

Democracy and Protection of Human Rights: Evidence from Croatia and Turkey

Ariana Mattice- Lybrand

Hartwick College

Introduction

Human rights by international community standards, are rights that are inherent to all human beings regardless of race, sex, nationality, ethnicity, language, religion, or political affiliation (United Nations). They are meant to transcend the nation state, or any physical or conceptual boundaries. While an important subject of political struggle, human rights also have varying philosophical and ethical foundations. There are controversies surrounding the universality of human rights, and how states are supposed to implement these principles while remaining consistent with their respective political system and societal/cultural norms.

Throughout history there have been numerous occurrences of oppressive governments violating the rights that are supposed to be inherent to all. Through examples such as the Holocaust, Rwandan Genocide, Kosovo Conflict, and most recently the events in Myanmar, there seems to be an apparent trend of social and political disorganization and instability, and the inevitability of human rights violations. That being said, it is worth examining what in fact the root cause for social and political instability is and if there is a way to avoid that instability and disorganization from even occurring. Through an analysis of the literature, states that are often associated with stability and consistent protection of human rights, are those with a liberal democratic foundation, whereas states that are unstable and lack the consistency of human rights protection, are those that have a history of illiberalism. In an effort to understand the true effect of instability on human rights violations, it is necessary to understand the dichotomy of liberal and illiberal forms of governments and how they differ foundationally. In understanding the differences in their foundations, it may illuminate certain qualities that enhance stability which in turn will enhance human rights protections.

Croatia and Turkey are two states that have within the past 50 years gone through a series of political transitions. In their transitions from authoritarian regimes to democratic ones, they have had significantly different democratization experiences. These differences can be traced to the foundations of their constitutions which through analysis can be linked to the political instability and the violation of citizens' rights. This relationship is demonstrated through an analysis of levels of freedom over time and the number of recorded violations found in annual reports compiled by international human rights organizations. This research finds a positive relationship between these factors of illiberalism, instability and violations of human rights. This noticeable relationship is of importance to not only the academic study and professional practice of politics, but also to all citizens of all countries. If there is evidence to support that a certain and distinct form of democracy, can better stabilize a country, it may be a priority to help encourage the establishment of such democracies to ensure that that stability can help sustain the protection of the rights that all are entitled to.

The Meaning and Understanding of a Liberal Democracy

Although various distinctive versions of democracy that adopt different views of agency, autonomy, and rights of state and citizens exist, democracy in the post-cold war era has come to have a rather solidified, generally accepted meaning. The commonly held view of democracy has, based on the literature, four important and universal assumptions (Evans, 2001). The first is that the state has a defined territory, one that has a defined set of boundaries and can differentiate insiders/citizens, from outsiders/non-citizens (Evans, 2001). This is not to say that those living within said territory all share or are associated with citizenship equally, in fact, there are democratic constitutions written that hold certain provisions that extend the rights to citizens, but exclude others from full civic participation (e.g. criminals, illegal immigrants etc.). However, the

emphasis remains on that territorial set of boundaries that happens to be tied to a community of citizens that is then defined by national sovereignty. The second assumption, places the responsibility on a representative assembly to protect and uphold important civil, and personal liberties. This is achieved through recurring multiparty elections that are representative of the constituent population (Evans, 2001). The responsibilities of a representative assembly must meet the demands and interest of the people. This idea is harmonious with the assumption that while acting with a high degree of autonomy and sovereignty, the representative body will fulfill the objectives of the community to promote common good, or collective interests (Evans, 2001). The final assumption is that democratic states act in the interest of the whole population, rather than in the interest of a particular subset or group. This final assumption of what a true democratic state entails, is one that creates tensions among political scientists. The demand for greater freedom is often met with contention from the state with the intent to preserve and protect the common good (Evans, 2001). In other words, the democratic state can at times be a limited one, one that attempts to reconcile individual freedoms for the preservation of greater social order.

It is important to note the distinction between liberal and illiberal democracies. Understanding the basic fundamentals of a liberal democracy, makes for a better understanding of the complexities of illiberal democracies. Fareed Zakaria, a political science scholar and journalist, warns that states that hold free elections but do not “honor the rule of law, and the rights of citizens” are not and should not be considered to be properly democratic (Kupchan, 1998). He notes that it is not democracy alone that stabilizes a state, but a liberal democracy. Without the protection of individual rights, and the balance of a singular, centralized power that is supplemented by a constitution is what makes a democracy prone to abuses of power

(Kupchan, 1998). The concept of modern, liberal constitutionalism serves as a foundation for democracy, and ultimately human freedom to be entirely achieved. The driving force of liberal constitutionalism lies in its intent to promote and ensure a more cohesive conception of liberty by way of the rule of law (Tamanana, 2000). The concept of the rule of law is perhaps one of the most significant factors in determining an ideal political state. While often highly contested, the underlying factor that is unanimously agreed upon is the idea that “it is formal in nature, requiring only that laws be set out in advance in general, clear terms, and be applied equally to all” (Tamanana, 2000). The rule of law in all of its complexities, is a powerful legitimating ideal. It provides the foundation for establishing rules and laws that enhance the political regime. In an effort to achieve a desirable regime, European thinkers like Montesquieu, and American thinkers like Madison assert that constitutions incorporate certain limitations and regulations against governmental power, to ensure that power does not become too concentrated and in becoming concentrated, eventually tyrannical and withhold rights from citizens (1788). They recognized that in early conceptions of government there was no coherent idea of liberty that made limited government necessary, and no formal tools for thinking about how government could be functional, while also having certain limitations (1748). Liberalism however, in particular, is conveyed through equal concern and respect for all individuals. In other words, respecting not only the interest of the common good, but rather with a focus on the individual, with respect to limited and balanced power of the state. The state must treat each person as a moral and political equal. The individual is not simply separable from the community and social institutions, but specifically valued as a singular, distinctive individual. A liberal democratic state sees the individual as an autonomous member of society that has equal opportunity to experience the full range of human rights.

Political Stability

Many definitions exist for political stability, much like that of democracy itself. Although there are strands of confusion surrounding the proper definition, the concept of political stability is approached by most political scientists as a notion that rests on the measurability of certain behaviors of a state. Stability through this idea has come to be understood as the (1) absence of violence, (2) governmental longevity/endurance, (3) absence of structural change (Ake, 1975).

