



**PETER A. ALLARD  
SCHOOL OF LAW**  
THE UNIVERSITY OF BRITISH COLUMBIA



ASIA PACIFIC DISPUTE RESOLUTION

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**Karin Esposito**

Peter A. Allard School of Law  
University of British Columbia

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# DEMOCRACY AND LAW IN THE STRUGGLE TO ERADICATE EXTREME POVERTY

Karin Esposito<sup>1</sup>

## **1. Introduction to the Question of Poverty Eradication in Democracy/Peacebuilding**

From the start of 2016, the United Nations specified seventeen Sustainable Development Goals as part of its 2030 Agenda for Sustainable Development. The aim is to end all forms of poverty and lists goal number one as: “No Poverty”—recognizing that the world is still struggling to grapple with 700 million people living in extreme poverty, 30 million children growing up poor in the richest countries, and roughly 18,000 children dying every day globally from poverty-related causes. Weak or absent social-protection systems and widening inequality indicators continue to negatively impact the trend of decreasing numbers of people worldwide living under extreme poverty. The highest poverty rates are also found in some of the most fragile and conflict-affected countries, places where democracy, political freedoms, and human rights are often absent. Whether in most instances the poverty is impacting the fragility of the state, or vice-versa, often remains a politically contentious discussion contingent on local and national realities.

While we see the global community focusing its efforts on ending exorbitant and distressing levels of poverty, the democratization efforts in many countries appear to have stagnated or reversed course. There seems to be a widespread public disappointment that democracy has not been able to provide security, stability, or safety—let alone in many instances basic welfare and livelihood. Inequality and poverty, the visible and hard-felt sides of current global and local politics, have led to well-established democracies being shocked by political changes that appear to be anti-democratic in nature. While “the West” is now subject to intense criticism over democratic results such as Brexit and the election of the U.S. President in 2016, democratic transitions continue to be advocated in some of the poorest nations that are labelled fragile and have recently emerged from war or internal armed conflicts. Those countries’ transitions seem to have few states now on which to model their efforts and gauge their progress.

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<sup>1</sup> The views expressed herein are those of the author and do not necessarily reflect the views of the United Nations.

Many transitioning, post-conflict countries struggle to both democratize and repair the damage resulting from elevated levels of people suffering under multidimensional forms of poverty. Democracy may still appear to be the preferred and only truly legitimate/representative system of government being installed by the international community after a conflict, but we need to discover what elements of democratic governance and legal reforms need to be prioritized in order to deliver on the promises of eradicating extreme poverty and improving well-being.

Democracy is a system of government to which people and governments aspire (at least rhetorically), with a continued and widespread acceptance of the notion that the world needs more effective democracies and respect for human rights. Evidence for near-universal aspiration is visible in the frequent public demonstrations and demands for democratization reforms across the globe. But why is this case, while at the same time, we hear more voices that support should be shown to (semi-)authoritarian regimes that can provide faster economic growth, development and greater stability and prosperity for citizens?<sup>2</sup> This possible shift in priority to economic security may be fueling the growing discontent with and withdrawal from previous prioritization of democracy and the drive to build up democratic institutions as they currently exist,<sup>3</sup> and increasing support for authoritarianism and alternative (i.e. non-democratic) regimes<sup>4</sup>—both among elected officials and populations.

United Nations-led peacebuilding projects aim to find concrete and effective ways to address socio-economic inequalities and livelihood problems that are risk factors for conflict relapses or government/institutional collapses. Democracy, however, has stopped being a priority for peacebuilding implementation. Instead, prioritization has landed on identifying inequalities and measures for increased inclusivity. The social justice of improving participation levels takes on the mantle of democracy. Specific individuals and social groups are protected (justly so), but at the expense of broader notions of democratization. The value of democracy itself has been

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<sup>2</sup> See for example Michael Ignatieff's discussion of the despondency of democracies, how the advance of democratic constitutionalism has stopped, and the increasing conflict between authoritarianism and democracy: "Are the Authoritarians Winning?" *New York Review of Books*, July 10, 2014.

<sup>3</sup> Roberto Stefan Foa and Yascha Mounk, "The Danger of Deconsolidation: The Democratic Disconnect," *Journal of Democracy* 27, no. 3 (July 2016): 8.

