Chapter 14

Participation, Democracy, and Human Rights: An Approach Based on the Dilemmas Facing Latin America

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This chapter analyzes the relationship between democracy and human rights, with an emphasis on the many faces of political participation. It then takes a look at recent conditions in Latin America in these areas in order to frame a modern-day meaning for postulates espoused or inspired by Thomas Jefferson.

The Connection Between Democracy and Human Rights

Many attempts have been made to identify the ways in which respect for human rights is associated with a healthy democracy. Nevertheless, relationships that have been described between the two concepts and their applicability, tend to be based mostly on assumption, without focusing on concrete cases taken from recent history.

The relationship between the two concepts—human rights and democracy—can be seen from various perspectives. For the purposes of this essay, we maintain that the use of one perspective over another in fact predetermines whether the resulting relationship between the two can serve as a useful tool for evaluating the strength, integrity and legitimacy of a democratic regime.

It should be understood that both institutions—democracy and human rights, have evolved alongside the development of Western culture itself. Their common roots can be found in the splendor of Greek civilization, and both were built on the same foundations.

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Greek democracy aspired to become a system of government that would provide an effective, legitimate means of making decisions for the entire citizenry. By contrast, human rights doctrine revolves around certain central issues such as equity (Aristotle) and equality (the Stoics school) that arose from debates about justice as a value. The two schools find a common meeting ground in discussions of social justice.

This relationship between the democratic form of government and the fundamental rights of the individual was later taken up with greater precision by the Classical School of Natural Law (Locke, Rousseau, and the movement of the Enlightenment). Thomas Jefferson drew inspiration from this school of thought and took it to new heights in his individual writings and in the Declaration of Independence of the United States, with the radical declaration that “[A]ll men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are Life, Liberty and the pursuit of Happiness . . .”

According to this view, which was distilled through many centuries and fertilized by many talents, the relationship between the fundamental rights of the human being and the valid exercise of power entails, or should entail, far more than just the means of electing rulers, and indeed should address their very legitimacy.

The position taken in this essay is that at present, there is a need for a formal frame of reference to govern the relationships between democracy and human rights, having the status of a full-fledged convention that would take its place in the constellation of international instruments already adopted to establish and protect human rights. Together, existing instruments reflect a consensus on how to define precisely the rights considered fundamental, and what implications they hold. This chapter focuses particularly on the provisions given in the American Convention on Human Rights (ACHR) and its Protocols.

The texts of international human rights provisions uphold the existence of a working democratic regime as a requirement under the terms of the “political rights.” Article 23 of the ACHR states,

1. Every citizen shall enjoy the following rights and opportunities:
   a. to take part in the conduct of public affairs, directly or through freely chosen representatives;
   b. to vote and to be elected in genuine periodic elections, which shall be by universal and equal suffrage and by secret ballot that guarantees the free expression of the will of the voters; and
   c. to have access, under general conditions of equality, to the public service of his country.

Clearly, essential characteristics of democracy as we know it today are fully embodied in this article: representation through the right to elect and be elected; universal, equal suffrage; equal opportunity to perform public service. None can claim therefore that human rights obligations have been