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E-PAPER

Centering Democracy and Human Rights in U.S. and EU Turkey Policy

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Centering Democracy and Human Rights in U.S. and EU Turkey Policy

Geostrategic concerns still matter – but they should not be the only issues on the agenda

For many decades, considerations about human rights, the rule of law, and democratic backsliding in Turkey took a back seat to international security concerns in Turkey-U.S. relations. The Cold War set the parameters of the bilateral relationship for decades to come. The U.S. saw Turkey as an irreplaceable ally due to its geostrategic importance and the strength of its military, assuring Ankara that its poor human rights record, democratic shortcomings, and even military coups would be tolerated — and at times supported — by its NATO ally. This security-oriented Cold War mentality prevailed even after the end of the Cold War. U.S. President George W. Bush's touting of Turkey as a model for Muslim democracy in the aftermath of the 2003 invasion of Iraq created expectations that issues of democracy and rule of law were going to become more important to bilateral ties, but in the end they were trumped by geostrategic concerns. Enlisting Turkey's support in U.S. engagements in the Middle East and the "War on Terror" maintained the Cold War consensus in Turkey-U.S. relations.

Joe Biden's presidency provides a unique opportunity for changing the Cold War mentality that has dominated Washington's thinking for almost eight decades. Today, there is more optimism than ever that a different kind of Turkey-U.S. relationship, one that pays more attention to the country's authoritarian turn, is possible. This is not to suggest that geostrategic concerns are not important — they are — but they need not be the only issues on the bilateral agenda.

From the Biden administration's point of view, Turkey is still an important NATO ally, if a problematic one. Ankara's purchase of the Russian S-400 missile defense system is the biggest concern for an administration seeking to curb Russian influence and rebuild trust in NATO shaken by the Trump era. Ankara's aggressive policies in the Eastern Mediterranean and its military presence in Libya and northeastern Syria are all on Washington's radar as well.

The stakes are higher for the Turkish side. The Trump administration slapped sanctions on Turkey for its purchase of the S-400 missile defense system. Donald Trump ordered the sanctions under a section of the Countering America's Adversaries Through Sanctions Act (CAATSA), which gives the president power to sanction states or entities that do business with Russia's intelligence or defense sectors. Trump's sanctions targeted Turkey's defense procurement agency and several of its senior officials. Many people initially thought that the sanctions were symbolic, designed to send a message to the Turks but not hurt Turkey's defense sector.¹ In fact, the sanctions will inflict heavy damage on Turkey's defense industry unless Ankara convinces its NATO ally to lift them soon. Turkey has been trying hard to find a middle ground to get rid of the sanctions, but the U.S. is not interested in any solution short of removal of the missile defense system from Turkish territory and threatens more severe sanctions if Ankara does not change course.

The S-400 sanctions are not the only issue that Ankara is worried about though. A state-owned Turkish lender, Halkbank, has been charged in a Manhattan federal court for its participation in a multibillion-dollar Iranian sanctions evasion scheme. U.S. prosecutors accuse the bank of converting oil revenue into gold and then cash to help Iran transfer billions of dollars of restricted funds, with at least \$1 billion laundered through the U.S. financial system. Ankara is worried about a large fine the bank might receive, which would hurt Turkey's already struggling economy. But more importantly, the indictment points directly at Turkish President Recep Tayyip Erdogan and his inner circle. The indictment says, "At Zarrab's request, however, the then-Prime Minister of Turkey and his associates, including a relative of the then-Prime Minister who later held multiple Turkish cabinet positions, instructed HALKBANK to resume the scheme, and HALKBANK agreed." President Erdogan's implication in the scheme is a bigger headache for him than the fine the bank might receive.²

And it is not just U.S. sanctions that are hanging over Turkey's head. The European Union (EU) has threatened sanctions as well over what it saw as Turkey's aggressive moves in the Eastern Mediterranean. The EU is Turkey's biggest trading partner and potential sanctions are likely to hurt Turkey's economy further. The Biden administration has urged the EU not to impose sanctions at a time when Turkey seems willing to compromise. All of these things point to a weakened Erdogan, and this new reality has not gone unnoticed in Washington.

