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The George Washington University Law School
Student Conference Center

Symposia between OAS and GW Law School
Democratic Governance and Human Rights Challenges:
Equality, Non-Discrimination, and the Environment

Guiding questions

1. What are the main points of connection between democracy and the advancement of human rights? Discuss how the Inter-American Democratic Charter is a key instrument in addressing challenges to democratic governance and how they impact human rights.
2. Which are critical challenges, strategies, and best practices in addressing discrimination and its impact on democratic governance in the Americas?
Discuss examples of contemporary problems with human rights implications which impact democratic governance, such as environmental concerns and climate change.
3. Discuss suggestions on how to best address human rights challenges to democratic governance in the context of the Voluntary Group and the work of the OAS as follow-up to the Inter-American Democratic Charter.

Panel discussion

Liliana Ávila – *Coordinator of the Human Rights and Environment Program of the Interamerican Association for Environmental Defense (AIDA)*

- Observations on the climate crisis, human rights, and democracy:
 - We are experiencing a triple planetary crisis due to climate change, pollution, and biodiversity loss.
 - These problems compound each other and negatively impact human rights (with heightened impact for vulnerable groups) while raising democratic challenges.
 - The Democratic Charter recognizes:
 - A safe environment is essential to integral human development which contributes to democracy and political stability.
 - Transparency in governmental activities and respect for social rights are salient components of democracy and critical to environmental protection.
 - We must strengthen the Inter-American system to protect human rights, consolidate democracy in the region, and promote the mandate of the UN Special Rapporteur on Economic, Social and Cultural Rights.
- Concerns:
 - Environmental and climate impacts across borders (e.g. Amazon rainforest)
 - Climate change as a driver of migration (e.g. Dry Corridor)
 - Regional environmental conflicts
- Suggestions:
 - Limit global temperature increase to 1.5 degrees per year.
 - Accelerate the expansion of clean renewable energy.

- Conserve and protect 30% of the planet, including the Amazon.
- Improve food systems.
- Prevent environmental conflicts from expanding and affecting democratic governance.
- Provide states with the measures needed to confront the crisis.
- Promote climate and environmental justice.
- Protect the right to migration and ensure people are not forced to emigrate due to poverty.
- Most importantly: *leave no one behind*
- Conclusion – These measures should be carried out simultaneously with a focus on protecting human rights to reduce inequalities with negative impacts on democracy.

Javier Palumbo Lantes – *Special Rapporteur on Economic, Social, Cultural, and Environmental Rights (REDESCA) of the Inter-American Commission on Human Rights*

- Emphasized the connection between economic, social, and cultural rights, environmental rights, and strong democracies, and noted the inclusion of these issues in his work plan as Rapporteur on Economic, Social, and Cultural Rights.
- Connected strong democracies and the needs of groups we know are at risk (e.g. women, Indigenous peoples, human rights defenders, and others) and noted the importance of addressing the impact of democratic governance challenges on these groups.
- Highlighted the need for vulnerable groups to have active participation in any policies related to strengthening democracies and advancing human rights.

Dinah Shelton – *Manatt/Ahn Professor of International Law Emeritus at the George Washington University*

- Observations on the interconnectedness of democracy, human rights, and the rule of law:
 - Elections are an essential part of the institutional structure which attempts to achieve freedom, justice, and peace in the world based on the inalienable and equal rights of all.
 - The essential values of human dignity, equality, freedom, and protection of the rule of law foster conditions necessary for the self-actualization and self-determination of each person consistent with the rights of others.
 - Law provides the framework under which democratic institutions operate, giving them legitimacy, and tempers democratic rule by ensuring respect for human rights and fundamental freedoms.
 - The rule of law provides equal justice and encompasses the principle of equity which allows for exceptional adjustments to fulfill the underlying and overarching societal purposes for which laws are adopted.
 - Tension between majority rule and rights of vulnerable groups plays out in relations between the state and the individual.
 - In some areas, the state must abstain from actions which impact the individual and refrain from interfering with the exercise and enjoyment of rights.

