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2<sup>nd</sup> Year.**DEMOCRACY AS THE BEST SYSTEM FOR PROTECTING HUMAN  
RIGHTS**

# De Jure Nexus

**ABSTRACT**

*The article focuses on Democracy as being the best system for protecting human rights. In the beginning it focuses on the definition of democracy and the principles which constitutes a democracy. Following this, the article highlights how democracy had developed and where it is now in the modern era. The next segment emphasizes democracy and the relation of it to human rights through provisions mentioned in the UDHR such as Freedom of Thought, Freedom of Expression, Freedom of Peaceful Assembly and Religious Freedom. The connection between democracy and human rights is explored and it is brought into focus how democracy is the best method to protect human rights. Lastly the problems that a democracy faces and the means to better it is accentuated so that every voice in a nation can be heard and acknowledged.*

**KEYWORDS**

*Democracy, Human Rights, Universal Declaration of Human Rights, Equality, Equal Representation, Fundamental Rights, Freedom*

## **INTRODUCTION**

The link between human rights and democracy is extensive, and it works both ways: each is dependent on the other in some manner, and each is incomplete without the other. The Article 21 of the Universal Declaration of Human Rights (UDHR) states that “Everyone has the right to take part in the government of his country, directly or through freely chosen representatives”<sup>1</sup> – this statement in fact makes democracy the only form of government in the world which is consistent with Human Rights. However, democracy also has its own shortcomings which need to be addressed to make sure everyone’s interests are protected.

## **WHAT IS DEMOCRACY?**

Democracy is derived from the Greek words "demos" (people) and "kratos" (power); thus, democracy can be defined as "power of the people": a form of government based on the will of the people.

There are two crucial principles upon which democracy is based:

- The first principle is the principle of individual autonomy. Individual autonomy encapsulates the idea that no single person should be subjected to rules or laws that have been created by someone else. Everyone has the freedom to govern themselves.
- The second principle is the principle of equality which necessarily means that every individual shall have an equal chance to impact the societal decisions that affect them.

These principles are appealing to anyone in a society and explain why democracy is such a popular form of governance. However, the problem arises when one tries to put these principles into working. Democracy works mainly on the concept of “Rule of Majority” hence, when conflicting views need to be addressed it is often the case that the interests of the minority are never represented or addressed. In view of this a more ingenious way of representing everyone in a

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<sup>1</sup> Universal Declaration of Human Rights, Article 21, (1948) , Available at : <https://www.un.org/en/about-us/universal-declaration-of-human-rights>, (Last Accessed on : 02.11.2021)

democracy would be to use decision making by consensus, with the aim of it being to find points of interest which are common between both parties.<sup>2</sup>

### **DEVELOPMENT OF DEMOCRACY**

The first democratic government can be traced back to the times of the Ancient Greeks during the 5<sup>th</sup> Century BC in the city of Athens. Nevertheless, this was quite a rudimentary form of democracy. First of all, this ancient democracy was a form of direct democracy. Instead of electing representatives to govern on behalf of the people, the people directly met and decided on issues of governance. Secondly, the people who governed the democracy did not include women or children and mainly included only the men thus not granting equal representation to the entire population.

Since then, the concept of democracy has undergone several changes to evolve to modern democracy as we know it. There are presidential democracies like the United Kingdom and parliamentary democracies like the United States, democracies that are federal like Australia or unitary like China, democracies with proportional voting system like Italy, and ones that use a majoritarian system like India, democracies which are monarchies and so on. The uniting factor in all these different forms of democracies however is the use of representatives to govern the people through the use of elections.<sup>3</sup>

### **DEMOCRACY AND HUMAN RIGHTS**

A democracy is incomplete without protecting the rights of the people which it aims to govern. Taking part in government, is nearly impossible without people having other basic rights which need to be respected. The United Nations defines Human Rights as “rights inherent to all human beings, regardless of race, sex, nationality, ethnicity, language, religion, or any other status.”<sup>4</sup> The Universal Declaration of Human Rights (UDHR) is a giant step forward in the history of human rights. It is a landmark document drafted by various legal professionals from all over the world which solidifies international standards for human rights. Taking part in government, in a genuine way, is almost impossible to do without people having other basic rights respected. The following can be considered as examples from the UDHR:

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<sup>2</sup> Accessible at: <https://www.coe.int/en/web/compass/democracy>, (Last accessed on: 01.11.2021)

<sup>3</sup> Accessible at: <https://examples.yourdictionary.com/examples-of-different-types-of-democracy.html>, (Last Accessed on: 01.11.2021)

<sup>4</sup> Accessible at: <https://www.un.org/en/global-issues/human-rights>, (Last Accessed on: 02.11.2021)

**Freedom Of Thought, Conscience and Religion (UDHR, Article 18)<sup>5</sup>:**

This is one of the primary rights that individuals need in a democracy: they need to be able to think freely and hold any opinions they want without fear of being penalized. Governments have fought to limit this right throughout history because they fear that if people consider alternative kinds of government, it may jeopardize the current system. As a result, people have been imprisoned simply for having "wrong" thoughts and been classified as political prisoners. A society without a diversity of viewpoints, on the other hand, is not just intolerant; it also inhibits its own ability to develop in new and possibly better paths.