The Washington narrative that Turkey is an indispensable ally for U.S. strategic interests is slowly giving way to a more sober assessment. U.S. officials still highlight Turkey's im-

1 Natasha Turak, "Turkish markets shrug off softer-than-expected U.S. sanctions", *CNBC*, December 15, 2020, <https://www.cnbc.com/2020/12/15/turkish-markets-shrug-off-softer-than-expected-us-sanctions.html>

2 Kelly Bjorklund, "Trump's Inexplicable Crusade to Help Iran Evade Sanctions", *Foreign Policy*, January 9, 2021 <https://foreignpolicy.com/2021/01/09/trump-help-iran-evade-sanctions-turkey-halkbank/>

portance as a NATO ally but privately admit that the U.S. domestic context, shifting U.S. priorities, and Turkey's problematic foreign policy have forced a change in the way Washington deals with Ankara.

The most significant indicator of that change came when President Biden became the first U.S. president to officially recognize the Armenian genocide, more than a century after the mass killings by Ottoman troops. Previous U.S. presidents, after having pledged on the campaign trail to recognize the genocide, failed to do so to avoid antagonizing a key NATO ally and threatening U.S. strategic interests. Despite congressional efforts, many in the previous administrations worried about "losing Turkey" and what Turkey might do in response. Not anymore. After Biden's recognition of the Armenian genocide, Ankara did not even recall its ambassador to Washington, reinforcing Washington's view that President Erdogan's hand has been weakened. Indeed, unlike his famously strong anti-Western rhetoric, Erdogan has struck a conciliatory tone vis-à-vis the European Union and the United States since Biden got elected. He faces myriad domestic and foreign policy challenges, from a deteriorating economy to a more unified opposition at home to a more marginalized position on the foreign policy front, forcing a reversal in his confrontational foreign policy approach. This new dynamic, along with Biden's deprioritizing of the Middle East, is finally putting an end to the Cold War mentality in bilateral ties.³

Biden's pledge to put human rights and democracy at the center of his foreign policy is contributing to this new thinking. Unlike the Trump administration, the Biden administration has been vocal in its criticism of Erdogan's clampdown on dissent. During a recent visit to Turkey, Deputy Secretary of State Wendy Sherman met with Turkish civil society, criticized Erdogan's decision to withdraw from the Istanbul Convention (an international treaty to protect women against violence), and urged the Turkish government to respect the rule of law. The Biden administration's focus on human rights, the rule of law, and democracy in Turkey is a welcome change. But there is more the U.S. can and should do. Previous U.S. administrations feared "losing Turkey," but for Washington, Turkey only seemed to comprise the governing elite. It is time for Washington to consider the "other Turkey," one that has the potential to address the country's deepening social, political, and economic problems despite tremendous government pressure: Turkish civil society.

Biden's presidency comes at a critical juncture in U.S. and Turkish domestic politics. The U.S. has suffered its own democratic backsliding under President Trump. Well-respected global democracy indexes show that American democracy has eroded since 2016.⁴ Biden pledged to restore American democracy and the rule of law and advance human rights and democracy around the world. Erdogan, meanwhile, has been dismantling democratic norms and human rights protections on an unprecedented scale. As his authoritarianism

3 Natasha Bertrand and Lara Seligman, "Biden Deprioritizes the Middle East", *Politico*, February 22, 2021, <https://www.politico.com/news/2021/02/22/biden-middle-east-foreign-policy-470589>

4 Steven Levitsky and Daniel Ziblatt, "The Crisis of American Democracy", *American Federation of Teachers (AFT)*, Fall 2020, https://www.aft.org/ae/fall2020/levitsky_ziblatt

grows, so too does Turkish society's support for the country's EU membership. According to a poll conducted in December 2020, support for Turkey's EU membership stands at 60 percent, suggesting that to the majority of Turkish people, the West represents liberal democratic values and prosperity.⁵ That is the Turkey that Washington shouldn't lose.