- In other areas, the states must act affirmatively to promote and ensure the fulfillment of rights (especially when it comes to basic needs).
 - The failure of government to act allows for the concentration of power in the hands of non-state actors where it may also be abused.
 - Independent judicial bodies apply the rule of law to determine whether the majority's judgment has erred, resulting in denial or infringement of rights.
 - The functioning of an independent and impartial judicial system is essential.
 - Courts must apply the law and enforce the rights of all, restraining both the legislative and executive branches where necessary to uphold constitutional, statutory, and international guarantees.
 - Courts must afford redress in cases where rights have been violated and hold accountable those who are responsible.
 - The Democratic Charter emphasizes improving the process of democracy and the functioning of democratic institutions through strengthening human rights and the rule of law.
 - Democracy and the rule of law emerge from the universal system for the protection of human rights, but they are also necessary for that system to operate.
- Concerns:
 - Generally: abuse of power, poverty, discrimination, corruption, repression
 - Specifically:
 - Need to define the due diligence/reasonable standard of care to be applied in the environmental field in the context of the climate crisis.
 - Deciding who speaks for nature or its components.
- Suggestions:
 - Enshrine human rights in the constitutional hierarchy above ordinary laws to ensure majority rule does not become the means of oppressing disfavored opinions, groups, or individuals.
 - Balance elections and democratic rule with respect for the rights of vulnerable groups to ensure democracy itself does not become an instrument of oppression (e.g. codification of slavery).
 - Balance individual rights with respect for the rights and freedoms of others and the general welfare of society to ensure absolute rights do not create conditions of injustice or anarchy.
 - Ensure all laws adopted are informed by human rights and fundamental freedoms as well as the constitutional framework of the state's international obligations.

Joaquín Vallejo – *Deputy Director of Democracy, Governance, and Human Rights at the Pan American Development Foundation (PADF)*

- Observations on the connection between democracy and human rights:
 - Democracy and human rights are interconnected, with democracy being the best system to protect the rights, freedoms, and wellbeing of its citizens, as opposed to authoritarian or anti-democratic regimes which at some point infringe upon or sacrifice individual freedoms and rights.
 - Usefulness of the Inter-American American Democratic Charter:

- Emphasizes the indivisibility of human rights, which are not an either/or but a yes, and
 - Makes clear that states have the obligation to protect freedoms of expression, association, and assembly to the same extent they protect citizens' environment, safety, and security.
 - Is unique in specifically mentioning states' obligations to both protect and provide.
- Concerns:
 - Policy level
 - The biggest threat to democracy is the weakness of some frameworks in protecting freedoms of association, assembly, and expression.
 - Attempts by authoritarian regimes to justify the erosion of rights on grounds such as national security not only undermines individual rights and freedoms, but trust in democracy and the rule of law.
 - Discourse level
 - Governments and political leaders question the legitimacy of CSOs and attack them for performing legitimate watchdog functions.
 - The validity of free and fair elections is in question.
 - The rights of vulnerable groups are not always protected by the majority.
 - Specific examples of threats to democracy
 - Attacks on journalists, some of whom have been forced to flee the region.
 - Environmental degradation, which has compounding effects on human rights and democratic stability.
 - Organized crime and corruption, which undermine democracy and development in any form.
- Suggestions:
 - Engage and legitimize CSOs and facilitate their role of watchdogs.
 - Create new NGOs and increase diversity among existing NGOs to represent those most in need.
 - Promote exclusive spaces for those at the forefront of human rights defense and the environment.
 - Collaborate between CSOs and governments to identify and promote best practices and to build better democratic institutions informed by CSO insight on what needs to improve to make political and democratic processes fairer.
 - E.g. Ensuring the selection of members of the judiciary is done appropriately, fairly, and without political interference because the judicial system plays a critical role as an independent institution.
 - Ensure strong, transparent judicial systems, and promote people-centered justice.
 - Counter the narrative perpetuated by authoritarian and anti-democratic regimes that some rights must be infringed upon or sacrificed to ensure the protection of others, such as security, food, housing, etc.
 - Counter organized crime and corruption not only at the discourse level but at the level of criminal populism, foster a culture of transparency, and prevent corruption.
 - Ensure no-strings attached aid informed by grassroots organizations and those at the forefront of issues who know the problems best.

