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CHAPTER THREE

Democracy and human rights

Introduction

The twin ideas of democracy and human rights that frame this book have long histories. Democracy has its origins in Ancient Greece and since then has been a relatively **rare** and **recent** form of political rule (see Finer 1997) compared to other political systems that have characterized the history of the world, such as monarchy, oligarchy and authoritarianism. Despite its growth in popularity (see Chapters 1 and 4 in this volume), however, as an idea, it remains an ‘essentially contested concept’ (Gallie 1956) and much debate continues over the definitions, components and meaning of the term democracy.¹ Certainly, the renewed attention to democracy in light of the events in the Middle East and North Africa will once again invite commentary on definitions and ‘models’ of democracy (Held 1996). Some have argued that human rights have an equally long history (see, e.g. Ishay 2004), but most scholars and practitioners see human rights as a modern ‘construction’ (e.g. Donnelly 1999) that developed out of the tradition of **citizenship rights** and was then universalized through a set of practices and agreements that have yielded the international system for the promotion and protection of human rights that we now have today.

The history of citizenship is one of a **struggle** for rights, as subjugated populations increasingly articulated their grievances in the language of rights and as modern states formed, rights became extended through law and enforcement mechanisms that provided greater legal protections to an increasingly wider range of rights concerns (see, e.g. Barbalet 1988; Foweraker and Landman 1997). The current system for the promotion and protection of human rights is thus an international version of rights that had long been grounded in the nation state, which are now seen as an inherent feature of all human beings **by virtue of them being human** (Donnelly 1989).

They thus transcend the nation state in terms of individual entitlement to an enjoyment of these rights wherever a person may find him or herself. But like democracy, the idea of human rights and its purported universality are still open to debate with respect to contested philosophical foundations for their existence (see Ingram 1994; Mendus 1995; Freeman 1994; Landman 2005b) and the different ways in which they are understood across different political contexts found in the world today.

Despite these different historical trajectories, there is much overlap between democracy and human rights, as both are grounded in shared principles of accountability, individual integrity, fair and equal representation, inclusion and participation and non-violent solutions to conflict. This chapter provides different definitions of democracy, outlines and discusses the wide range of contemporary human rights and explores the linkages between democracy and human rights both in theory and in practice. What we shall see is that democracy and human rights are highly complementary to one another, but **they are not equivalent** and they are not perfect substitutes. Rather, each of the concepts retains its own set of core features while also exhibiting certain shared features. It will also be made clear that there are certain tensions between democracy and human rights, which reside in conflicting principles upon which they are founded and the pragmatic ways in which they are realized, as well as the kinds of politics that they make possible.

‘Thick’ and ‘thin’ definitions of democracy

As outlined above, democracy is arguably the oldest concept of the two under consideration here and it was first formulated in the work of Aristotle, whose notion of ‘polity’ most closely matches the modern conception of democracy used today. While polity refers to the ‘good’ form of **rule by the many**², modern conceptions of democracy are based on the fundamental ideas of **popular sovereignty** and **collective decision-making** in which rulers are in some way held to account by those over whom they rule. But beyond this basic consensus on what is otherwise a highly contested concept, there are many variations of democracy, or ‘democracy with adjectives’ (Collier and Levitsky 1997) that have been in use by scholars, practitioners and policymakers. These definitions can be grouped broadly into (1) procedural democracy, (2) liberal democracy and (3) social democracy, the delineation of which largely rests on the variable incorporation of different rights protection alongside the general commitment to popular sovereignty and collective decision-making.

Procedural democracy

Procedural definitions of democracy draw on the seminal work of Robert Dahl (1971) in *Polyarchy* and include two dimensions of **contestation** and

Table 3.1 Procedural democracy

Contestation (uncertain peaceful competition)		Participation (popular sovereignty)	
Legitimacy of opposition	Right to challenge incumbents	Universal suffrage	Right to vote
Freedom of expression	Free and fair elections		
Freedom of association	Consolidated party system		