The state of democracy and human rights in Turkey

Turkey's democracy has never been without severe restrictions and problems, but there is something unprecedented in Erdogan's "new Turkey." Turkish media was never free. In the past, the military often intervened in newsrooms, journalists were jailed for "supporting terror," and editors would get fired by media bosses for their views. There was always self-censorship. Newspaper bosses and editors treaded carefully so as not to cross the military's redlines, such as the war with the Kurdistan Workers' Party (PKK) or Islamists. Yet, the media landscape was still lively and competitive. The military did not micromanage the content other than the two issues that were important to the generals.⁶ Journalists went after politicians and held them to account. Not anymore. Now 90 percent of national mainstream media is controlled by Erdogan and his cronies.⁷ The tiniest criticism or uncovering an inconvenient fact can get a reporter fired. Turkey did not have an independent judiciary in the past either. It was used by the secularist elite to punish those who criticized state secularism and the treatment of minorities, especially the Kurds.⁸ Yet, the judiciary has never been as politicized as it is today.⁹ Turkey's jails are full of Erdogan's

5 Hürriyet Staff, "Support to Join the EU Stands at 60 percent", *Hürriyet*, January 1, 2021, <https://www.hurriyetdailynews.com/support-to-join-the-eu-stands-at-60-percent-150488>

6 Zia Weise, "How Did Things Get So Bad For Turkey's Journalists?", *The Atlantic*, August 23, 2018, <https://www.theatlantic.com/international/archive/2018/08/destroying-free-press-erdogan-turkey/568402/>

7 Zia Weise, "How Did Things Get So Bad For Turkey's Journalists?", *The Atlantic*, August 23, 2018, <https://www.theatlantic.com/international/archive/2018/08/destroying-free-press-erdogan-turkey/568402/>

8 Menderes Çinar, "The Militarization of Secular Opposition in Turkey", *Insight Turkey*, Spring 2010, <https://www.jstor.org/stable/26331443>

9 Nate Schenkkan, "In Turkish Court, Freedom of Expression is Still Worth Fighting For", *Freedom House*, January 16, 2020, <https://freedomhouse.org/article/turkish-courts-freedom-expression-still-worth-fighting>

critics and political opponents. Even the once strong trust in elections has eroded under his rule.¹⁰

In 2015, Erdogan's party lost its parliamentary majority for the first time in over a decade. Instead of granting the mandate to the second biggest party, the main opposition Republican People's Party (CHP), after the ruling Justice and Development Party's (AKP) efforts to form a coalition failed, Erdogan stalled coalition talks and called for snap elections. International observer groups reported electoral fraud in the 2017 referendum that switched the country to a "Turkish-style" presidency, granting Erdogan unchecked powers.¹¹ In 2019, when the AKP lost local elections, including in the country's financial powerhouse Istanbul, Erdogan ordered a rerun. All of these factors have led many political scientists to define Turkey as a competitive authoritarian regime where elections take place regularly but political and civic opposition faces restrictions. Unlike in full-fledged autocracies, competitive authoritarian regimes hold regular elections in which opposition parties compete for power but the playing field is so skewed in favor of the incumbent that opposition parties are unlikely to win.¹²

President Erdogan's assault on human rights, civil liberties, democracy, and the rule of law has reached unprecedented levels. In January, he appointed a rector to one of Turkey's top universities to deepen his control over higher education, leading to widespread protests by the university staff and students. In March, Erdogan issued a decree at midnight pulling Turkey out of the Istanbul Convention. Erdogan wrongfully claims that the convention undermines "family values" and promotes homosexuality. He hopes to shore up the support of religious conservative circles. The move came at a time when the number of femicides has skyrocketed in the country.¹³ Women's rights activists, lawyers, and opposition politicians poured onto the streets denouncing the decision, arguing Erdogan cannot legally withdraw Turkey from an international convention ratified by parliament.