Perhaps the most often used measure of stability is the absence of politically motivated violence. A stable political entity is seen as a law-abiding society where decision making, and political change are the result from customary and constitutional procedure, and not the result from politically motivated conflict or aggression (Ake, 1975).

Another common measure of stability is governmental longevity/endurance. That is not to measure “stability” off how long an administration remains in office. In fact, stagnant representation can in fact exemplify instability as we have seen in many cases throughout the world. However, governmental longevity/endurance speaks to the length of time a certain political system is in place (Ake, 1975). It is sufficient to say, states that have a long history of a reliable political/ economic system are often regarded as more stable, as opposed to states that fluctuate between types of political/economic systems.

Finally, stability is often equated with the absence of structural change. Similar to the concept of governmental longevity/endurance, a lack of structural change speaks to the continuity of certain principles, and foundational elements of the agreed upon political system (Ake, 1975). In other words, states that are found to often implement or dispose of policies independently from procedure are often regarded as “unstable”.

Lockean Philosophy of Human (Natural) Rights

The very nature of democracy under John Locke's interpretation is that rights are God given and "natural" and the protection of those rights is the sole purpose of the state (1689). That said however, The Lockean model of democracy presents a brief, yet complex and rather convoluted conceptualization of exactly what natural rights are under the responsibility of the state to protect. Locke famously theorized that government must be established on the consent of the governed, and that men have a natural right to life, liberty and property (1689). These ideas are of clear political significance, which continue to have strong influence on modern day conceptions of human rights. Locke emphasizes the relationship between the formation of modern government and certain aspects of society, namely through the aspect of the rights mentioned above. Through his works, Locke provides much of the foundation for modern liberal ideas. Locke comes to many of his conclusions about this theory through the reasoning of natural law, and where natural law lacks in explanation, aspects of Christianity. Locke viewed society through the state of pure equality in which no one person had control over another. He called this ideal state, the State of Nature. This is a state that exists prior to civil government where people are considered inherently good. This state involves people living together, governed by reason without a common superior, ultimately allowing people to determine the outcomes and the extent of consequences of their conflicts for, and by themselves (Locke, 1980). People constituted governments, and they did so on terms that put limits on the scope of governmental authority. The authority of government was the result of the command of human beings to promote and protect their rights. Locke explains that man exists in this state upon birth and obeys the laws dictated by nature. In this state, men are ultimately free to do as they please, so long as they preserve the general harmony of mankind.

Modern History of Human Rights

Through much of modern history, the conceptions of modern democracy, liberalism, and governmental stability have taken fragments of Lockean thought and other philosophers alike. After the devastation of World War II, nations banded together and created the new world order, one that was no longer anarchical but rather unified under one common source of power that was democratic by nature. The United Nations, founded in 1945, allowed for nations to be held accountable for their actions in the international realm (Robinson, 1998). With much of the credit given to the revelations of the Nuremberg trials, the international community recognized a need for a deliberate, unified, and cohesive framework for human rights. Upon that recognition, the United Nations General Assembly in 1948 composed The Universal Declaration of Human Rights (UDHR) (Robinson, 1998). While there is no underlying philosophical theory to the rights granted by the document, as any reader of the Declaration will realize, there are parallels to the ideas that are of Lockean descent. Human rights are often regarded as the twentieth-century name for what has been traditionally known as “natural rights” (Beitz, 2003).

The Universal Declaration was the first international agreement aimed at the improvement of human rights for all people. The goal was to serve as a reminder that no matter how difficult, states must not sacrifice human rights for other goals (Robinson, 1998). In particular, the Declaration encourages the international community to protect economic, social and cultural rights as well as the right to development. Extreme poverty, illiteracy, homelessness, and the vulnerability of children to exploitation are all concerns that the Declaration addresses. The provisions of the Declaration read like a list of concrete standards, as opposed to generalized concepts (Beitz, 2003). Certain core rights mentioned through the Declaration evoke a sense of Lockean influence, for example, the mention of rights to life, liberty, security of person; and

against arbitrary imprisonment, slavery, and torture (Beitz, 2003). Beyond that however, there are also provisions related with more civil, political, and economic rights, including rights such as the right to a fair trial, periodic and genuine elections, free employment, and healthcare (Beitz, 2003). It is with the mention of these rights where the Declaration is less associated with the Lockean model, though it still reflects deep theoretical connections.

In the years that followed the creation of the Declaration, human rights have become a substantive topic in modern political science. With the emergence of newly democratic states, the international community has shifted its focus to the domestic realm of politics by specifically examining the way in which states behave and engage with their respective citizens (Landman, 2005). In the years following the Cold War, there was a surge in the formation of democratic governments. Since 1975, the number of nations under a democratic regime has quadrupled with 39 percent of the world's population living in countries rated as "free" by Freedom House (Dalpino, 2000). As the number of democracies has increased, attention to human rights has also grown. Human rights and democracy are starting to become seen as interchangeable by international standards, with the UN Human Rights Commission declaring democracy itself to be a fundamental human right (Dalpino, 2000).

The Responsibility to Protect

Although progress has been made on the international level in terms of human rights recognition, state level recognition has struggled. As the 1990s came to an end, states were often met with political backsliding (Donnelly & Howard, 1986). Many nations situated in the ex-Soviet bloc, and the Middle East, switched back and forth between democratic and authoritarian rule several times (Dalpino, 2000). It was during that time of political instability where violations of human rights were at an all-time high. Human rights violations, in particular the campaign for "ethnic