**Freedom of Expression (UDHR, Article 19)<sup>6</sup>:**

It's crucial not just to be able to think what you want, but also to be able to communicate your thoughts aloud, whatever they are. How can people "participate" in government if they are unable to share their opinions with others or present them in the media. Their viewpoint has been mostly excluded from the list of alternatives under consideration.

**Freedom of peaceful assembly and association (UDHR Article 20)<sup>7</sup>:**

This freedom permits you to exchange ideas with others who share your interests, create interest groups or lobbying groups, or congregate in protest of choices with which you disagree. Although such activity may be difficult for governments at times, it is necessary if multiple points of view are to be heard and considered. That, after all, is what democracy is all about.

**Religious Freedom**

Every human being has the right to choose what is best for his or her own pleasure. Reason enables humans to discover what is beneficial to them. Every human being has the right to choose a religion. In this aspect, no one has the authority to force someone to accept or reject a certain faith. The right to practice religion is a basic human right that is unaffected by outside influences. As a result, the state,

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<sup>5</sup> Universal Declaration of Human Rights, Article 18, (1948) , Available at: <https://www.un.org/en/about-us/universal-declaration-of-human-rights>, (Last Accessed on : 02.11.2021)

<sup>6</sup> Universal Declaration of Human Rights, Article 19, (1948) , Available at: <https://www.un.org/en/about-us/universal-declaration-of-human-rights>, (Last Accessed on : 02.11.2021)

<sup>7</sup> Universal Declaration of Human Rights, Article 20, (1948) , Available at: <https://www.un.org/en/about-us/universal-declaration-of-human-rights>, (Last Accessed on : 02.11.2021)

community organizations, or specific religions do not have the authority to compel someone to accept or reject a religious theory or practice.

These are just four human rights that are inextricably linked to the concept of democracy, but any violation of other human rights will have an impact on the degree to which different individuals can participate in government. Poverty, ill health, and a lack of a home can all make it more difficult for someone to be heard and reduce the significance of their choice when compared to others. Such violations of rights virtually surely make it impossible for the individual in question to be elected to public office.

### **DEMOCRACY AS THE BEST SYSTEM FOR HUMAN RIGHTS**

The concept of the rule of law can be seen as a model for a democratic state. Achievement of a democracy is achieved through a system of good governance based on a representative government that reflects indirect democracy. According to, Friedrich Julius Stahl and A.V. Dicey<sup>8</sup>, the rule of law must meet several one important factor: the guarantee of human rights. To be called the rule of law, one must protect and respect human rights.

In discussing whether democracy is the best system for protecting human rights, we must look at the opinion of the philosopher Benedict de Spinoza<sup>9</sup>, who has such a wonderful political view. In his opinion, democracy is the best system of government because it is the most natural and most closely associated with human freedom.

Moreover, in democracy, citizens are free and willing to participate in the construction of the country. Democracy also aims to live as much as possible under government leadership, avoiding irrational desires and allowing people to live in peace and harmony. In short, democracy guarantees the freedom of human beings to express themselves as rational beings.

The concept of democracy is inextricably linked to the fundamental belief in self-determination. The democratic system of government allows each individual to collectively choose the growth of society and the laws of communal existence, and thereby determine themselves. Democracy is the ideal political system because it believes in the ability of a large number of people to strengthen unity and protect their own welfare.

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<sup>8</sup> The Rule of Law, 2016, Available at: <https://plato.stanford.edu/entries/rule-of-law/>, (Last accessed on: 06.11.2021)

<sup>9</sup> Benedict de Spinoza, Tractatus Theologico-Politicus, 1677

Furthermore, in a democracy, every individual has a fair chance to influence the legislative process. As a result, lawmaking is not a monopoly held by a few individuals. Citizens' participation in the creation of legislation ensures that the country's rules or regulations are actually beneficial to a large number of people. This demonstrates that citizens in democratic countries are freer in nature than citizens of other governance systems.

Citizens will be able to participate in the democratic process in a country if they have access to freedom of thought, speech, and religion. Each person actualizes himself as a logical creature as a result of these liberties. In order to obtain satisfaction in his life, he struggles to determine himself, to manage his life according to the guidance of reason thus making democracy a suitable medium to protect his or her rights.