Erdogan's decision to pull Turkey out of the Istanbul Convention came two days after the country's highest court of appeals announced the opening of a case to close down parliament's third biggest party, the pro-Kurdish Peoples' Democratic Party (HDP). The prosecutor also asked the court to ban hundreds of individuals and party officials from politics

10 Hürriyet Staff, "Public Trust in Fair Elections Declining in Turkey", *Hürriyet*, May 07, 2015, <https://www.hurriyetdailynews.com/public-trust-in-fair-elections-declining-in-turkey-82066>

11 Reuters Staff, "Observer Says 2.5 million Turkish referendum votes could have been manipulated", *Reuters*, April 18, 2017, <https://www.reuters.com/article/us-turkey-politics-referendum-observers/observer-says-2-5-million-turkish-referendum-votes-could-have-been-manipulated-idUSKBN17KOJW>

12 Berk Esen and Sebnem Gumuscu, "Rising competitive authoritarianism in Turkey", *Third World Quarterly*, February 19, 2016, <https://www.tandfonline.com/doi/abs/10.1080/01436597.2015.1135732?journalCode=ctwq20>

13 Bethan McKernan, "Murder in Turkey sparks outrage over rising violence against women", *The Guardian*, June 23, 2020, <https://www.theguardian.com/world/2020/jul/23/turkey-outrage-rising-violence-against-women>

for five years and to cut the funding all parties receive from the treasury. The court's decision to close down a party that had captured 6 million votes violates millions of people's right to vote. It is part of Erdogan's long-running campaign against the legitimate Kurdish opposition since the HDP denied his party a parliamentary majority in the 2015 elections. The court of appeals' decision came shortly after parliament expelled Omer Faruk Gergerlioglu, a lawmaker from the pro-Kurdish HDP and a human rights defender, over his conviction for a social media post advocating peace years ago. In reality, Gergerlioglu's conviction was a reprisal for his constant focus on the government's human rights violations.

In December 2020, the Turkish parliament adopted a law allowing the Ministry of the Interior to replace and appoint the leaders of nongovernmental organizations (NGOs) who face terrorism charges. The law further tightens the government's control over civil society on the pretext of combatting terrorism financing and proliferation of weapons of mass destruction. The government has already been using terrorism charges to silence activists, journalists, politicians, scholars, and artists. Last year, a Turkish court convicted four human rights activists of terrorism charges, including two former leaders of Amnesty International.¹⁴ The pro-Kurdish HDP's former co-chair as well as dozens of other HDP members remain behind bars on similar charges. The new law, which allows for annual government inspections of civil society organizations and particularly targets foreign organizations, aims to further silence NGOs and strip away fundamental rights.

Does Turkish civil society still matter?

Many observers argue that under Erdogan's competitive authoritarian regime, meaningful civic participation is not possible. But a puzzling dynamic has emerged in Turkey's civic space since 2013, when the biggest popular protest against Erdogan erupted.¹⁵ Turkey's civil society remains severely suppressed under Erdogan, but it has also expanded in terms of both numbers and the diversity of issues organizations tackle. This can be explained by competitive authoritarian regimes' need to build consent and legitimacy at the societal level. They use civil society to achieve that. On the one hand, they oppress those that

14 Megan Specia, "Turkey Convicts Human Rights Activists on Terror Charges", *The New York Times*, July 3, 2020, <https://www.nytimes.com/2020/07/03/world/europe/turkey-human-rights-conviction.html>

15 Bilge Yabanci, "Turkey's tamed civil society", *Journal of Civil Society*, September 19, 2019, <https://www.tandfonline.com/doi/pdf/10.1080/17448689.2019.1668627>

are too vocal in their criticism of the regime, while on the other, they support those that promote the government's agenda. Erdogan has done exactly that, leading to an increase in the number of civil society organizations that address an array of issues. There are now around 130,000 civil society organizations in Turkey advocating on a variety of social, economic, and political issues, including education, gender rights, environmental justice, and refugees as well as in the field of youth, women and family policies in line with the AKP's conservative agenda.¹⁶

There is another factor that explains the expansion of civil society under competitive authoritarian regimes. As the formal political space shrinks under these regimes, citizens turn to civic activism to express their frustration, making civic space one of the last remaining pockets of dissent. In Turkey, too, as Erdogan's authoritarianism grew, so did demand for a civic space to express dissent, making civil society active and relevant even under severe repression. Despite the official crackdown, civil society activists have launched platforms to address the country's growing social, economic, and political problems. In the words of one civil society activist that I talked to, "After the adoption of an alla Turca presidential system, formal political space has shrunk so much that civil society has become even more important. We are developing solutions to the country's pressing problems based on our conversations with key constituencies. Both the government and the opposition need to engage us to hear what those constituencies have to say." Another one said, "We not only offer solutions to the country's various problems but also provide much-needed social capital and promote active citizenship. Even if you think that the current context is un conducive to civil society activism, nurturing civic values under an authoritarian regime is worth all the time and effort."

