer Rouge in Cambodia, a totalitarian regime that exterminated over 31% of its own people in less than four years.<sup>xiii</sup>

He concludes that:

The best assurances against democide are democratic openness, political competition, leaders responsible to their people, and limited government. In other words, power kills, and absolute power kills absolutely.<sup>xiv</sup>

Rummell's findings continue to be borne out by regimes such as North Korea. In 2013, the UN Human Rights Council established a Commission of Inquiry on Human Rights in the DPRK. The panel of experts, chaired by the Hon Michael Kirby, found that "systematic, widespread and gross human rights violations" are being committed, including crimes against humanity. The Commission specifically concluded that State actors "systematically employ violence and punishments that amount to gross human rights violations in order to create a climate of fear that pre-empts any challenge to the current system of government". It is estimated that 80,000 to 120,000 political prisoners are held in camps where inmates are subjected to "unspeakable atrocities" including "deliberate starvation, forced labour, executions, torture, rape and the denial of reproductive rights enforced through punishment, forced abortion and infanticide." The Commission lays the blame squarely at the totalitarian nature of the regime and its first recommendation is that North Korea "Undertake profound political and institutional reforms without delay to introduce genuine checks and balances upon the powers of the Supreme Leader and the Workers' Party of Korea". These changes should include "an independent and impartial judiciary, a multiparty political system and elected people's assemblies at the local and central levels that emerge from genuinely free and fair elections".<sup>xv</sup>

The link between unaccountable power and violence does not stop at the border. Democratisation not only protects human rights at home but also abroad.

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### Democratic Peace:

The very first purpose of the United Nations, stated in Article 1(1) of the UN Charter, is “To maintain international peace and security”.<sup>xvi</sup> If the primary purpose of international law is to maintain peace and security then there are powerful arguments for a requirement of democratic legitimacy within states.

In 1795, Immanuel Kant wrote *Perpetual Peace* in which he predicts a world of states with republican constitutions co-existing in perpetual peace. Kant argues that as the citizens of states bear most of the adverse consequences of war, they will naturally “be very cautious in commencing such a poor game”. Therefore, if the ruler relies on the consent of the governed, war will be less likely. On the other hand, in a state where the ruler is not accountable to the people, the decision to declare war can be taken much more lightly as the cost to the sovereign is minimal:

war does not require of the ruler, who is the proprietor and not a member of the state, the least sacrifice...He may, therefore, resolve on war as on a pleasure party for the most trivial reasons, and with perfect indifference.<sup>xvii</sup>

In a democratic state, there is much greater pressure on the government not to start unpopular conflicts. In a democracy, there is freedom of expression and freedom to debate the issues of the day and, ultimately, an incumbent government must bow to the wishes of the people to secure re-election. In a despotic regime, the leader is unaccountable to the citizens, his subjects, and does not have to take their concerns into account.

Furthermore, if there is no constraint on the so-called “sovereign” in his domestic dealings with his “subjects” then why should he act differently when it comes to international relations. If the internal culture of a state is one of

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absolute, unaccountable authority vested in one person, or even an elite, then is it not more likely that this domestic “feeling of invincibility” will carry over into their view of what is acceptable behaviour internationally?<sup>xviii</sup> As Tesón puts it “Dictators inevitably become persuaded that they can get away with anything.”<sup>xix</sup> Tesón suggests that there is a psychological effect of dictatorship whereby



the complete “insulation of tyrannical rulers from criticism and debate fuels in them a sense of megalomania”.<sup>xx</sup>

Non-democratic regimes are also more likely to be wary of popular uprisings from their own people, that is, the people under their control. Where a government does not govern with the consent of the governed, it might turn to other tactics to remain in power. For example, as Boutros-Ghali commented, such governments might be more inclined to “incite hostilities against other States in order to justify their suppression of internal dissent or forge a basis for national unity”.<sup>xxi</sup> A popular explanation for the conflict over the Falkland Islands is that the military junta wanted citizens to “forget about their domestic plight”.<sup>xxii</sup> It is submitted that, where a culture of democracy exists within a state - where diverse opinions are tolerated and the government of the day does not expect to be in power forever more and accepts that it is subject to the popular will—there is much less impetus to generate an extremely nationalistic cult following and consequently less incentive to wage wars of distraction.<sup>xxiii</sup>