<sup>4</sup> *Ibid*: 11–13.

diminished, although some original definitions of peacebuilding were targeted at building democracy.<sup>5</sup>

At the same time, rhetorically, democracy has often become for people (and often the poorest of people) both a specific tool to potentially address their problems and the scapegoat to explain away their problems when they appear. When there is growth in inequality or rising poverty, blame will often first go to any perceived gaps in a state's democracy, representativeness, day-to-day functioning politics, governance structures, or elected institutions. When democracy is being instituted in a transition context, people can hope that the legal reforms can bring about a) improvements to their quality of life; b) a stop to concrete/specific rights violations; and c) less visible class inequalities. Even if the global community has ceased relying on the rhetoric of democracy, the precise institutions and laws part of a (post-conflict) transition context can better address problems such as poverty and rising income/social inequalities.

## **2. Connecting Democracy to Its Potential Benefits**

There are many contentions about the true or lasting benefits of democracy, arguments about the precise definition(s) of the term, and propositions about the elements that must be included in a democratic structure, either to be most responsive to specific populations or to make democracy universally relevant/applicable. Democracy can be a process or a goal. It can be a perspective or it can be a logic. Locking down the connections between the multiple definitions, requirements, and theories of democracy means questioning the underlying value of democracy itself. An alternative is to diminish the importance of the definitional/theoretical debates altogether by saying that democracy can never be perfect and so all labels and forms of government are to one degree or another “democratic”<sup>6</sup> or are located along a continuum of democratic and autocratic practices. Democracy, from this approach, would only mean comparative reviews of forms of governance or facets of decision-making processes. International organizations running democratization and constitution-building projects also have their own working definitions of democracy, and when engaging in democratization still are forced to rely on these contested definitions and visions for what democracy should mean—regardless of local context. There is also an overuse of the term, which undermines its weight in practice. What it means to be democratic and where democracy as

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<sup>5</sup> Rob Jenkins, *Peacebuilding: From Concept to Commission* (Abingdon: Routledge, 2013), 25.

<sup>6</sup> Frank Cunningham, *Democratic Theory and Socialism* (Cambridge, UK: Cambridge University Press, 1987), 25.

a concept is headed, including for international institutions such as the United Nations, is certainly not clear cut. At the same time, I do not believe that a single and complete definition of democracy is possible or desirable. The meaning(s) of democracy have purposely shifted in time and place and can be defined circularly based on the “democratically” expressed needs of the community in question.

Defining and building “effective” or “quality”—or merely “good”—democracies is a start when there is no consensus on broad definitions or meanings. Gauging the effects of adopting a specific democratic infrastructure requires determination of a democracy’s aspirations and knowing what in a country has been adopted in the name of democracy. It is the aspirations and communications of people—and leaders/elite—that will allow for a judgment of what democracy means in a specific context, the effectiveness of democracy-building process, and possible evaluation of outcomes or impact, if any can be identified. Meeting the aspirations of citizens, especially the poorest ones, will require regularly adjusting formulations of what democracy is and what it should be.

One of the simplest definitions of democracy provided in recent literature has been Francis Fukuyama’s description that it is “procedures that make the governments responsive to their citizens.”<sup>7</sup> But Fukuyama’s focus on procedure is indicative of the commitment to political and economic liberalism and a failure to recognize that there is wide dispute about the forms democracy can and should take for profounder problems, such as poverty eradication. There are dozens of sub-models of democracy, all with their own claims about how a specific democratic regime emphasizes/forms the most “realistic” path to equality and human security or how they are the most suited to the demands of contemporary life and citizens. Analyzing democratic models by the ends they are trying to achieve moves us beyond the classical conceptions and most simple formulation as “rule of and by the people” through elections. We therefore move beyond the minimalist views of democracy that focus on representation and the framework of “holding reasonably fair elections on a regular basis and that alternate power among contesting parties.”<sup>8</sup>

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<sup>7</sup> Francis Fukuyama, *Political Order and Political Decay: From the Industrial Revolution to the Globalization of Democracy* (New York: Farrar, Straus & Giroux, 2014), 24.

<sup>8</sup> James Dobbins, Seth G. Jones, Keith Crane, and Beth Cole DeGrasse, *The Beginner’s Guide to Nation-Building*, (Santa Monica: RAND Corporation, 2007), 190.