cleansing” in the former Yugoslavia, began to surface, mostly in nations that were under authoritarian rule or were illiberal democracies (Dalpino, 2000). The abuses in Yugoslavia in particular gained international recognition for violently violating international law. The violence came to height in July of 1995, where processes began to include looting, killing, raping, and torturing those who were deemed “problematic”, and in some cases, forcing them to leave their country. The violence was reflective of previous attempts of ethnic cleansing, that metastasized to genocide, which prompted the international community to become involve. While the “responsibility to protect” concept came to a head after World War II, it was not until decades later where the action of humanitarian intervention of other states actually were strategically implemented and carried out (Kritsiotis, 2000). The United States can be seen as the leader of starting the “responsibility to protect” movement. They implemented the concept of sovereignty as a form of responsibility. This was furthered by President Carter, who in 1977 told the United Nations General Assembly that “No member of the United Nations can claim the mistreatment of its citizens is solely its own business” in that he reinvented the concept of sovereignty and challenged the traditional sense of collective responsibility (Evans & Sahnoun, 2002). The international humanitarian interventions in both Kosovo, and Bosnia remain significant to the international community, as they represent the first of their kind. Before World War II there was not even a unified international order, let alone a unified organization willing to intervene into other states humanitarian emergencies, and sometimes armed conflicts. However, with the establishment of organizations like the United Nations, NATO, and the European Union, there is now a sense of international order among all officially recognized states (Evans & Sahnoun, 2002). The rise of international organizations (IGOs) throughout the world, have helped with promoting and protecting human rights that are supposed to be guaranteed to all individuals,

regardless of race, religion, ethnicity or political ideology. Although most developed states have domestic policies that ensure these guidelines, the international order helps protect those under governmental regimes that might not be as stabilized or developed. The Universal Declaration of Human Rights serves as a baseline for what rights should be protected at all costs in any country. It was these guidelines set forth and agreed upon by the international community that led the intervention of NATO in Kosovo and Bosnia. Just like the concept of the international order is rather modern, so is the concept of humanitarian intervention. While the idea of a state's use of military force to end injustices, and violence in that of another state would in theory be accepted among all, it remains a highly controversial issue among the international community (Smith, 2000). That said, the legality of humanitarian intervention can only truly be traced back to the UN Charter, as it represents the only true form of agreed upon notions in the legal realm (Smith, 2000). In essence, supporters of humanitarian intervention believe that it is the sole duty of the UN and organizations alike to protect the rights of others and maintain the peace of the world at all costs. International law is centrally focused on crimes that are committed at the highest level, such as war crimes from dangerous, and radicalized governments (Hurd, 2011). It can be dated back to the establishment of the United Nations when the concept of humanitarian intervention arose. Although it was not officially put into action until the disintegration of Yugoslavia, the requirements of humanitarian intervention were decided upon.

Nondemocratic Societies and Human Rights Violations

The seemingly obvious connection between democracy and human rights raises the question whether a regime change from authoritarian/totalitarian rule to democratic rule can in fact renew the respect for human rights. While much of the focus during the 1980s into the 1990s was situated mainly on the injustices and conflict in the region of Yugoslavia, most Latin American

nations were experiencing real-time effects from this transition from authoritarian rule to democratic rule (Cornell & Roberts, 1990). In the cases of Brazil, Argentina, Uruguay, and Chile, human rights under the newly established democratic regime, were an important and highly respected topic. These democratic transitions, in part, were to restructure the relations between the state and society. Having a democratic regime in those states drastically improved the conditions of human rights for citizens. However, in the neighboring state of Peru, the same effects were not seen. Although declaring democratic rule in 1980, Peru, in contrast saw a surge in violations (Cornell & Roberts, 1990). The Peruvian case demonstrates – in line with the argument of Fareed Zakaria – that it is essential not only for a state to be by definition “democratic”, but to encompass the principles of a liberal democracy in particular. In Peru, during the demobilization of the authoritarian regime, the democratic transition used violence to suppress the opposing political parties and other social organizations. Abuses associated with the political demobilization included victims arbitrarily arrested, imprisoned, tortured and in some cases killed (Cornell & Roberts, 1990). Although the country was declared democratic, the military occupied much of the power and legislators, political parties, and the electoral process were ultimately suppressed and restricted by the military (Cornell & Roberts, 1990). The repression of these institutions enabled the militaristic regime to claim and centralize their authority and power. The lack of an institutionalized sense of checks and balances allowed for many of the injustices to occur.

The Relationship of Liberalism, Stability, and Protection of Human Rights

The union of these ideas ultimately provides a working definition for the concept of political stability. Using this definition, the relationship between liberalism, and stability becomes more apparent. The concepts that define liberalism serve as foundations for the concepts of stability to

thrive. This is exemplified through many cases of illiberal states and the inevitable instability that occurs. When that instability occurs, it allows the improper protection of rights. If there are occurrences of politically motivated violence from the government, or rapid/ abrupt changes to political systems, or significant structural changes in the political system, it opens up opportunity for the rights of citizens to not be protected as thoroughly or as properly as they should.

Hypotheses

Based on literature of previous cases, like Peru, it seems as though states that lack the proper standards of a liberal democracy, are more likely to have a sense of instability that contributes to the likelihood of violations of human rights to occur, as they lack the proper means to fully protect and promote the interest of the individual. That said, the hypothesis for this study is:

H₁: The regime that is determined to be less liberal will violate more rights of citizens than the regime that is determined to be liberal.

H₀: There will be no apparent connection between the inclusion of liberal factors in the constitution and violations of human rights.

Background

The rationale behind choosing the subjects of Croatia and Turkey for this study stems from the inherent similarities that they share, but the drastic differences in their level of democracy attained. In October of 2005, negotiations began, discussing the accession of both Croatia, and Turkey into the European Union (EU). It is important to understand that to be considered for accession to the EU, states must meet certain standards and criteria. Of the many criteria, becoming and remaining stably democratic, and respecting the rule of law are two of the more significant conditions that states must meet. Because of the strict standards, EU inclusion is often a good indication of how stable, transparent, and democratic a state is. That said, when

negotiations began in 2005 for both Croatia, and Turkey it was many years before either country was considered for inclusion as the current state of each government was heavily analyzed. It was not until July of 2013 when Croatia officially became a member of the EU. Turkey however, still remains in the negotiation stages, and their inclusion remains a highly contested issue.