### **PROBLEMS FACED IN A DEMOCRACY**

Critics of democratic political systems have been tackled from many angles by political intellectuals. These are some of the problems that a democracy faces:<sup>10</sup>

#### **Dealing with polarization**

While some partisan polarization is beneficial to democracy, intense polarization is one of the main causes of democratic decay in both new and established democracies, as political opponents begin to regard each other as existential enemies, allowing incumbents to justify abuses of democratic norms to restrain the opposition and encouraging the opposition to use “any means necessary” to gain power. Political polarization poses a significant danger to democratic accountability if voters remain loyal to a political party despite it violating major democratic standards. One of the most important questions for students of democratization and democratic decline is how such processes can be overcome.

#### **Immigration and the challenge of sustaining multiethnic democracies**

One of the most pressing issues confronting democracies of all kinds now is how to maintain multiethnic democracies. Ethnic variety has always complicated redistribution politics, but the increasing ethnic diversity of both new and old democracies, fueled in part by immigration, has sparked various types of right-wing populism and increased political fragmentation. Right-wing

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<sup>10</sup> Accessible at: <https://scholar.harvard.edu/dziblatt/challenges-democracy>, (Last Accessed on : 06.11.2021)



and left-wing parties both face difficulties as a result of this. Right-wing parties may be tempted to use concerns of cultural diversity to acquire power, which may result in limitations and uneven representation of ethnic minorities, lowering the quality of democracy. This similar politics has sparked significant debate among left-wing parties in recent years about whether the welfare state is consistent with ethnic diversity.

### **Globalization, economic inequality, and democratic discontent**

The threat of economic disparity, which is typically driven by global economic forces, to the existence and sustainability of democracy is a third important subject. Uneven economic resources erode democracy's quality through voting, institutional architecture, campaign money, and the media, with global economic developments hastening the process. Furthermore, poor economic growth in established democracies over the last four decades has sparked a fresh antidemocratic populist reaction at the level of public opinion and political party creation.

### **Debates over institutional solutions**

Another point of contention is whether institutional improvements can help solve some of the difficulties that plague established democracies. Many Western democracies continue to use constitutions, electoral systems, and other democratic institutions that date back to the early twentieth, nineteenth, and even eighteenth centuries. For many residents, the antiquity of these institutions is a source of pride. Existing institutions, on the other hand, may be inadequate to meet the issues that contemporary democracies face.

### **HOW CAN DEMOCRACY BE BETTERED?**

Many times, opposing democracy by its most basic meaning – "rule of the people" – is preferable than questioning or expanding this popular concept. One needs to differentiate between democratic principles successfully implemented via undemocratic methods, undemocratic principles effectively implemented through democratic procedures, and variants of the same sort in their work<sup>11</sup>

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<sup>11</sup> Accessible at: <https://ideas.ted.com/how-can-we-improve-democracy-one-intriguing-idea-set-up-a-jury-system/>, (Last Accessed On: 06.11.2021)

But, like other aspects of society, democracy may be amended, improved, and fostered in order to get closer to its goal of acting as an institution that provides everyone a voice. Deliberative democracy, which balances equality and discussion by polling a small group of individuals who represent the population's variety, is not a new notion. Other social institutions have effectively applied it. In reality, the jury, which is how many civilizations determine legal judgements, is based on this principle. Consider what would happen if justice was determined by a popular vote rather than a jury system. It might result in witch hunts, the manifestation of communal biases, and widespread outbreaks of craziness. Juries, on the other hand, are held in a secure environment. A group of individuals hears the information in a peaceful atmosphere, and then they may speak, deliberate, and reason. The end result is an informed decision by the people, for the people. Politics needs to be handled in a similar way. There need to be accurate representation through small groups of people who are allowed to discuss and voice their opinions to result in a better form of democracy.

### **CONCLUSION**

According to several scholars' democracy has no substantial impact on human rights breaches, but it has a detrimental impact on another level. This indicates that democracy is not the primary mechanism of safeguarding human rights. Human rights cannot be adequately protected by democracy. Human rights issues have become even more complicated as a result of this declaration. What kind of governance structure can truly protect human rights? Democracy and its relationship to human rights are still hotly debated topics. The best claim to democracy is Spinoza's, although it still requires more examination. Many countries that do not adopt democracy can nonetheless provide for their citizens' human rights. An authoritarian administration, for example, is just as sensitive to defending human rights as a government that follows a democratic framework. This demonstrates that democracy does not necessarily result in better human rights protection. From the community to the government to legislators, everything comes back to the person. Regardless of the governing structure, the international community must continue to work tirelessly to promote human rights.