Lack of democratic accountability can also make States more prone to internal armed conflict, which can often spill over into neighbouring States. Regardless of what tyrannical leaders may proclaim, there is no society in which all the people agree on all the issues. There will always be disagreements and competing interests. The value of a democratic process is that issues can be resolved through debate and competitive elections in which citizens can vote.<sup>xxiv</sup> If people are disenfranchised with no means of airing their grievances and no say in their political destiny then their recourse is more likely going to be some sort of violent uprising.<sup>xxv</sup> To quote Kofi Annan, “Democratization gives people a stake in society. Its importance cannot be overstated, for unless people feel that they have a true stake in society lasting peace will not be possible”.<sup>xxvi</sup>

Non-democratic States may also threaten peace through their lack of transparency. As Farer notes, neighbouring States can observe the “budgets, industrial practices, political debates, and popular sentiments” of a transparent democratic State. Thus, when a democracy claims that it has no hostile intentions, neighbouring States can verify this with a reasonable degree of confidence.<sup>xxvii</sup> A dictatorship such as North Korea where there is extreme press censorship and little worthwhile public debate,

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raises fears in neighbouring States—the dictatorship’s intentions are unclear and it is very difficult to substantiate what actions it might take. Consequently, States, including democracies, sometimes use force out of fear of what threat a dictator may pose.<sup>xxviii</sup>

Democratic governments are also less likely to enter into armed conflict with other democracies because in that situation “each owes its legitimacy to the principle of popular self-determination. Hence, when one attempts to impose its will upon the other, the aggressor violates the very principle on which his own claim to govern rests”.<sup>xxix</sup> In other words, a government that rules with the consent of the citizens undermines its own legitimacy if it then denies the democratic right to the citizens of another country.

Indeed, the empirical evidence demonstrates that democratic states rarely go to war with each other. Extensive research by sociologist Erich Weede found that “war or military conflict is extremely rare among democracies...some researchers do not report even a single instance of war between democracies.”<sup>xxx</sup>

This article concludes with some wise words from Sir Brian Urquhart:

The spread of democracy, and respect for human rights, are indispensable elements of a more stable, less violent human society, and are, as such, a legitimate—indeed an indispensable—international concern.<sup>xxxi</sup>

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- <sup>i</sup> The views expressed are those of the author alone and not attributed to the Bingham Centre.
- <sup>ii</sup> TM Franck, ‘The Emerging Right to Democratic Governance’ (1992) 86(1) *The American Journal of International Law* 46, 52.
- <sup>iii</sup> SM Lynn-Jones, ‘Why the United States Should Spread Democracy’ (Discussion Paper 98-07, Belfer Center for Science and International Affairs, March 1998) available at [http://belfercenter.ksg.harvard.edu/publication/2830/why\\_the\\_united\\_states\\_should\\_spread\\_democracy.html](http://belfercenter.ksg.harvard.edu/publication/2830/why_the_united_states_should_spread_democracy.html) accessed on 2 October 2018.
- <sup>iv</sup> C Ake, ‘Devaluing Democracy’ (1992) 3(3) *Journal of Democracy* 32, 36.
- <sup>v</sup> FR Tesón, *Humanitarian Intervention: An Inquiry into Law and Morality* (2<sup>nd</sup> ed., Transnational Publishers Inc. 1997) 142.
- <sup>vi</sup> GH Fox, ‘The Right to Political Participation in International Law’ (1992) 17 *Yale Journal of International Law* 539, 595.
- <sup>vii</sup> Lynn-Jones (n 6).
- <sup>viii</sup> M Ignatieff, ‘Human Rights: The Midlife Crisis’, (New York Review of Books, 20 May 1999) available at <http://www.nybooks.com/articles/1999/05/20/human-rights-the-midlife-crisis/> accessed on 2 October 2018.
- <sup>ix</sup> Tesón, *Humanitarian Intervention: An Inquiry into Law and Morality* (n 8) 142.