Even if a population adopts democratic reforms with certain goals in mind, there is ample opportunity for the purposes to be lost throughout complex electoral cycles and political turmoil. Clarifying the main accounts of what democracy “is” according to different models,<sup>9</sup> and understanding that definitions can differ depending on the specific location/subject citizens, helps to address more fundamentally the capacity of democratic institutions and democratic elections to improve the general welfare of a specific sub-set of citizens.<sup>10</sup> Many theorists have already tried to assist with identification and categorization of democracy types. For example, David Held has put together a critical guide to models of democracy, while Charles Tilly has identified four categories or types of democracy: *constitutional*, *substantive*, *procedural*, and *process-oriented*. Procedural definitions and analysis focus on elections and link well with the constitutional approach, which “concentrates on laws a regime enacts concerning political activity.”<sup>11</sup> Five contexts or possibilities that have been identified for labelling the spectrum of governments, as seen in the country situations in Africa, have been: 1 - consolidated democracy/semi-consolidated; 2 - aspiring democracy; 3 - semi-authoritarian; 4 - authoritarian; and 5 - states mired in civil war.<sup>12</sup>

Regardless of the type of democracy or structure of government, the constitutional laws of a country both frame a government and elaborate “a system of fundamental principles.”<sup>13</sup> In some cases, those principles or protected rights can have an impact on the legitimacy of the government, particularly if they impact whether people feel the government maintains its rights to power and govern, as well trust and confidence.<sup>14</sup> By looking at the substantive ends desired by a model of democracy, there fall into place working aspirations and goals that will then underpin the construction of a regime. The goals then can possibly shape the form of democracy and government itself and then subsequently be inseparably linked. This is the argument of Michael

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<sup>9</sup> David Held, *Models of Democracy* (Stanford: Stanford University Press, 2006), xi. See also definitions of democracy as broken down in Charles Tilly’s four categories or types: Charles Tilly, *Democracy* (Cambridge, UK: Cambridge University Press, 2007), 7.

<sup>10</sup> See for example the following analysis of the main approaches to democracy and its normative claims: Daniel Bray and Steven Slaughter, *Global Democratic Theory: A Critical Introduction* (Cambridge, UK: Polity Press, 2015).

<sup>11</sup> Tilly, *Democracy*, 7.

<sup>12</sup> Joel D. Barkan, “Democracy in Africa: What Future?,” in Muna Ndulo, ed., *Democratic Reform in Africa: Its Impact on Governance & Poverty Alleviation* (Oxford: James Currey, 2006), 23.

<sup>13</sup> Muna Ndulo, “Good Governance: The Rule of Law & Poverty Alleviation,” in Muna Ndulo, *Democratic Reform in Africa*, 3.

<sup>14</sup> Richard Sannerholm, Shane Quinn, and Andrea Rabus, *Responsive and Responsible: Politically Smart Rule of Law Reform in Conflict and Fragile States* (FBA, 2016), 21.

Goodhart, who conceptualizes democracy in terms of human rights, with the position that laws that violate human rights are “axiomatically undemocratic.”<sup>15</sup> The debates, however, about the extent to which human rights include not living in poverty have resulted in a gap between the discussions about democracy and democratic process and poverty alleviation measures. Substantive democracy should, however, really be about eradicating poverty.

### **3. Poverty and Inequality**

Defining poverty can prove just as political and contested an exercise as the debates over democracy. What it means to be poor continues to plague both academics as well as development professionals. People facing poverty themselves, however, usually can identify the conditions characterizing their quality of life and impoverishment. Identifying the number of people living in poverty, based on employment and national growth rates, has always been easier than examining the more abstract political and participatory impoverishment of people, as defined by the broader contexts of political systems and democracy.<sup>16</sup> However, poverty should be looked at not only as job, property, or money-related,<sup>17</sup> but instead as a person’s capacity for entering political life and ability to participate in community democratic processes. Poverty in many instances is the absence of a person or group’s political, economic, or social power,<sup>18</sup> and regardless of whether the country concerned is a so-called democracy or not.

Underlying the political marginalization that characterizes poverty are the typical experiences of “non-recognition, misrecognition and disrespect” of those in poverty.<sup>19</sup> People experiencing poverty might also lack adequate access to the public goods and services that would further allow them to enter the political and public spaces that should constitute democratic life. Concerning the peacebuilding efforts and political transitions in parts of Africa, good governance and democracy have often been linked to “first and foremost a government that lives up to its responsibilities by

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<sup>15</sup> Michael Goodhart, “Human Rights and Global Democracy,” *Ethics and International Affairs* 22, no. 4 (Winter 2008): 413.