Since Turkey became an independent country in 1923, it has struggled with stability within their government and political authority. The AKP, a socially conservative party and its co-founder, Recep Tayyip Erdogan rose to power in early 2000's through democratic elections. In his early days in office, Erdogan and the party seemingly reconciled a deeply rooted Sunni Muslim identity with a more democratic, and pro-western stance. While this remained consistent through the early years of his rule, noticeable cracks in the system began to surface in 2012. Erdogan began to drift towards authoritarianism with the suppression and limitation of protests, and peaceful demonstrations in 2013, and the arrests and trials of opposing political officials. More recently, these authoritative tendencies have intensified, namely with the 2017 constitutional referendum. In this referendum, Turkey implemented a fully presidential system, which concentrated the majority of the power in the hands of the president, limiting the power and authority of both the judicial and legislative branches of government. This, along with the other seemingly problematic efforts of the Turkish government, is a main contributor to the suspension of EU negotiations. These differences in political ideologies have contributed to a deeply polarized Turkish society that has resulted in various attempts to overthrow the government. In an effort to de-radicalize the authoritarian tendencies amid these political tensions, a military coup attempted to violently overthrow Erdogan and his party in July of 2016. Although they failed to achieve the goal, it is indicative of how polarized the country is.

In Croatia, once peace and democracy were attained, the country has remained stable and continues to maintain a high level of transparency that has left them without the same political instability that Turkey has generated. While Turkey and Croatia have inherent similarities in their geopolitical history, and share similar experiences with the evolution from authoritative to democratic governmental systems, it is the differences that lie in the level of freedoms granted to the respective citizens that makes this particular case worth examining.

Methods

The methodology used in this analysis is a comparative case study on the government systems in Croatia and Turkey and how these systems affect the overall protection of human rights. Comparative case studies involve the in-depth analysis and examination of similarities, differences, and patterns between two or more cases in an effort to generate new knowledge that can be used to generalize the relationship between casual factors. Comparative case studies often incorporate both qualitative and quantitative data, using methods such as document analysis.

A comparative case study is the most effective approach to analyze the effects of a liberal democracy on the protection of human rights because it provides a thorough and comprehensive overview of all aspects of the subjects being analyzed. This analysis in particular will be a two-part study. The primary study will be a document analysis of the constitutions of each respective country using the qualitative comparative analysis method of a truth table to determine whether they meet the “factors” of a liberal democracy. Using a truth table will sort the cases by the presence or absence of certain variables. In doing so, it will show an association between certain variables between the cases of Croatia, and Turkey. In this case the variables will consist of the factors that determine whether a state has a liberal or illiberal democracy. Following Evans, the “factors” include having a “defined territory”, “a constitution that extends rights to citizens”,

“recurring multiparty elections”, lawmakers that “honor the rule of law”, a clear “balance/ check on authority and power”, and a “strong transparency of government operations” and “concern for individual freedoms”. When evaluating each case’s declarations and if they include language consistent to the factors mentioned above they will be given a nominal-level score of {1} for “yes”, and {0} for “no”. This will be continued for all factors. Once the documents are analyzed, and each Constitution is properly coded, the country with a higher score at the end will have the more liberal democracy. Ideally each country should score between 6 or 7 to signify that they encompass most of the basic principles of democracy within their constitutions. However, based on the information provided in the background section, Croatia would be expected to score as more liberal than Turkey.

The second part of this research will analyze the content within annual human rights reports compiled by Amnesty International and Human Rights Watch. However, instead of coding {1} for “yes”, and {0} for “no”, findings based on the codes created will be tallied and totaled at the end. The definitions for the codes were derived from important factors that were indicated as violations of the Universal Declaration of Human Rights. From reading, analyzing, and understanding the UDHR, anything that was mentioned within the report that violated any of the provisions within the UDHR were highlighted and counted. From the analysis of the most recent annual reports (2017/2018), the goal is to better understand on the ground level the types of abuses that are happening in both Croatia and Turkey. The codes that will be accounted for are violations of electoral processes, expression and beliefs, press and speech, assembly, torture and inhumane treatment, discrimination, due process, movement and social freedoms (Appendix A). These codes should indicate the specific human rights violations that are happening on the ground level.

In an overview, these concepts of overall freedoms were accounted for using a time series analysis. A time series is a series of data points indexed over time, in order. Specifically, what was analyzed was the Freedom House scores of Croatia and Turkey from 1999 to 2018.

Results

As aforementioned, the primary study consisted of document analysis of both the Croatian and Turkish Constitutions, while the secondary part looked at the types of human rights violations happening on the ground level through the analysis of annual reports compiled by various human rights organizations. This section will detail the findings from both the primary and secondary analyses. The discussion section will offer a more detailed understanding of the relationships found between those two findings.

Table 2 illustrates the findings for the primary part of the study, which determines whether the current governmental regimes in both Croatia and Turkey can be considered to be an illiberal or liberal democracies. In the context of Table 2, the left-hand column shows the seven essential and determining factors that make up a liberal democracy. It can be seen in the following column that the Croatian constitution earned a {1} for each of the determining factors. This means upon analyzing all the articles, the Croatian constitution included provisions that honored all of the determining factors. However, when looking at the following column titled “Turkey” it can be seen that the Turkish constitution only encompassed five of the seven determining factors.

While Turkey by general international standards has what appear to be defined territorial boundaries, they are not explicitly mentioned or detailed within their constitution. Because of this, Turkey was given a score of {0} for not providing an explicit provision detailing where the territory of Turkey begins and ends to the same extent that the Croatian constitution had. In

addition to failing to identify a clear and identifiable territory, Turkey also was given a score of {0} for failing to encompass provisions within their constitution that support transparency of governmental operations. In the case for this document analysis, transparency was coded as including provisions that supported freedom of speech, opinion and expression, press and limitations to censorship. These rights give citizens the ability to speak out against oppressive or under representative regimes. Providing citizens, the right to freely express thought consisting of both fact and opinion in the form of news and other forms of media allows for an institution independent of the governmental regime to serve as a check of the powers and publicize acts of corruption, and ensure that all branches of governments are working within their limits. While Turkey had included provisions granting the freedom of thought, opinion, and press in its original version of the documentation, it has since made revisions that have placed limitations on the rights that once existed without limitations. For example, Article 28 of the Turkish Constitution once ensured that "...the press is free, and shall not be censored. The establishment of a printing house shall not be subject to prior permission or the deposit of financial guarantee". This provision was repealed in October of 2001, and was replaced with one that suggests that anyone who writes any news or articles that threaten or integrity of the state shall be held responsible under the law relevant to the offences that are disclosed within the constitution. Article 28, continues to place a significant amount of limitations on the right to free press, which suggests that the most recent regime has played a substantial role in retracting the provisions that were created when Turkey was first democratized. There is an observed trend among the following articles that are associated with the publication of periodicals, and non-periodicals, freedoms of assembly, right to hold meetings and demonstration marches, and freedom of expression, and the dissemination of thought. With these rights in particular, there have been

repeated revisions, and paragraphs added to place different limitations on these rights. Because of this, Turkey earned a {0} for “Transparency of Governmental Relations”.