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- <sup>x</sup> A Sen, 'Democracy as a Universal Value' (1999) 10 *Journal of Democracy* 3, 7-8.
- <sup>xi</sup> RJ Rummell, 'Democracy, Power, Genocide, and Mass Murder' (1995) 39(1) *The Journal of Conflict Resolution* 3, 5.
- <sup>xii</sup> RJ Rummell, *Death by Government* (Transaction Publishers 1994) 24.
- <sup>xiii</sup> *ibid* 5.
- <sup>xiv</sup> *ibid* 25.
- <sup>xv</sup> UN Human Rights Council, 'Report of the commission of inquiry on human rights in the Democratic People's Republic of Korea' (2014) Un Doc A/HRC/25/63.
- <sup>xvi</sup> Charter of the United Nations (signed 26 June 1945, entered into force 24 October 1945) 1 UNTS XVI (UN Charter) Article 1(1).
- <sup>xvii</sup> I Kant, 'Perpetual Peace' in P Gay (ed), *The Enlightenment* (Simon & Schuster 1974) 790-92. The present author is well aware that in many democratic systems, such as the United Kingdom, the initial decision to engage in armed conflict can be made by the leader of the executive without the need for consultation. Nonetheless, even in such systems Kant's argument remains valid because 1) the ruler is elected and thus already has democratic legitimacy as the people's representative in a way that is far removed from a non-democratic ruler; 2) in a democratic system the ruler can ultimately be held accountable at the ballot box for an unpopular conflict or through mechanisms such as a vote of no-confidence by the legislature.
- <sup>xviii</sup> FR Tesón, 'The Kantian Theory of International Law' (1992) 92(1) *Columbia Law Review* 53, 74-75.
- <sup>xix</sup> FR Tesón, 'Review of *Crisi Falkland-Malvina e Organizzazione Internazionale*' (1987) 81 *American Journal of International Law* 556, 558.
- <sup>xx</sup> Tesón, 'The Kantian Theory of International Law' (n 26) 75.
- <sup>xxi</sup> UN Secretary-General, 'Report of the Secretary-General: Supplement to Reports on Democratization' (1996) UN Doc A/51/761. Para 19.
- <sup>xxii</sup> Tesón, 'Review of *Crisi Falkland-Malvina e Organizzazione Internazionale*' (n 27) 558.
- <sup>xxiii</sup> Farer (n 29) 725.
- <sup>xxiv</sup> UN Secretary-General, 'Report of the Secretary-General: Supplement to Reports on Democratization' (1996) UN Doc A/51/761. Para 17.
- <sup>xxv</sup> UN Secretary-General, 'Report of the Secretary-General: The Causes of Conflict and the Promotion of Durable Peace and Sustainable Development in Africa' (1998) UN Doc A/52/871 – S/1998/318. Para 77.
- <sup>xxvi</sup> *Ibid* at Para 78.
- <sup>xxvii</sup> TJ Farer, 'Collectively Defending Democracy in a World of Sovereign States: The Western Hemisphere's Prospect' (1993) 15(4) *Human Rights Quarterly* 716, 725.
- <sup>xxviii</sup> Tesón, *Humanitarian Intervention: An Inquiry into Law and Morality* (n 8) 142.
- <sup>xxix</sup> *Ibid* 725-726.
- <sup>xxx</sup> E Weede, 'Some Simple Calculations on Democracy and War Involvement' (1992) 29(4) *Journal of Peace Research* 377, 377.
- <sup>xxxi</sup> B Urquhart, 'The UN and International Security After the Cold War' in A Roberts and B Kingsbury (eds), *United Nations, Divided World* (2<sup>nd</sup> edn, Clarendon Press 1993) 81, 97.



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