participation. Contestation captures the **uncertain peaceful competition** necessary for democratic rule; a principle which presumes the legitimacy of a significant and organized opposition, the right to challenge incumbents, protection of the twin freedoms of expression and association, the existence of free and fair elections and a consolidated political party system. In reference to some of the discussions in the previous chapter, this idea alone has motivated much foreign and aid policy in ways that have led to the ‘electoral fallacy’, or the over-enthusiasm among certain policymakers for the existence of successive elections as a key indicator for the existence of stable democracy. **Participation**, on the other hand, captures the idea of **popular sovereignty**, which presumes the protection of the right to vote as well as the existence of universal suffrage, or that principle that enshrines the right of participation in the democratic process to all within a country’s jurisdiction regardless of social categories, such as race, religion, ethnicity, gender, sexual orientation, etc.³ The history of suffrage suggests that this is a right that has been the result of long and widespread **social struggle** as mentioned above, at least among Western democracies, while new democracies have enshrined, at least formally, universal suffrage in their new (or resurrected) constitutions during their own moments of transition.⁴ Table 3.1 summarizes this definition and its components. Such a procedural definition of democracy can be considered a baseline set of conditions and lower threshold that can be used to assess and enumerate democracy in the world. Indeed, the figure depicting the growth of democracy in the Chapter 1 (see Figure 1.1) is based on this more narrow conception of democracy for determining the scores used to count the number and percentage of democracies in the world.

Liberal democracy

Liberal definitions of democracy preserve the notions of contestation and participation found in procedural definitions, but add more explicit references to the protection of certain human rights. As outlined above,

these rights were traditionally understood as citizenship rights, but with the advent of the contemporary international law and practice they have become largely understood as *human rights* (see below). Definitions of liberal democracy thus contain an **institutional** dimension and a **rights** dimension (see Foweraker and Krznaric 2000). The institutional dimension captures the idea of popular sovereignty and includes notions of accountability, constraint of leaders, representation of citizens and universal participation in ways that are consistent with Dahl’s ‘polyarchy’ model outlined above. The rights dimension is upheld by the **rule of law** and includes civil, political, property and minority rights. The protection of these rights provides a particular set of guarantees that guard against the threat of a ‘tyranny of the majority’ and have their provenance in the 1776 American Declaration of Independence and the 1789 French Declaration of the Rights of Man and the Citizen. Table 3.2 summarizes this definition of democracy. Such a definition is arguably richer (or thicker) as it includes legal constraints on the exercise of power to complement the popular elements in the derivation of and accountability for power. For liberal definitions, popular sovereignty and collective decision-making are simply not enough as outcomes under such a system can undermine the rights of individuals and groups. And we shall see later on in this chapter that many new democracies have been relatively successful in establishing procedural democracy, but have struggled to guarantee the kinds of rights that constitute the liberal definition.

Scholars such as Larry Diamond (1999) and Fareed Zakaria (2007) have written extensively about this ‘gap’ between the institutional and rights dimensions that characterize the new democracies that have emerged since the late 1970s. Indeed, Zakaria calls such a state of affairs ‘illiberal democracy’, but what is interesting is that if one looks closely at the collection of so-called ‘advanced democracies’, especially since the advent of the 2001 ‘war on terror’, there are also evident gaps between the institutional and rights dimension in these democracies as well. Across a wide selection of these democracies, we have seen the passage of anti-terror legislation that undermines many historic rights commitments relating to arbitrary detention, privacy and freedom of movement (see, e.g. Brysk and Shafir 2007), while the prosecutors of the war on terror have sought ways to reinterpret legal protections relating to such human rights as the

Table 3.2 Liberal democracy

Institutional dimension (popular sovereignty)		Rights dimension (rule of law)	
Accountability	Restraint	Civil rights	Property rights
Representation	Participation	Political rights	Minority rights

Adapted from Foweraker and Krznaric (2000).

right not be tortured, or other forms of cruel, degrading and inhumane treatment (see, e.g. Sands 2006).

Social democracy

Social definitions of democracy maintain the institutional and rights dimensions found in liberal models of democracy but expand the types of rights that ought to be protected, including social, economic and cultural rights (although some of these are included in minority rights protection seen in liberal definitions). Such an expanded form of democracy, as summarized in Table 3.3, includes the provision of social and economic welfare and the progressive realization of economic and social rights. It also includes the protection of cultural rights, which are concerned with such issues as mother tongue language, ceremonial land rights and intellectual property rights relating to cultural practices (e.g. indigenous healing practices and remedies that may be of interest to multinational companies). Conceptually, those advocating a pure liberal model of democracy argue that including such social dimensions mixes **intrinsic** and **extrinsic** features of democratic performance, since it is possible for non-democratic regimes to provide social and economic welfare as well as the realization of their associated rights. This has long been the argument of socialist regimes, particularly those of the former Soviet Union, the Communist countries of Eastern Europe and Cuba, as well as in the case of Venezuela under the Bolivarian Revolution of President Hugo Chavez. Proponents of human rights, on the other hand, argue that the sharp distinction between categories of rights is false, since the exercise of one category of rights is related to the other category of rights, and both sets are required for full experience of democratic rule. For example, access to health, education and welfare will have an impact on an individual's ability to participate in the democratic process through voting, acquiring and understanding political information and having the personal capacity and capabilities for critical engagement in the political system. Thus for a full experience of democracy, both sets of rights are required.