For the second part of the research, document analysis of six human rights reports was conducted. These reports included the *2017/18 Human Rights Watch Annual Report of Turkey (Report 1T)*, *2017/18 Human Rights Watch Report of Croatia (Report 1C)*, *2017/18 Amnesty International Annual Report on Turkey (Report 2T)*, *2017/18 Amnesty International Annual Report on Croatia (Report 2C)*, *Freedom House 2018 Profile on Turkey (Report 3T)*, and finally *the Freedom House 2018 Profile on Croatia (Report 4C)*. The coded results can be found in Table 3, which shows how many times each code was indicated in each report.

Human Rights Violations Analysis (Turkey)

In the analysis of the Report 1T, 18 violations in total were recorded, as seen in Table 3. Three violations of a free and representative electoral process were found. Specifically, the head of government currently in office in Turkey, exhibits full control and dominance over the legislature. Since 2016, the president presides over the cabinet and can pass decrees without parliamentary scrutiny or possibility of appeal to the constitutional court. This violates the right detailed in Article 21 of the Universal Declaration of Human Rights which ensures that people shall be the basis of the authority of government; this shall be expressed in periodic and genuine elections. Six violations of free press and speech were recorded. According to this report, hundreds of media outlets, foundations, and educational establishments have been arbitrarily closed by decree since the state of emergency was declared in 2016. After the closing of the majority of media outlets, Turkey is the world leader in jailing and prosecuting journalists and media workers if they attempt to expose government wrongdoings. Two violations of freedom from torture and inhumane treatment were recorded. Specifically, this report critiqued the

methods law enforcement officials used in arresting and imprisoning journalists and media workers. Report 1T indicated six times throughout the report that Turkey had violated the right of due process. Cases where this was present were mostly found to be in association with the arbitrary arrests of peaceful demonstrators, journalists, and media workers. Only one violation was recorded for movement violations. Asylum seekers are often denied access to basic fundamental rights to water, food and shelter.

In the analysis of Report 2T, a total of 22 violations were recorded as indicated by Table 3. Four violations of a free and representative electoral process were found throughout Report 2T. In particular, the report indicated that as a result of the newfound power of the president, six elected mayors were made to resign after being requested to do so by the president. As a result, a third of Turkey's population was not being represented by the people they had elected. Multiple accounts of similar situations have occurred since 2016. Two violations of free expression and belief were indicated throughout the report. Censorship of private social media accounts were noted in the report. The report also noted that prosecutions were brought against eighteen human rights activists. The expression of certain beliefs is severely censored among the literature, art, and music industries. Similarly, 3 violations of free speech, and press were indicated. In many ways, these violations presented consistent themes of censorship. This report, similarly to Report 1T indicated the intense scrutiny and surveillance that journalists and media outlets are subjected to. Once again, it mentions that Turkey is the world leader in jailed journalists, along with 2 prominent cases of censorship. Three violations of free assembly were detailed. Peaceful, public protests are heavily surveilled, and often shut down. Public demonstrations have dwindled since 2016 as political officials have imposed arbitrary bans. Law enforcement brutality is often coupled with the shutting down of demonstrations. Three

violations of torture and inhumane treatment were detailed throughout this report. Specifically, detained and/or imprisoned individuals were recorded to have suffered from inhumane treatment. Evidence of alleged torture were not being actively, or effectively investigated. Four violations of due process were indicated throughout the report, with the arbitrary arrests and imprisonments of journalists, private citizens, human rights defenders, and peaceful protesters. Detailed consistently throughout the report, defendants are not given a speedy, public, or fair trial, and if they are, their prosecutors are not independent from the current regime and prosecutorial cases are politically charged, resulting in bias. This report noted a significant issue of internally displaced persons. Cases were detailed where many individuals were unable to return to their homes, and not provided adequate access to shelter, food, or water.

Report 3T had a total 21 coded violations were coded for as indicated by Table 3. Six violations of free and representative electoral process were found. According to Report 3T, the 2016 constitutional revisions have increased the power of the president. While Turkey was formally considered to be a mixed-presidential system, it has since become a fully presidential system. This means the president has full dominance over legislative process. The report also suggests that even though technically Turkey has a multiparty system, new parties are discouraged as there has been a rise in party leaders being jailed on terrorism charges. One violation of free expression and belief was found. Turkey has become increasingly dominated by Sunni Islam, which has influenced Turkish education standards. In schools, there are compulsory religious education courses that non-Muslim groups like Jews, Orthodox Christian, and non-believers often have difficulty opting out of. Four violations of free press, and speech were coded for. Similarly, to previously analyzed reports, the issue of censorship of media, and news is apparent in Report 3T. Individual newspapers and websites continue to face tremendous political

pressure from governmental influences. Government policy and officials attempt to block news sites and other online information sources. Mainstream media – especially television – reflect the government interest. One account of free assembly violation was coded for. Authorities have recently placed strict restrictions on the ability of people to hold demonstrations, making it much harder to peacefully protest, even with approval by law enforcement officials. A case was mentioned where brutal force was used in fact to break up a peaceful protest. One violation was coded for discrimination. Women as well as ethnic and religious minority groups have continued to suffer varying degrees of discrimination. Three violations of due process were coded for. Under the state of emergency that was imposed in 2016, suspects can be held for up to 14 days without judicial review resulting in a lack of basic due process protections for the growing number of people detained. One violation of freedom of movement was coded for as individuals have had difficulty in traveling outside of Turkey as passports are difficult to obtain or are arbitrarily confiscated from authorities. Three violations of social freedoms were violated. In particular, the ability for individuals to marry a same-sex partner is highly discriminated against, basic healthcare is limited and not easily accessible, and educational opportunities are becoming increasingly limited, or religiously motivated.