<sup>16</sup> This is like the perspective put forward by Morten Jerven, “... this makes the task of quantifying economic growth or national income much more straightforward than summing up the level of democracy in a system”: Morten Jerven, *Poor Numbers: How We Are Misled by African Development Statistics and What to Do about It* (Ithaca, NY: Cornell University Press, 2013), 133.

<sup>17</sup> Frank Stricker, *Why America Lost the War on Poverty—And How to Win It*, (Chapel Hill: University of North Carolina Press, 2007), 2

<sup>18</sup> Ruth Lister, “A Politics of Recognition and Respect: Involving People with Experience of Poverty in Decision Making that Affects their Lives,” *Social Policy & Society* 1, no. 1 (January 2002), 37–38.

<sup>19</sup> Lister, “A Politics of Recognition”, 41.

ensuring the effective delivery of public goods and services.”<sup>20</sup> The poor then are people who are told to fight for services—but may not be able to influence government directly about which services or how much support and have true direct impacts on decisions that affect their lives and wellbeing; they are also poor in their personal or community circumstances when they face levels of insecurity in broader social, economic, and human rights spheres.

The apparent emphasis in some transition/post-conflict countries on providing goods and services, as an indicator of decreasing poverty, could be contrasted with the movement away from this focus in more established Western democracies. Economic rights and corresponding deprivations no longer factor in to discussions of democracy in “developed” countries. Susan Marks’ question: “how much economic deprivation and social marginalization are compatible with the equality of citizens in a democracy?”<sup>21</sup> is not as frequently asked now in the West, while the poverty numbers for Africa are still bandied about in development and democratization studies. The dominant question about democracy in the West has instead been about guaranteeing individualism and the freedoms of individuals to engage in free market activities, i.e., to make personal consumer and materialist choices. Moreover, with the emerging idea that we have moved into a phase of “post-democracy,” there is even less emphasis on discussions of what it means to be poor but living in a democracy or the effects of rising inequality and stubborn pockets of extreme poverty on the long-term health of representative democracy. Current democratic theory ignores widespread poverty and the needs of citizens in order to emphasize declining trust in government, misleading economic figures, or decaying traditions. The concrete questions about what levels of poverty would objectively (if there are any such minimum levels) have to be identified for an observer to say that democracy cannot exist or be sustained should be studied.

One of the possible moral foundations of democracy should be further promulgated as accepting that *all* people should be represented in an inclusive way through democratic processes/practices/procedures. Poverty would need to be eradicated then, because poverty means exclusion or failure to guarantee inclusion, either of an individual or a group. It could also be characterized as the failure of a government to be responsive or representative of those not included

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<sup>20</sup> Ndulo, “Good Governance”, 4.

<sup>21</sup> Susan Marks, *The Riddle of All Constitutions: International Law, Democracy, and the Critique of Ideology*, (Oxford: Oxford University Press, 2000), 72.



in the governing structures. Democracy and poverty both exist along a spectrum line, where conditions for existence of their can be strengthened. If democracy is meant to give people the right or entitlement to contribute to decisions that affect them, by definition as democracy weakens people, the injustice of the conditions will create levels of political (and possibly other types of corresponding) impoverishment.

As governments transition to democracy, particularly in post-conflict situations, there are also often promises made to citizens that inclusion of opposition/minorities will be positively affected. Democracy is normally therefore meant to connote improved standards for the equality of citizens,<sup>22</sup> at least in their representation/inclusion in government. This means that in particular country situations (including at sub-national levels) a thorough understanding of the definition of equality (as well as perceptions of poverty) among all groups of citizens should be understood by the democratizing agents. For many groups in a fragile country context, differences in perceptions of poverty levels and inequality can negatively impact stability and prospects for sustainable peace. Arguments about the nature and causes of poverty or exclusion can also be conflict triggers. The solution for some theorists has been advocating “participatory parity” among all citizens of a state. In some instances, grievances about the lack of parity or equality in participatory processes are perceived as directly linked to the lack of full political inclusion and form the basis for citizen demands for more effective/impactful political participation. As part of democracy building, then, collective empowerment of minority or impoverished groups means distribution of power and resources—thereby fueling their greater participation in the democratic system and circularly greater equality.