From groups promoting minority rights to ones that support women's equal participation in the workforce and integration of Syrian refugees, Turkey has a wide array of civil society organizations trying to tackle pressing issues. In today's polarized environment, issues that are critical to people's day-to-day lives often fall through the cracks. Neither the government nor the parliamentary opposition publicly debate key problems, making civil society's work all the more important. The 2019 local elections highlighted the importance of Turkish civil society in mobilizing voters and securing ballot boxes. Despite the extremely uneven playing field and Erdogan's past efforts to manipulate elections results, even after he ordered a rerun of the Istanbul mayoral election in 2019, Turkish civil society worked tirelessly to mobilize voters and protect the ballots. Vote and Beyond is one such civil society organization that has been seeking to guarantee transparent and democratic elections in Turkey since 2014. It has thousands of members who are trained to monitor elections and prevent fraud.

16 "Trends in Turkish Civil Society", *Center for American Progress*, July 10, 2017, <https://www.americanprogress.org/issues/security/reports/2017/07/10/435475/trends-turkish-civil-society/>

What can the U.S. and EU do to help?

Turkish civil society has been operating under very difficult circumstances, and organizations that deal with democracy and human rights are often targeted by the country's highly politicized courts. Those that manage to survive court cases are intimidated by the lengthy prison terms civil society activists often times receive. The case of Osman Kavala is a constant reminder of the risks they face on a daily basis. Kavala is one of Turkey's most prominent civil society activists and philanthropists. He helped establish several publishing companies and has supported various civil society organizations in Turkey. He has been behind bars for four years on myriad charges, including espionage and attempting to overthrow the government in connection with the failed coup attempt in 2016. "Working under these circumstances is extremely difficult. If you manage to avoid jail, you still have to fight for funding and finding people who are willing to risk their lives," says a civil society activist in a recent phone conversation. Turkish civil society needs help. It relies on international funding. Between 2017 and 2020, the U.S. State Department has awarded an average of approximately \$165 million per year in foreign assistance to Turkey-related initiatives, but the vast majority of that funding goes to refugee-related efforts and NGOs. Similarly, the European Union devotes much of its resources to refugee-related issues partly due to its own priorities but also not to alienate the Turkish government by touching on contentious issues such as democracy, the rule of law, and checks and balances. But many civil society activists that I talked to say that those are the exact areas that desperately need international funding and support. Funding refugee-related efforts is crucial but the West must do more to fund civil society that tackles with democracy, the rule of law and checks and balances. Receiving foreign funding, however, is risky for Turkish civil society organizations. They can easily be accused of being a foreign agent by the Turkish government.

Engaging with Turkish civil society is important. This engagement should be led by U.S. civil society organizations, rather than the U.S. government. The National Endowment for Democracy, National Democratic Institute, and International Republican Institute have all played important roles in supporting Turkish civil society, but they too have to tread carefully to avoid becoming a target of the government. Aside from funding, Turkish civil society groups can benefit immensely from interacting with their U.S. counterparts.

Supporting Turkish civil society must be part of a wider agenda that gives democracy, the rule of law, and human rights a prominent place in bilateral ties. The Biden administration's focus on these issues is commendable. The administration must continue to include them in public speeches and talking points with Turkish officials and encourage the EU to do the same. Since more than a million refugees and migrants crossed into Europe in 2015, sparking a political crisis, human rights have been pushed off the EU's list of priorities in its relations with Turkey.