Human Rights Violations Analysis (Croatia)

In Report 1C, a total of 5 violations were recorded as indicated by Table 3. A total of 4 indications of violations of non-discriminatory actions of the government occurred throughout the document. Specifically noted in this report, people with disabilities face exclusion and discrimination that include barriers that preclude them from participating in society on an equal basis as others. This report also indicated concerns among the Council of Europe that there has been a reported rise in ethnic intolerance, and hate speech that are targeted at certain minority

groups, in particular Serbs, Roma, and Jews. Similarly, to the inadequate availability of fundamental rights granted to asylum seekers in Turkey that was noted in Report 1T, are found to be consistent in Croatia as well. In particular, approximately 2,800 persons, mostly Roma, face particular difficulties in accessing basic services such as healthcare, and housing. For this, 1 violation was recorded for the violation of the freedom of movement

In the analysis of Report 2C, a total of 7 violations were coded for, as indicated by Table 3. Two violations of torture and inhumane treatment were detailed throughout this report. The report detailed a case titled *Škorjanec v. Croatia* in which the European Court of Human Rights found that Croatian authorities had failed to guarantee the defendants right to be free from torture and degrading treatment. It also detailed that Croatian law enforcement often use tactics of coercion, intimidation, confiscation of personal property, and brutal force. Again, violations of discrimination were found. In particular, two violations were specified. Social and political discrimination of ethnic and sexual minorities continues to persist, but is not properly being condemned by the government. Freedom of movement was also signified as an issue in this report. Two violations were counted for, having to do with the violence refugees and asylum seekers endure while they undergo the asylum process. In addition, once those in transit are granted asylum, they often lack equal access to basic needs such as such as housing, health, sanitation or food. One violation of personal freedoms was indicated in the report. The right to privacy is often violated as women and girls are often forced to disclose their sexual behavior and/or reproductive health as a condition to access emergency contraceptives in pharmacies.

In the analysis of Report 3C, only 1 violation was coded for. One violation of discrimination was indicated as ethnic and religious minorities in Croatia often are not

guaranteed equal treatment and are still subjected to discrimination in the workforce, and in healthcare settings.

Of all the reports analyzed, a total of seventy-four violations were coded for. Of the seventy-four violations, Turkey accounted for sixty-one of them, while Croatia only accounted for the thirteen others. This conclusion supports the hypothesis; the null hypothesis can be rejected.

Discussion

From analyzing the content of the Croatian and Turkish constitutions, it is apparent that Croatia has detailed more liberal provisions within their constitution than the Turkish constitution. The Croatian constitution included specific provisions that detailed the specific factors that were detailed throughout the literature that would contribute to the most liberal form of democracy. In a final analysis, the Croatian Constitution encompassed a defined territory, rights to citizens, the rule of law, a balance/check of power and authority, transparency of governmental operations, recurring multiparty elections, and a concern for individual freedoms. Encompassing all seven of those standards allows for the institution to fully protect and promote the interest of the individual, which indirectly effects how the government intends to protect human rights. In other words, by ensuring that certain factors are guaranteed by the constitution, they are essentially guaranteeing that no matter how difficult or challenging the times, human rights would not be sacrificed for other goals.

The Croatian Constitution is clear and comprehensible and specifically clarified each Article. This allowed coding for the provisions of liberal democracy to happen rather effortlessly. Terms were indicated explicitly, and very few limitations to these rights existed.

Ultimately, based on the literature and a close reading of its constitution, it was straightforward to conclude that Croatia could be regarded as a liberal democracy.

Turkey however, only indicated five out of the seven necessary factors for a liberal democracy. Turkey's constitution compared to the Croatian Constitution was far more intricate, and demanded much more analysis. Although they were created within a decade from each other, they differed significantly in the type of language used. Turkey's constitution while indicating five of the fundamental factors of a liberal democracy, failed to explicitly define their territory. Leaving this up to interpretation could cause geo-political turmoil for future generations. Similarly, Turkey lacked certain provisions that support transparency in governmental operations. Provisions such as freedom of speech, opinion, expression, and overall, limitations to censorship. While Turkey formally had provisions that had freedom of speech, opinion, and expression, the newest regime has since made revisions to the constitution which have altered the original articles, and replaced with ones that have placed strict limitations on these rights. By disallowing total free speech, expression, and opinion, media and news sources are unable to report without pressure or intimidation from law enforcement and government officials. Taking the results from this primary part of the study, it can be concluded that since Turkey encompassed fewer liberal factors, it is less liberal compared to that of Croatia, the Constitution of which encompassed all of these factors. As expected, the country determined to be less liberal also had many more reported violations in all the human rights reports.

It could be said that having fewer liberal factors in one's constitution, may not directly contribute to violations per say, but rather more opportunity for instability to occur, and that instability, could lead to the occurrence of human rights violations. In other words, it could be said that the lack of clear and explicit liberal provisions detailed within a constitution could lead

to societal and political instability that would be the perfect breeding ground for violations to ensue. In fact, Turkey did in fact account for more of the violations, with sixty-one of them belonging to Turkey, while thirteen of them belonged to Croatia.

There was a strong apparent trend among the missing liberal provisions in Turkey's Constitution, and the sort of violations reported. For example, as seen in Table 2, Turkey failed to integrate provisions of free speech, and expression, and when analyzing the reports, thirteen of the sixty-one violations for Turkey, were violations of free speech (Table 3). These included themes of censored news and media, journalists being subjected to political pressure or intimidation and reported high levels of self-censorship. There was a similar trend found in the case of transparency of governmental operations and due process. The strict limitations placed on rights within the constitution, have enabled the Turkish government to impede the rights that are supposed to be inherent to all.

This concept is further exemplified in the freedom ratings given to both Croatia and Turkey over time. In an analysis of their freedom scores, Freedom House stated that a score of one is indication of a free state, where a score of seven is indication of a country that is not considered to be free (Table 1). According to Chart 1, Croatia consistently scored lower than Turkey from the year 1999 to 2018. Turkey however, had consistently high scores, and starting in 2016 started a trend upwards towards a score of 5.5, which by the standards of Freedom House is not considered to be free state. While there could be a series of different factors that have contributed to Turkey's consistently high scores, it could also be an indication that their constitution was not created in a way that ensures the protection of certain rights. This is particularly seen in the spike in the Freedom House score at the same time as the referendum

where many revisions were made in regard to free speech, expression and the authority of the president.