Beyond these conceptual and theoretical debates, which see social democracy as a 'type' that **ought** to include this fuller selection of rights protection and provision of social programmes and policy, we saw in the

Table 3.3 Social democracy

Institutional dimension (popular sovereignty)		Rights dimension (rule of law)	
Accountability	Restraint	Civil rights	Property rights
Representation	Participation	Political rights	Minority rights
		Economic rights	Social rights

previous chapter that empirical research on the benefits of democracy includes growth rates that are not worse than under non-democratic rule and patterns of human development that are much better. Moreover, Donnelly (1999) argues that in the relationship between development, democracy and human rights, European welfare states have come closest to the normative ideal of ‘rights-protective’ regimes, since the welfare system acts to alleviate the worst effects of market capitalism by providing a social safety net. Such an understanding of course has been significantly challenged in Europe since the 2007 financial crisis, as governments across the region have had to cut back on public expenditure in ways that have caused great pain for those most in need of the services expected from the welfare state. Cuts in such countries as Spain, Greece, Portugal, Ireland and the United Kingdom have affected public service workers, those in receipt of housing benefit, educational grants, child benefit and other services typically provided by the state.

The different models of democracy are summarized in Figure 3.1 as a series of concentric circles that capture the notion of ever-thickening definitions of democracy. A version of this figure has been used by the International Institute for Democracy and Electoral Assistance (IDEA), a 29-member state inter-governmental organization based in Sweden that helps build democracy

FIGURE 3.1 *Thin and thick definitions of democracy.*

around the world.⁵ The figure should not be misunderstood as representing a causal ordering or chronology of democratic development. Rather, it should be seen as a way to represent the core features of democracy (popular sovereignty and collective decision-making) and the increasing overlap with various rights protections. The North American tradition of democracy tends to concentrate on the liberal model, while European and African countries tend to concentrate on the social model. Indeed, in Africa, and in particular, the African Union political discourse, there is great attention to the basket of economic, social and cultural rights as essential for democracy in the region. As we shall see below, the main human rights instrument in Africa is entitled the African Charter on Human and People's Rights, which signals this normative commitment to collective rights found within the social democratic model. Overall, it is important in any discussion of democracy to take account of these various definitions, which should serve as a general guide to the different ways in which democracy has been understood and how it will be understood in new democracies.

Human rights: Evolution and protection

While there is empirical support for the normative definition of social democracy, the previous section made it quite clear that there are still lines of demarcation between these different definitions of democracy that are a function of the **rights protection** that they include (see also Beetham 1999). But thus far, we have not defined human rights explicitly nor have we examined the expansion of human rights, the systems for their promotion and protection and the discourses that have diffused the idea of human rights around the world since the 1948 Universal Declaration of Human Rights. In their modern manifestation, human rights have become an accepted legal and normative standard through which to judge the quality of **human dignity** as it is experienced by over 7 billion people around the world in a multitude of very different social, economic and political contexts. This standard has arisen through the concerted efforts of thousands of people over many years inspired by a simple set of ideas that have become codified through the mechanism of public international law and realized through the domestic legal frameworks and governmental institutions of states around the world.

Human rights are **moral** claims accorded legal recognition and states are legally obliged to ensure that they **respect, protect and fulfil** these claims. Respecting human rights requires the state to refrain from violating them. Protecting human rights requires the state to prevent the violation of human rights by 'third' parties, such as private companies, non-governmental organizations, paramilitary and insurgency groups and 'uncivil' or undemocratic movements (see Payne 2000). Fulfilling human rights requires the states to invest in and implement policies for the progressive realization

of human rights. As expressed in international law, they are 'specific norms that emerged from a political project' that commenced in the aftermath of World War I and gained traction as an immediate consequence of World War II (Nickel 2007: 7). The 1945 Charter of the United Nations endorsed the existence and necessity of human rights, and the international human rights regime that has emerged since is a 'deliberately constructed, partial international order' that consists primarily of states that establishes a set of norms prescribing the behaviour of those states that become its members (Hasenclever et al. 2000: 3). The regime focuses on holding governments accountable for their policies and practices that affect their citizens. The regime is wholly centred on ensuring the protection of human dignity and the prevention of its violation by states.