In 2016, Turkey and the EU signed a deal to stem the flow of refugees and migrants to Greece. EU leaders' desire to keep Erdogan onboard on the migration question has made their relationship into a transactional one. With the exception of the European Parliament, which is more vocal in its criticism of Turkey's human rights abuses, the EU remains largely silent in the face of Erdogan's efforts to use the courts to silence critics or apply new laws to stifle free speech or cripple civil society. The EU calls it a "positive agenda" with Turkey, but an agenda that ignores the democratic aspirations of the majority of Turkish society and tolerates Erdogan's authoritarianism is not a positive one.

Turkish civil society activists that I've interviewed in May 2021 voiced concern about European institutions' growing unwillingness to support their work for fear of "alienating Erdogan." Both the U.S. and the EU must push back on the idea of prioritizing geostrategic interests at the expense of human rights and democracy. After all, doing what one can on human rights, the rule of law, and checks and balances is not only the right thing, but also the realistic thing to do as well. Making these issues a prominent part of relations with Turkey serves Western geostrategic interests. Turkey's foreign policy moves that are considered problematic to the West are directly linked to Erdogan's authoritarian turn at home. Erdogan uses foreign policy to keep his base together and justify his consolidation of power. As he tightens his grip, opposition to his authoritarianism grows stronger, leading him to pursue a more aggressive, militaristic foreign policy to divert attention and prevent further erosion in his support. Thus, what Erdogan is doing inside the country should be of greater concern to the West than what he is doing outside of Turkey's borders. For this reason, both Washington and Brussels should make clear that a positive agenda with Turkey would be tied to improvements in the areas of human rights, democracy, and the rule of law. In a recent joint letter to Charles Michel, President of the European Council and Ursula von der Leyen, President of the European Commission, the International Press Institute (IPI) with fifteen other human rights and freedom of expression organizations made similar calls on the EU to ensure that improvement in fundamental rights and the rule of law are at the heart of EU-Turkey relations.¹⁷

Both the U.S. and the EU have leverage over Erdogan, especially at a time when Turkey's economic problems have been worsened by the pandemic. Turkey's tourism industry lost billions of dollars due to COVID-19 travel restrictions. Years of poor economic management have taken their toll. Foreign investors are fleeing the country, living costs and unemployment are rising, and the downward spiral in the value of the Turkish lira is only likely to continue. Washington and Brussels should capitalize on the current Turkish domestic context to push Erdogan to stop his attacks on opposition figures and take concrete steps to uphold human rights. A "positive agenda" with Turkey must be tied to these

17 "International groups call on the European Council to strengthen its demands on Turkey", *IPI*, June 23, 2021, <https://freeturkeyjournalists.ipi.media/international-groups-call-on-the-european-council-to-strengthen-its-demands-on-turkey-to-end-the-backsliding-on-human-rights-and-freedom-of-expression/>

conditions. Preferential trade agreements with Turkey can be used as a carrot if Erdogan complies or Turkey's tourism sector could be targeted with sanctions, such as prohibitions on the supply of tourism services or the issuance of negative travel advisories by member states, if he does not. Targeting Turkey's tourism sector is an effective tool since Turkey relies on foreign currency inflows from foreign tourists to finance its foreign debt, reduce its current account deficit and restore its depleted forex reserves. 2020 was an extremely difficult year for the country's tourism sector due to the pandemic. Its losses hit the country's foreign exchange earnings and led to a significant loss in lira's value against the dollar, making foreign cash even more critical to President Erdogan and providing leverage to Europe.

Conclusion

The latest developments over the past few months follow a series of grave setbacks for human rights, democracy, and the rule of law in Turkey. Both Washington and Brussels acknowledge these setbacks. Yet, there are powerful constituencies on both sides of the Atlantic pushing Western leaders to focus on Turkey's strategic importance, its foreign policy, and its role in stemming the flow of migration, and leave what is happening inside Turkey to the Turks. This approach is touted as "realist" or "pragmatist." But Turkey presents a powerful case where idealism and pragmatism meet. Pushing for human rights, democracy, and the rule of law not only serves Western ideals but also Western interests. This is a unique moment. The West should not squander the opportunity.

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