Turkey, based on the results presented here, has a less robust constitution, one that is exceedingly convoluted with the expression of limitations for many rights that once existed without limits. It can be said that the State of Emergency that was declared in July of 2016 was a direct result of the constitutional referendum that instituted new, limited provisions. When Turkish president Erdogan was re-elected for another five years, he also gained new powers in the process. He now wields broad executive authority that has now put the prime minister out of a position. With many of the checks of power no longer in existence, the president's power has increased significantly leading to a sense of political turmoil and disorganization, allowing for the rights of citizens to not be protected as thoroughly if there were a stable political regime in power.

Conclusion

In a final analysis, it can be seen that human rights have a long and convoluted history of being a fundamental topic in the political world. They can be dated back to Lockean philosophy where they were commonly referred to as *natural rights*. It was the outline theorized by Locke where much of the modern-day formation of rights came to be. His conception of rights that are inherent to all beings upon birth, revolutionized the way in which governments structured their authority and paid respect to the rights of those living under their regime. With the end of the Cold War era, we begin to see a surge in democratic states, as the lack of rights under Soviet control were being compared to the abundance of rights granted by Western, and democratic states. However, although the international landscape in the post-cold war era seemingly becomes increasingly democratic, there are cases such as Turkey where we see the "simple"

initial effort of democratization is not enough. It is through the failure of democratization in Turkey that further exemplifies the importance of the implementation of not just a democracy, but a liberal democracy guaranteed by provisions in a constitution that are not easily subject to the individual whims of political leaders. A liberal democracy emphasizes the importance of the use of the rule of law, balance and limitations of a singular, centralized power, recurring multiparty elections, and finally a strong concern for the individual and not just the state, or common good. It is through these principles, where we see the highest level of stability, which in turn strongly promote the protection of human rights. This study was conducted to find a link, if any, between liberal democracies, governmental stability and the protections of human rights. In an effort to do so, a typology of illiberal/liberal democracies was created to distinguish what factors were included as provisions in a given constitution. Since the null hypothesis was rejected, this study presents a test of the efficacy of constitutional provisions on the stability of government and ultimately the protection of human rights. Upon drawing those conclusions using content analysis, it was evident as to which countries specifically encompassed which factors, and how that ultimately impacted the rights of citizens.

Conducting a case study does, however, present some difficulty in establishing causality and presents issues with exact measurement. Many of the conclusions drawn here are in fact based on theory rather than quantitative values. In other words, while there lacked significant numeric or quantitative evidence in this study, there are significant relationships presented between the qualitative data that was presented. This ultimately may have an effect on the reliability and validity on other subjects or cases. However, the conclusions drawn based on a theoretical perspective should not be dismissed. While there certainly are other factors at play that this study did not account for, there is an apparent positive correlation between

constitutional liberalism and social and political stability which ultimately aids human rights to be properly protected. In further research, it would be interesting to understand if this theory is consistent with other modern-day examples. Taking a comparative look at other states that have transitioned from authoritarian governments could present a more nuanced and better understanding of the true effects of a liberal democracy, compared to that of an illiberal one on stability of governments and how that effects the protection of human rights.

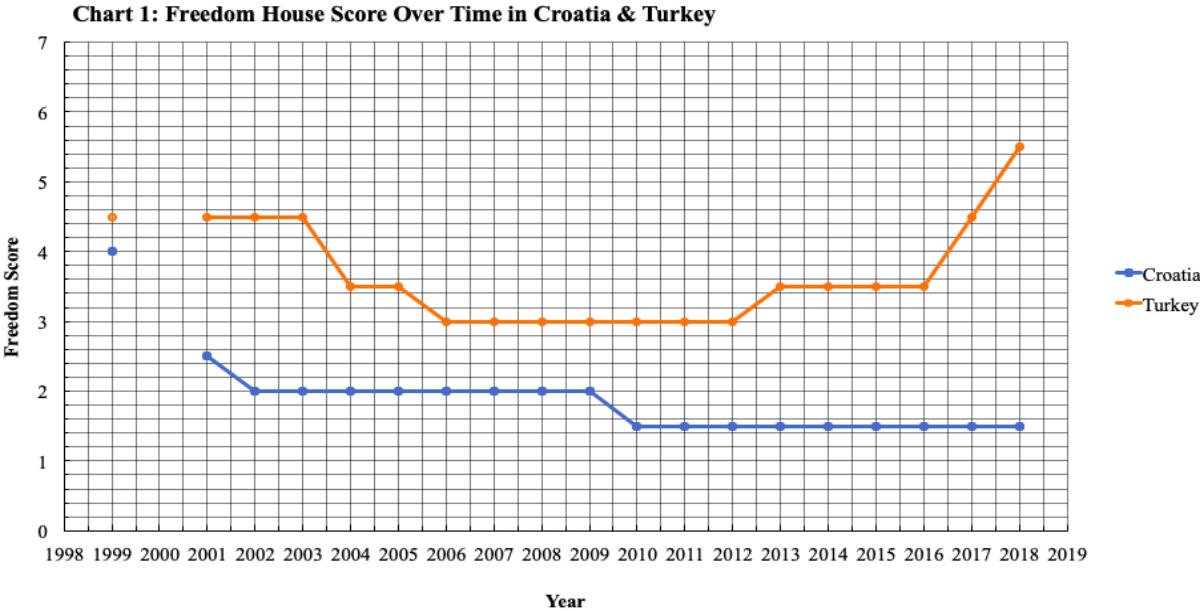


Table 1: Freedom House Score for Years '99 – '18

Year	Croatia	Turkey
1999	4	4.5
2000	--	--
2001	2.5	4.5
2002	2.0	4.5
2003	2.0	3.5
2004	2.0	3.5
2005	2.0	3.0
2006	2.0	3.0
2007	2.0	3.0
2008	2.0	3.0
2009	2.0	3.0
2010	1.5	3.0
2011	1.5	3.0
2012	1.5	3.0
2013	1.5	3.5
2014	1.5	3.5
2015	1.5	3.5
2016	1.5	3.5
2017	1.5	4.5
2018	1.5	5.5