In order to realize these aims, the international human rights regime comprises formal institutions (UN and regional bodies) and informal ones (non-governmental organizations), which are involved in the processes of standard setting, monitoring and enforcement (Beetham 1999; Nowak 2003; Landman 2006a). Beginning with the Universal Declaration of Human Rights in 1948, the UN has developed the majority of international human rights standards that exist today and created a system of institutions to implement these standards and monitor their implementation. These institutions include bodies that have responsibility for each of the human rights treaties (known as 'treaty bodies'), 'charter' bodies who derive their authority directly from the UN Charter and specialized agencies, all of which are engaged in standard setting, monitoring and enforcement.

Regions have been involved in the development and implementation of human rights treaties that in many ways reflect their own historical and cultural contexts. Three regions of the world – Europe, the Americas and Africa – have set up human rights regimes with human rights standards and associated institutions. Europe has three regional mechanisms – the Council of Europe (COE), the European Union (EU) and the Organization for Security and Cooperation in Europe (OSCE) – which together forms an intricate, elaborate and expanding system of human rights protection in the region. The European Convention on Human Rights adopted in 1950 under the aegis of the Council of Europe provides individuals the right to appeal to the European Court of Human Rights once legal remedies are exhausted in their domestic jurisdiction. The OSCE has additional institutions that monitor different dimensions of human rights in Europe, while the European Union has a variety of policy instruments for the promotion of human rights, the most important of which include the Copenhagen criteria for membership of the European Union. The Inter-American system created by the Organization of American States (OAS) stands second only to the European system in terms of its spread and effectiveness with a body of law made by and applicable to those states that are party to the 1969 American Convention on Human Rights. It is the only system that allows for *in situ* visits by personnel from the regime to investigate human rights conditions.

The third regional human rights system is in Africa under the auspices of the African Union. Established by the African Charter on Human and Peoples' Rights in 1979, its recent developments include the establishment of an African Court of Human and People's Rights in 2006 to address individual complaints on violations of the Charter. While efforts to develop a regional human rights system in Asia are in their infancy, the League of Arab States has made considerable progress with the adoption of the 2004 Arab Charter on Human Rights, which came into force in 2008.

Human rights: Definition and content

The content of human rights as established in international law is dependent on the creation and adoption of legal standards by states, which allow the human rights community to hold states accountable for those actions that violate the dignity of individuals residing within their jurisdictions. The International Bill of Rights – the 1948 Universal Declaration of Human Rights (UDHR), the 1966 International Covenant on Civil and Political Rights (ICCPR) and the 1966 International Covenant on Economic, Social and Cultural Rights (ICESCR) – and the 1984 Convention against Torture (CAT) highlight the legal protections that individuals can claim from the state. The two Covenants also reflect the most commonly accepted categorization of human rights: (a) civil and political rights, (b) economic, social and cultural rights and (c) solidarity rights.

As we saw above, the first two categories form part of the different definitions democracy. But what do these different categories of rights mean? Civil and political rights protect the 'personhood' of individuals and their ability to participate in the public activities of their countries. Economic, social and cultural rights provide individuals with access to economic resources, social opportunities for growth and the enjoyment of their distinct ways of life, as well as protection from the arbitrary loss of these rights. Solidarity rights seek to guarantee for individuals access to public goods like development and the environment, and some have begun to argue, the benefits of global economic development (Freeman 2002; Landman 2006a). This categorization loosely follows a temporal frame; since we saw earlier that human rights can be seen as the consequence of struggles of peoples against oppression and injustice, successive generations of people have fought for distinct 'generations of rights' with civil and political rights comprising the first generation, economic, social and cultural rights making up the second generation, and solidarity rights, the third. While such a history in the struggle for rights has been well documented, the division of rights in this way is no longer part of the international discourse on human rights. Rather, the international community speaks of human rights as equal, indivisible, interrelated and interdependent, where the enjoyment and implementation of one set of rights are inextricably linked to the fulfilment

of the other rights (Boyle 1995; Alfredsson and Eide 1999; Donnelly 1999; Freeman 2002).

Beyond the International Bill of Rights and the Convention against Torture, a second set of treaties protects the rights of individuals who by virtue of being members of a particular group or possessing certain characteristics may be particularly vulnerable to rights violations. The 1966 International Convention on the Elimination of all Forms of Racial Discrimination (CERD) addresses all forms of racial discrimination, the 1989 Convention on the Rights of the Child (CRC) specifies the legal protections to be given to the rights of children and the obligations accrued to the state to uphold these rights and the 1979 Convention on the Elimination of Discrimination against Women (CEDAW) highlights the rights of women and ensures them protection from discrimination on arbitrary or unjustified grounds. Other rights protections have been provided to individuals with disabilities, who belong to an indigenous or ethnic population, and migrant workers.

