



Democracy and the Rule of Law

15th Forum 2000 Conference, October 9–11, 2011, Prague

Theme Report: Democracy and the Rule of Law



“Unless there is rule of law, no change will be sustained.”

Aung San Suu Kyi, Burmese Opposition Leader and Nobel Peace Prize Laureate
Opening Statement to Forum 2000, October 10, 2011

During the course of an exceptionally turbulent year, the concepts of “democracy” and “the rule of law” have come under powerful scrutiny. But what is the relationship between them and are they still valid concepts when confronting global issues in the 21st century? There was overwhelming consensus at this year’s conference that they are vital and interlinked concepts, central to the respect of human rights and to the development of sustained social and economic progress. In a series of provocative debates, delegates discussed the current factors affecting the state of the two concepts, such as the requirement for legitimacy, the responsible citizen, the impact of corruption and the feasibility of a universal approach.

The Requirement for Legitimacy

Legal forms in themselves are no guide to the nature of a state. **Vartan Gregorian** (President, Carnegie Corporation of New York) pointed out that the 1936 Soviet constitution is an inspiring document – and one which was in place during the worst excesses of the Stalin régime. Legal systems and concepts have been distorted throughout history to allow legality without legitimacy and therefore must be protected by democratic society. **Pavel Rychetský** (President, Constitutional Court, Czech Republic) observed that senior judges of Constitutional or Supreme Courts have an obligation to consider not merely the legality of laws, but their legitimacy, because their decisions affect civic culture and the democratic environment. All peoples need to believe in justice and their governments require legitimacy in order to function properly. Mr. Rychetský highlighted the need to “prevent our new emerging democracies from falling into the trap of having legality without legitimacy.”

According to **John Agyekum Kufuor** (Former President, Ghana), many of the greatest abuses of human rights occur under the excuse of protecting the stability of a state. He challenged western democracies to consider the dangers of overemphasizing the need for stability in their policies towards authoritarian régimes. The Arab Spring should serve as a “warning to dictators and a rebuke to democracies”. He insisted that no long-term stability is possible without democracy and the rule of law.

Freedom, Responsibility and Equality

Freedom is a prerequisite of democracy but to function effectively, democracy demands civic responsibility. The rule of law must be just, instilled in and upheld by the population. Democracy is, after all, the “rule of the people for the people”. Both French philosopher **André Glucksmann** and Indian sociologist **Surendra Munshi** referred to the two sides of the rule of law: “the individual respects the law and the law respects the individual.”

Equality before the law is an essential factor. The failure to implement this concept is highly visible in states where democracy and the rule of law are threatened. Genuine democracy also considers that no individual is more important than another. The cult of personality is rejected in favor of the rule of law which prevents any individual from taking a society into his own hands and ensures that the polity outlives any single individual. This aspect of democratic governance is essential both for the longevity of any polity and for the protection of individual rights.

The Feasibility of a Universal Approach

As well as considering unambiguous challenges to democracy and the rule of law, contributors debated whether a universal approach was feasible. “Today justice is like beauty – it is in the eye of the beholder” asserted **Olusegun Obasanjo** (Former President, Nigeria). Western countries might scorn China for the injustices that take place within its society, but by Chinese standards, the liberalizations that have been introduced are remarkable. **Bobo Lo** (Independent Scholar and Consultant on Russia and China) suggested that the world is between systems or eras and that the form of universal values is being contested. Western democracies have muted their insistence on certain values whilst other countries take a selective approach. Values need to be upheld whilst at the same time progress needs to be recognized.



Recognition of Human Rights

“No matter what form of society there is, individual dignity should always be respected.” – **Aryeh Neier** (President, Open Society Foundations). The recognition of human rights necessarily negates the legitimacy of régimes which do not work to further the status of the individual. Consequently, asserting the importance of human rights is the first step towards democracy – the only political system that has demonstrated an ability to protect them.

Current and Ongoing Challenges

Democracy and the rule of law face serious threats in significant parts of the world. The gravity of the situation in Russia was highlighted, especially in light of the role which it is currently playing in undermining international cooperation on promoting democratic interests. Russia was presented as operating a “sovereign democracy” in which the individual is disenfranchised in favor of whichever interest prevails in the government. **Jacques Rupnik** (Political Scientist, France) described it as “the dictatorship of the rule of law” while **Adam Michnik** (Editor-in-Chief, Gazeta Wyborcza) referred to how approaches first seen in Russia have appeared in other countries.