Table 2: Determining Factors of Liberal Democracy

Factors of Liberal Democracy		
Factors	State	
	<u>Croatia</u>	<u>Turkey</u>
Defined Territory	1: Yes	0: No
Extends Rights to Citizens	1: Yes	1: Yes
Honors the Rule of Law	1: Yes	1: Yes
Balance/ Check of Power and Authority	1: Yes	1: Yes
Transparency of Government Operations	1: Yes	0: No
Recurring Multi-Party Elections	1: Yes	1: Yes
Concern for Individual Freedoms	1: Yes	1: Yes
TOTAL	7	5

Table 3: Coding Sheet for Human Rights Reports

Code for UDHR Rights	Report 1T	Report 1C	Report 2T	Report 2C	Report 3T	Report 3C	Total
Electoral Process	3	0	4	0	6	0	13
Expression & Belief	0	0	2	0	1	0	3
Press & Speech	6	0	3	0	4	0	13
Assembly	0	0	3	0	1	0	4
Torture & Inhumane Treatment	2	0	3	2	1	0	8
Discrimination	0	4	0	2	1	1	8
Due Process	6	0	4	0	3	0	13
Movement	1	1	3	2	1	0	8
Social Freedoms	0	0	0	1	3	0	4
Total:	18	5	22	7	21	1	74

Appendices:**Appendix A: Definitions for Codes**

Electoral Process:

- Restrictive, unfair, and unrepresentative elections
- Discriminatory rules for election candidates
- Voters opinions are swayed by political pressure or intimidation
- Head of government has exceeded mandated term
- Lack of transparency in operations/ high levels of corruption
- Elected representatives are not accessible to constituents

Expression, Belief:

- Religious beliefs, and expression are restrictive
- Government appointed or elected officials are religious and rule religiously
- Literature, art, music and other forms are censored

Press, Speech:

- News and media are indirectly, or directly censored
- Journalists subject to political pressure or intimidation
- Media coverage is partisan
- High levels of self-censorship

Assembly:

- Peaceful protests/demonstrations are banned or severely restricted
- Peaceful demonstrators are arbitrarily detained, arrested and/or assaulted

Torture, Inhumane Treatment:

- Detained individuals subjected to torture, coercion, or violent intimidation
- Law enforcement use brutal force

Discrimination:

- Members of distinct groups, ethnic, religious, gender, LGBTQ, do not have same access to equal rights as others
- Minority or marginalized groups face legal discrimination, and/or discriminatory acts are not prosecuted effectively

Due Process:

- Defendants are not presumed innocent until guilty
- Defendants not given a fair or public trials
- Prosecutors are dependent on political control
- Law enforcement officials and legislators make arbitrary laws

Movement:

- Restrictions to foreign travel
- Refugees/asylum seekers do not enjoy equal opportunity and basic access to personal freedoms

Social Freedoms:

- Strict government regulation over choice of residence, choice of employment, education marriage partners, family size, and personal appearance.

Appendix B: Abbreviations of Report Names

Report 1T: *2017/18 Human Rights Watch Annual Report of Turkey*

Report 1C: *2017/18 Human Rights Watch Report of Croatia*

Report 2T: *2017/18 Amnesty International Annual Report on Turkey*

Report 2C: *2017/18 Amnesty International Annual Report on Croatia*

Report 3T: *Freedom House 2018 Profile on Turkey*

Report 3C: *Freedom House 2018 Profile on Croatia*

References

- Ake, C. (1975). A Definition of Political Stability. *Comparative Politics*, 7(2), 271-283.
- Beitz, C. (2003). What human rights mean. *Daedalus*, 132(1), 36-46.
- Cornell, A., & Roberts, K. (1990). Democracy, counterinsurgency, and human rights: The case of peru. *Human Rights Quarterly*, 12(4), 529-553.
- C. (2013). Croatian Constitution. Retrieved April 11, 2019, from <https://www.constituteproject.org/constitution/Croatia>
- Dalpino, C. (2000). Promoting democracy and human rights: Lessons of the 1990s. *The Brookings Review*, 18(4), 44-47.
- Evans, G., & Sahnoun, M. (2002). The responsibility to protect. *Foreign Affairs*, 81(6), 99-110.
- Evans, T. (2001). If democracy, then human rights? *Third World Quarterly*, 22(4), 623-642.
- Hamilton, A., Madison, J., Jay, J., & Ball, T. (2007). *The Federalist*. Cambridge, U.K.: Cambridge University Press.
- Hurd, I. (2011). Is Humanitarian Intervention Legal? The Rule of Law in an Incoherent World. *Ethics & International Affairs*, 25(03), 293-313. Retrieved November, 2018.
- Hurwitz, L. (1973). Contemporary Approaches to Political Stability. *Comparative Politics*, 5(3), 449-463.
- Kritsiotis, D. (2000). The Kosovo Crisis and Natos Application of Armed Force Against the Federal Republic of Yugoslavia. *International and Comparative Law Quarterly*, 49(02), 330-359. Retrieved November, 2018.
- Kupchan, C. A. (1998). Democracy first. *Foreign Affairs*, 77(3), 122-125.
- Landman, T. (2005). The political science of human rights. *British Journal of Political Science*, 35(3), 549-572.
- Locke, J., & Macpherson, C. B. (1980). *Second treatise of government*. Indianapolis, IN: Hackett Pub.
- Merz, F. (2018). *CCS Analyses: Security and Stability in Turkey* (Publication No. 221). Retrieved April 18, 2019.
- Montesquieu, C. D., & Nugent, T. (2011). *The spirit of laws*. New York: Cosimo.

Protect Human Rights. (n.d.). Retrieved from <http://www.un.org/en/sections/what-we-do/protect-human-rights/>

Robinson, M. (1998). The universal declaration of human rights: Hope and history. *Health and Human Rights*, 3(2), 27-29.

Tamanaha, B. Z. (2004). *On the Rule of Law History, Politics, Theory*. Cambridge: Cambridge