Taken together, there are now a large number of human rights that have been formally codified (see Table 3.4) which can be enumerated from the different treaties. As definitions and assumptions vary, the total number of rights that ought to be protected also varies, but the list in the table comprises

Table 3.4 List of human rights protected under international law

1.	Non-discrimination
2.	Life
3.	Liberty and security of the person
4.	Protection against slavery and servitude
5.	Protection against torture
6.	Legal personality
7.	Equal protection of the law
8.	Legal remedy
9.	Protection against arbitrary arrest, detention or exile
10.	Access to independent and impartial tribunal
11.	Presumption of innocence
12.	Protection against <i>ex post facto</i> laws
13.	Privacy, family, home and correspondence
14.	Freedom of movement and residence

-
15. Nationality
 16. Marry and found a family
 17. Protection and assistance of families
 18. Marriage only with free consent of spouses
 19. Equal rights of men and women in marriage
 20. Freedom of thought, conscience and religion
 21. Freedom of opinion and expression
 22. Freedom of the press
 23. Freedom of assembly
 24. Freedom of association
 25. Participation in government
 26. Social security
 27. Work
 28. No compulsory or forced labour
 29. Just and favourable conditions of work
 30. Trade unions
 31. Rest, leisure and paid holidays
 32. Adequate standard of living
 33. Education
 34. Participation in cultural life
 35. Self-determination
 36. Protection of and assistance to children
 37. Freedom from hunger
 38. Health
 39. Asylum
 40. Property
 41. Compulsory primary education
 42. Humane treatment when deprived of liberty
-

-
43.	Protection against imprisonment for debt
44.	Expulsion of aliens only by law
45.	Prohibition of war propaganda and incitement to discrimination
46.	Minority culture
47.	No imprisonment for breach of civil obligations
48.	Protection of children
49.	Access to public service
50.	Democracy
51.	Participation in cultural and scientific life
52.	Protection of intellectual property rights
53.	International and social order for realizing rights
54.	Political self-determination
55.	Economic self-determination
56.	Women's rights
57.	Prohibition of the death penalty
58.	Prohibition of apartheid
-

Sources: Davidson 1993: Appendix 1; Gibson 1996: 37–38; Green 2001: 1069;
Donnelly 2003: 24.

Reproduced from Landman, 2006a: 16; and Landman and Carvalho, 2009.

58 rights about which there is reasonable consensus across commentators and analysts. For some, this list constitutes a celebration and achievement of the human rights movement since the 1948 Universal Declaration has a total of 30 articles delineating sets of rights and the subsequent standard setting has led to a greater number of issues being given the status to be recognized as human rights. For others, the list in Table 3.1 may be an illustration of the problem of human rights ‘inflation’ where too many issues are afforded the status of human rights and therefore lead to a dilution of the power of the concept and the moral weight behind it. For example, protection against arbitrary arrest, detention or exile receives unassailable support, while the right to rest, leisure and paid holidays may raise an eyebrow or two from many quarters, especially during times of economic downturn.

Whether too many or too little, the list of human rights is a function of those rights that have been codified in international law, and nation states around the world have chosen to participate in the international regime of

Table 3.5 Main international human rights treaties

Name of Human Rights Treaty	Parties (N)	Parties (%)
1966 International Covenant on Civil and Political Rights (ICCPR)	167	86
1966 International Covenant on Economic, Social, and Cultural Rights (ICESCR)	160	82
1966 Convention on the Elimination of All Forms of Racial Discrimination (CERD)	174	89
1979 Convention on the Elimination of all forms of Discrimination Against Women (CEDAW)	187	96
1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)	149	76
1989 Convention on the Rights of the Child (CRC)	193	99
1990 Convention on Migrant Workers	45	23
2006 Convention on the Rights of People with Disabilities	104	53

Source: <http://www.bayefsky.com>, accessed on 14 December 2011.

human rights through signing and ratifying the various treaties for their protection. Table 3.5 shows a list of the main international human rights instruments, along with the number and percentage of countries that are a party to these treaties. This means that they have signed and ratified the treaties and are therefore obliged to uphold the protection of human rights contained within them. It is clear from the table that the 1989 Convention on the Rights of the Child enjoys most international support from countries (99 per cent participation) and that the 1984 Convention against Torture the least support (76 per cent participation). There are political and pragmatic explanations for the variations in participation observed in the table, where some treaties have sets of obligations that compromise or undermine fundamental national interests or practices of some states. For example, many states in the United States have the death penalty for individuals under the age of 16, which would be considered a violation of the rights outlined in the 1989 Convention on the Rights of the Child.