The Political Decay of Corruption

Corruption plays a significant role in undermining the rule of law in democratic societies – corrosive of popular legitimacy and deeply damaging to both economic and social success. Its ramifications are vast, rendering laws feeble and civic society paralyzed. **José María Argueta** (Former National Security Adviser, Guatemala) argued that tackling corruption would benefit the whole of society as it would foster social cohesion, instill trust in the law, and so, by extension, strengthen democracy.

Critical Factors for Sustaining Democracy

The role of the individual: in perhaps the most optimistic contribution, **André Glucksmann** reminded the conference of the decisive role of individuals at key points in history. Even a single individual like Andrei Sakharov demanding that legal authorities respect the law can have a powerful long-term impact.



Democratic values are non-negotiable: a commitment to promoting democratic values and supporting the development of a strong civil society must be the absolute foundation for the international policies of liberal democracies. Within these democracies, the lines of defense protecting their values are an independent judiciary, an educated press and practical measures such as a working freedom of information law.

Education and awareness: to protect the individual, widespread and intelligent participation in democracy is crucial, and is not possible without education. If populations remain uneducated, an élite minority will inevitably dominate the leadership of a country. The biggest challenge to the preservation and growth of democracy today is a lack of education.

Democracy as a work in progress: in relation to the world's newest free societies, **Mikheil Saakashvili** (President, Georgia) said, "The success of the Arab Revolution will happen once the TV lights turn off." Democracy is a constant struggle and it comes at a price of responsibility and civic vigilance, something new to many countries. Democracy remains a work in progress – people have to learn how to operate within its boundaries in order to sustain it.

Democracy and the rule of law are under threat because of the threat they continue to pose to authoritarian governments.



Democracy and the Rule of Law Theme Speakers

José María Argueta, Former National Security Adviser, Guatemala; **Mariko Gakiya**, Advisor, The Harvard International Negotiation Program, USA/Japan; **André Glucksmann**, Philosopher, France; **Vartan Gregorian**, President, Carnegie Corporation of New York, USA; **Maria Ivanova**, Professor of Policy Studies, University of Massachusetts, USA/Bulgaria; **Vadim Klyuvgant**, Lawyer, Russia; **John Agyekum Kufuor**, Former President, Ghana; **Bobo Lo**, Independent Scholar and Consultant on Russia and China, United Kingdom/Australia; **Adam Michnik**, Editor-in-Chief, Gazeta Wyborcza, Poland; **Surendra Munshi**, Sociologist, India; **Aryeh Neier**, President, Open Society Foundations, USA; **Olusegun Obasanjo**, Former President, Nigeria; **Tatsiana Reviaka**, Human Rights Activist, Belarus; **Jacques Rupnik**, Political Scientist, France; **Pavel Rychetský**, President, Constitutional Court, Czech Republic; **Mikheil Saakashvili**, President, Georgia; **Stephanie Shirley**, British Government's Founding Ambassador for Philanthropy, United Kingdom; **Jan Urban**, Journalist, Czech Republic; **Magdalena Vášáryová**, Politician, Diplomat, Slovakia; **Marites Vitug**, Journalist, Chair, Advisory Board, Newsbreak, Philippines; **Susan E. Walton**, Board Member, CERGE-EI Foundation, USA; **Michael Žantovský**, Ambassador to the United Kingdom, Czech Republic

About Forum 2000 Foundation

Mission

The Forum 2000 Foundation pursues the legacy of Václav Havel by supporting the values of democracy and respect for human rights, assisting the development of civil society, and encouraging religious, cultural and ethnic tolerance. It provides a platform for global leaders, as well as thinkers and courageous individuals from every field of endeavor, to openly debate and share these critical issues.

Projects

Forum 2000 Conferences, NGO Market, Shared Concern Initiative, Interfaith Dialogue, Exploring Water Patterns in the Middle East, Educational Activities, Conferences and Round Tables

Published by:

Forum 2000 Foundation
Pohořelec 6, 118 00 Prague 1, Czech Republic
secretariat@forum2000.cz
www.forum2000.cz

Prepared by:

Oldřich Černý, Jakub Klepal, Peter McDonough, Boris Kaliský, Eleanor Hammond, Tereza Šritrová

© Forum 2000 Foundation
All rights reserved.