Main issues – General Discussion

- Strategies to address democratic backsliding when the public is losing trust in democratic governance and the rule of law:
 - Civic education programs are critical, as are judicial education and training initiatives and the election of good judges and commissioners before international and regional bodies.
 - CSOs and grassroots organizations can play a key role in curbing democratic backslide.
 - Promote increased and consistent participation from vulnerable groups in the adoption of legislation, policies, and programs (i.e., by ensuring spaces for participation at the local, national, and international levels for groups historically marginalized like women, Indigenous peoples, and LGBTIQ+ groups).
- Connection between due diligence, the environment, and rights of nature:
 - Inter-American standards mandating states to take reasonable measures within their jurisdictions to prevent climate change.
 - States should also conduct independent and fair environmental impact assessments with the participation of all potentially affected persons.
 - All individuals and groups should be able to bring actions on behalf of the environment and its components.
 - A strong judiciary is critical for due diligence in this area.
 - CSO's must have the space to respect and amplify the voices of Indigenous Peoples working on behalf of the environment.
 - States can enforce rights through strong democratic institutions, judicial transparency, and the rule of law.
- The problem of transnational organized crime and how to address it at the OAS level:
 - Organized crime is destabilizing democracies throughout the hemisphere, e.g. in Haiti. It must be addressed as a threat to democracy, human rights, and the rule of law.
 - CSOs must support individuals working against crime and corruption.
 - The need for Attorney Generals with the support of political sectors interested in dismantling the system and international support.
 - The OAS can have a very important role in setting standards for state behavior in terms of preserving democracies and combatting corruption. There is a significant challenge in human rights when it comes to figuring out how to address modern issues and in a way that reconciles legal requirements and government responsibilities to advance democracy and human rights.
- The importance of increasing awareness on the importance of democracy through education:
 - The importance of disseminating information about the Inter-American Democratic Charter and other inter-American instruments and standards related to democracy and human rights among rural, local, and national populations.
 - Information is key for individuals to better defend their human rights.
 - Education is key to mitigate polarization and increase democratic participation.
 - Citizens should advocate for the right to participate and engage with CSO's.

- Focus on local issues that directly affect people to increase participation. Involve existing NGOs and create new ones as needed.
- Promote education on established regional human rights standards and democracy, particularly in rural communities.

Suggestions and Action Items

- **Democracy:**
 - Identify and disseminate information on best practices on democratic governance in collaboration between governments and CSO's.
 - Take steps to promote judicial training and education.
 - Educate the public on the Inter-American Democratic Charter and other Inter-American System instruments that promote strong democracies.
 - Prepare specific recommendations/guidelines that states are willing to implement to strengthen democratic governance, in consultation with CSOs.
 - Create and institutionalize local, national, and regional spaces for CSO's to effectively participate in the adoption of legislation, policies, and programs.
 - Take steps to legitimize the role of CSO's as important watchdogs for democratic governance at the local, national, and regional levels.
 - Adopt measures to combat organized crime and corruption as priorities to ensure effective democratic governance.
 - Counter the narrative that some rights must be infringed upon or sacrificed to ensure the protection of others.

- **Human Rights:**
 - Promote education and the dissemination of information on established regional human rights standards and their connection to strong democracies, particularly in rural and local communities.
 - Take steps to ensure strong, transparent, and people-centered justice at the national level.
 - Adopt measures to legitimize and protect the role, life, and integrity of CSO's in advancing human rights and democratic governance.
 - Ensure more no-strings attached aid to grassroots organizations and those most affected by serious human rights issues.
 - Promote that constitutions, laws, and policies are all guided by human rights and inter-American instruments.
 - Ensure that vulnerable groups have appropriate spaces for participation and representation at the regional, national, local, and community levels and have the information necessary to exercise their rights.

- **Discrimination:**
 - Ensure vulnerable groups are consistent and active participants in advocacy and decision-making systems, particularly those related to strengthening democracies and advancing human rights.
 - Address the threats environmental degradation poses to democratic governance and analyze with an intersectional discrimination lens how these threats impact vulnerable groups.

- Ensure the existence of spaces at the local, national, and international levels for participation, particularly for groups which have a history of marginalization and/or human rights violations (e.g. women, Indigenous peoples, LGBTQI+ and others)
- Ensure the rights of vulnerable groups are protected nationally when they are in the minority.
- Environment (to be carried out simultaneously with a focus on protecting human rights):
 - Further explore the connections between environmental degradation, democratic governance, and human rights, and the threats climate change poses to these areas.
 - Give specific content to due diligence and the rights of nature in climate change, with a focus on environmental justice.
 - Ensure that governments and CSO's consistently have spaces to collaborate and identify priority problems and measures.
 - Adopt measures to ensure that states take important steps to effectively adapt and mitigate climate change, including the expansion of clean renewable energy.
 - Take steps to conserve and protect the planet, including the Amazon, and improve food systems.
 - *Leave no one behind* in addressing the triple planetary crisis, including climate change.