Across the Tables 3.4 and 3.5, however, it seems very clear that the international regime has grown both in **breadth** and in **depth** such that a larger number of rights protections have been formally codified and an increasing number of countries have formally committed themselves to the protection of human rights. Canadian MP and political theorist Michael Ignatieff (2001) describes these developments as nothing less than a 'juridical

revolution' in the area of human rights. As we shall see in the next chapter, this juridical revolution has not necessarily been met by a steady increase in the **actual protection** of human rights; a gap that lies at the heart of this book's argument about the precarious nature of this particular set of ideals. Indeed, in 1999, in an article in the New York Times, David Reif reflected precisely on the 'precarious triumph' of human rights. On the one hand, it is a triumph, since even the most optimistic of observers at the time of the 1948 Universal Declaration of Human Rights could have imagined the subsequent growth and influence of human rights discourse and doctrine. It is precarious since these very same achievements can be reversed as many countries witnessed in the first decade of the twentieth century as governments responded to the threat of terrorism. But small legal victories against rescinding rights commitments and the ways in which popular actors have embraced the discourse of rights in the 'Arab Spring' of 2011 demonstrate the power and resilience of these ideals.

Democracy and human rights

The parallel stories of democracy and human rights are certainly intriguing on their own, but this book is also concerned with the degree to which the two concepts exhibit overlaps and inter-relationships. We saw in the beginning of this chapter that there is a 'Venn diagram' of increasing overlap between democracy and human rights depending on the definition of democracy that one adopts. Procedural definitions have the least overlap while social definitions have the most. It is fairly straightforward and intuitive to see the fundamental links between democracy and human rights. But are these connections that are made theoretically upheld empirically? Are democracies better at protecting **all** human rights? Or just **some** human rights? Can authoritarian regimes use the power of the state apparatus and coercive institutions to bring about radical social change that provides most advantage for the least well off and thus offer better protections for social and economic rights? The Cuban regime has long been praised for its socialized medicine and the Chinese regime has significant progress in achieving many of the Millennium Development Goals (MDGs), especially in the reduction of poverty in the rural areas of the country.

The large-scale quantitative analysis of human rights protection conducted since the late 1980s has shown consistent and significant positive effects of democracy on civil and political rights. Using data collected in increasingly large samples of countries across space and time, the empirical political science of human rights has shown that democracies are better at protecting civil and political rights (see, e.g. Mitchell and McCormick 1988; Poe and Tate 1994; Poe et al. 1999; Landman 2005a) and that improvements in the protection of such rights occurs even within a year after a transition to democracy (Zanger 2000). But such a general finding for democracy's

impact on human rights has been qualified by other research, which shows that processes of democratization take time to become embedded and that for those regimes somewhere between authoritarianism and democracy may experience greater violations of civil and political rights, the so-called more murder in the middle thesis (Fein 1995). And other research has shown that the crucial institutional arrangement within democracy that has the greatest probability of reducing civil and political rights violations is a significant set of constraints on the authority of the executive (Buena de Mesquita et al. 2005). Elected executives without constraint from the legislative assembly through control over cabinet selection and the use of veto powers may well abuse their power of office and use the state to violate civil and political rights. As we shall see in the next chapter, there have many instances of so-called delegative democracies (O'Donnell 1994; Foweraker et al. 2003) in which executives have made too much of their electoral mandate to rule and have engaged in 'extra-constitutional' behaviour that carries with it less respect for civil and political rights.

These findings suggest that the relationship between democracy and civil and political rights is far from perfect despite having an overall positive and significant relationship. Figure 3.2 shows a scatter diagram of measures of procedural democracy and measures of ‘personal integrity rights’, which

FIGURE 3.2 *Democracy and human rights.*

Sources: Mean combined democracy score from Polity IV data for 2007–2009; mean Cingranelli and Richards (CIRI) score for the Physical Integrity Rights, 2007–2009.

includes the protection of rights relating to freedom from arbitrary detention, torture, assassination, disappearance and exile. The figure shows many things at once. First, it shows the overall positive and significant relationship between democracy and human rights popular in the research literature on this topic. The scatter of data points exhibits a pattern that spreads from the lower left quadrant (low democracy-low rights protection) to the upper right quadrant (high democracy-high rights protection) suggesting that on balance, countries that are more democratic are better at protecting personal integrity rights. Second, the figure shows a wide range of significant 'outliers' where in the upper left quadrant there are countries that despite not having high levels of democracy nevertheless do not engage significantly in the violation of personal integrity rights. It is interesting to note, however, that Bahrain features in this group of countries but that during the Arab Spring of 2011 the regime has resorted to the abuse of these rights when facing a popular challenge to its continued rule. In the lower right quadrant is a collection of countries that despite having relatively high levels of democracy, nonetheless have significant problems with the violation of personal integrity rights. These are the countries that scholars, such as Larry Diamond and Fareed Zakaria mentioned above, find highly problematic and indicative of a democratic failure among certain democracies. The notable cases are those that have made relatively recent transitions to democracy (e.g. Mexico), that have had significant difficulties in consolidating democracy since transition (South Africa), that face internal conflict (Colombia) or that face a mix of internal and external conflict (Israel).

Beyond these somewhat crude empirical observations, there is a final tension or contradiction worth discussing before drawing our conclusions for this chapter. Democracy is founded on the set of principles and ideas that have been outlined here but it is often the product of political accommodation at key moments in a country's history and associated with notions of balance, possibility and working towards agreeable and peaceful solutions to conflicts of interest. The American Founding, for example, was based on a compromise between the interests of large and small states, concerns over the power of the executive (e.g. Hamilton wanted a king), balance of power between the federal and state governments, among many issues debated at the 1787 Constitutional Convention in Philadelphia. The 'path dependencies' related to the decisions made at the Convention still affect American democratic politics today on key issues such as the death penalty, abortion, immigration, taxes, commerce, sentencing, among many other issues. More recent democratic transitions in Portugal, Spain, Chile, Brazil, Mongolia and Mexico, among others, are also characterized by this notion of political accommodation of difference.

Human rights, on the other hand, are based on notions of a 'moral compass', adjudication or judgement and a certain absolutism in reference to the international law of human rights that can close down options and moments of political accommodation. As we shall see in Chapter 7,

many countries included different kinds of ‘truth’ processes as part of their democratic transitions, which sought to uncover the true nature and extent of ‘past wrongs’ and atrocities committed during periods of Apartheid (in the case of South Africa), authoritarian rule (e.g. Argentina and Chile), civil war (e.g. Guatemala, El Salvador and Sierra Leone) and foreign occupation (e.g. East Timor). Modelled after the International Military Tribunal and the Nuremberg Trials used in post-war Germany, these ‘truth commissions’ as they became known often have been quite good at uncovering truth. Large sections of the human rights community have adopted a position critical of any use of ‘amnesty for truth’ (as in South Africa) and have called for prosecution and retributive justice for the victims of these regimes and experiences. While such a position has great moral authority, political realities in many countries have meant that there has been less justice for the victims than the human rights community would have wanted, but this suboptimal achievement of justice is then balanced against future stability and sustainable democracy.

Such an outcome illustrates the tension between the kind of political ‘accommodation’ that accompanies moments of democratic transition and the absolutist position adopted by much of the human rights community. Many countries have made successful transitions to democracy, but there remain serious questions about a large number of perpetrators responsible for carrying out arbitrary detention, torture, assassination, disappearance and exile who have escaped prosecution for their past deeds. Moreover, there are countries that have undergone democratic transitions that have either not engaged with an official truth process, only recently adopted a truth process (e.g. only in 2012 has Brazil established a truth commission for to investigate its 25 years of military rule between 1964 and 1989) or are still considering which options are politically possible (e.g. Spain and Northern Ireland⁶). But as we shall see in Chapter 6, it has often been the struggle for human rights that has challenged status quo power relations and existing regimes; regimes which then make concessions and in many cases undergo processes of democratic transition. In this way, there is both complementarity and contradiction between democracy and human rights.

Summary and implications

This chapter has provided an overview of definitions of democracy and specification of the growth and proliferation of human rights in the latter half of the twentieth century. It argued that democracy is based on the core principles of popular sovereignty and collective decision-making and that different definitions of democracy – procedural, liberal and social – are derived from the degree to which they incorporate sets of human rights, including civil, political, economic, social, cultural and minority rights. We saw that human rights have grown in breadth and depth since the 1948

Universal Declaration of Human Rights, such that today there are as many as 58 different rights delineated in the various international treaties for the protection of human rights and there are varying degrees of participation from countries in the international human rights regime. Moreover, Europe, the Americas and Africa have established regional systems for the protection of human rights, while the Arab league is in early stages of doing the same. Asia, which itself covers a diverse set of countries in South Asia, East Asia and Southeast Asia, has yet to embark on this path. We have seen that the complementarity between democracy and human rights that exists in theory is born out empirically, at least with respect to the protection of political integrity rights, while the findings for democracy's impact on human development bode well for a demonstration of complementarity for social and economic rights (see, e.g. Landman and Larizza 2009). But the complementarity is not perfect, where many outliers are present and many contradictions between the two remain, especially with respect to democracy's capacity for political accommodation and the 'adjudicative' nature of human rights.

It is important to note, however, that the Arab Spring of 2011 once again reminds us of the power of the language of rights and its possibility for bringing about democratic change. Critiques of authoritarian regimes in the Middle East and North Africa have in part adopted a language of rights that includes economic as well as civil and political demands. To illustrate the power of these ideas, consider the words of Yemeni journalist and human rights activist Tawakkol Karman, who writes with respect to the Saleh regime,

Saleh's regime carried out 33 years of rule through blood and corruption. We have brought it to its knees through our determination, and through the steadfastness of young people who have confronted the bullets of the regime with bared chests. With politicians and members of the army standing beside us, our success will go further.⁷

Strong words indeed and indicative of the passion for change in the region, as well as the longstanding appeal of two powerful ideas: democracy and human rights.

SUGGESTIONS FOR FURTHER READING

- Beetham, David (1999) *Democracy and Human Rights*. Cambridge: Polity Press.
 Donnelly, Jack (2002) *Universal Human Rights in Theory and Practice*. Ithaca: Cornell University Press.
 Forsythe, David P. (2012) *Human Rights in International Relations*, 3rd edition. Cambridge: Cambridge University Press.
 Freeman, Michael (2011) *Human Rights*, 2nd edition. Cambridge: Polity Press.
 Landman, Todd (2009) *Human Rights*, Volumes I–IV. London: Sage Publications.
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Notes

- 1 In a number of public gatherings where I have shared the podium with political theorist David Beetham, he has always qualified this claim about democracy by saying that the term may well be ‘essentially contested’ but democracy is **not** ‘essentially contestable’. This is an important clarification since although human communities may disagree on the definition of democracy, they can nonetheless agree on its desirability as a form of rule.
- 2 For Aristotle, ‘democracy’ was the corrupt form of rule by the many and was seen as ‘mob rule’. Modern understandings of democracy, however, use democracy in similar ways to his use of the term ‘polity’.
- 3 The only remaining justifiable restrictions on participation are age and mental ability, but there is little consensus on threshold conditions for these two categories. There is the additional debate surrounding suffrage for prisoners, as in many states across the United States, convicted felons lose their right to vote forever, and in Europe, the United Kingdom is challenging the right to vote for prisoners.
- 4 There is an interesting historical case in which the military regime in Brazil (1964–89) extended the right to vote to illiterates in the hope of gaining electoral support for the pro-military political party in the Brazilian Congress, but when this new group of enfranchised individualized exercised their right to vote, the opposition party was to gain. The regime thus retracted the right until the democratic transition many years later (see Skidmore 1993).
- 5 The figure originated in a lecture I delivered to the staff at IDEA in 2005 as part of its 10-year anniversary celebrations and has since been worked into many of its work programmes and publications, the last of which was a global consultation project that examined the degree to which the European Union was working in the areas of democracy building across its foreign policies. See IDEA (2009).
- 6 The case of Northern Ireland is an interesting one, since as part of the United Kingdom it has always been considered a democracy, but over 30 years of violence limited the degree to which citizens could express their democratic will, and restrictions put in place and tactics used to combat terrorism compromised certain freedoms and resulted in the United Kingdom being taken to the European Court of Human Rights for the ways in which the government treated terror suspects in prison. The post-Good Friday period has seen a national debate on whether Northern Ireland should engage in a ‘truth’ process, while the Saville Inquiry set up to investigate the Bloody Sunday killings took 12 years to issue its report, which was published on 15 June 2010. I took part in a Chatham House event that brought together experts and representatives from Northern Ireland and Peru to explore the advantages and disadvantages of establishing a truth commission for Northern Ireland. A Truth and Reconciliation Commission for Britain and Ireland (TRCBI) has been proposed, but to date has not made much progress.
- 7 Tawakkol Karman, ‘Our revolutions doing what Saleh Can’t – uniting Yemen,’ *The Guardian*, 9 April 2011, p. 34.