#### **4. Choosing Democracy Models to Alleviate Poverty**

Internal and intra-state conflicts are increasing. Globally, “democracy” and the standardized commitment to elections as an ideal continue to spread, all while human rights violations continue to worsen, inequality rates soar, and there are chronically low levels of trust in government, as well as social and political disengagement of the poorest citizens.<sup>23</sup>

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<sup>22</sup> Winluck Wahiu, *A Practical Guide to Constitution-Building: An Introduction* (Stockholm: International Institute for Democracy and Electoral Assistance, 2011), 8.

<sup>23</sup> Matthew Loveless, “The Deterioration of Democratic Political Culture: Consequences of the Perception of Inequality,” *Social Justice Research* 26, no. 4 (December 2013), 471–91; Christopher J. Anderson and Matthew M.

As part of our efforts to reach the elusive goal to end poverty in all its forms and dimensions between now and 2030,<sup>24</sup> we are striving to limit surges in inequality. We may also need to recognize that the previous decades and waves of democratization and post conflict governance transitions have not been linked substantially to changes in the elevated levels of poverty, rights deprivations, or trends in growing inequality. This is despite the nearly three decades of experience in labelling all things “political” and recognizing, as the UNDP did in 2002, that “sustained poverty reduction requires equitable growth—but it also requires that poor people have political power.”<sup>25</sup> Democracy has been understood by the cosmopolitan thinkers and substantive/deliberative/participatory and even “radical” democracy theorists as inclusive of and contingent on respect for human rights principles. David Beetham, for example, places the expected entitlement of the democratic system, namely “having a say” in public affairs, as needing to be available on terms of equality to all. For Beetham, the basic democratic principles, and essentially the defining characteristics, require: “control *by* citizens over their collective affairs and equality *between* citizens in the exercise of that control.”<sup>26</sup>

The over-arching goal of poverty reduction has therefore been linked first and foremost to economic development and the need to prevent/resolve conflicts due to widespread poverty in the most fragile countries. Democratic governance, though, has been separated from the socio-economic development sphere and concerns more the public administration and financial sectors.<sup>27</sup> There are attempts to reinforce the position that democracies are better at meeting the social needs and protecting the rights of citizens, especially in post-crisis, post-war, or even post-mass displacement contexts; but the links between good governance and democracy with poverty eradication have been minimal. The body of laws framing democracy and good governance as the normative force behind democratic governance processes still does not play the pivotal role expected in transforming and improving peoples’ lives.

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Singer, “The Sensitive Left and the Impervious Right: Multilevel Models and the Politics of Inequality, Ideology, and Legitimacy in Europe,” *Comparative Political Studies* 41, no. 4–5 (April 2008).

<sup>24</sup> United Nations General Assembly, “Transforming Our World: The 2030 Agenda for Sustainable Development,” A/RES/70/1, September 25, 2015.

<sup>25</sup> United Nations Development Programme, *Human Development Report 2002* (New York & Oxford: Oxford University Press, 2002), Foreword, v.

<sup>26</sup> David Beetham, *Democracy and Human Rights* (Cambridge, UK: Polity Press, 1999), 91.

<sup>27</sup> *Peacebuilding and Statebuilding Priorities and Challenges: A Synthesis of Findings from Seven Multi-Stakeholder Consultations* (OECD, 2010), 12–13.

Democracy and good governance efforts should in fact underpin and promote equality and drive down poverty levels. This means more than just political equality or procedural fairness in democratic processes. Without results achieved and clear outcomes on equality and near total poverty-eradication, a democracy will always fail to be truly participatory and representative. The implication of this challenge is that improving equality and reducing inequality/poverty is the only way to continue justifying the democratic standard of government and to maintain its legitimacy.

From the start of any transition or reflection for the purpose of reform, therefore, we need to ask ourselves what democracy there is available for the poor, both within the local setting as well as globally. The internationally-accepted ideals of what constitutes a “good” or functioning democracy should also be evaluated whenever possible from the perspective of potential impacts on poverty. Even the well-established social democracies of Northern Europe are starting to fail the poorest of their people. One logical question to ask is, “what benefits can the democratic legal reform actually provide for the poor?”

Debates on the extent to which equality in a democracy should be guaranteed intersect with the theories about how to constitute participatory and deliberative democracy. Arjun Appadurai, for example, has said that “democracy without full popular participation is a form of oligarchy,”<sup>28</sup> i.e., a system that is routinely delegitimized in the modern public sphere as failing to ensure the totality of human rights and equality. Appadurai also addresses the idea of minimum “rights in a democracy” as insufficient for the politics of participation. Instead, the link with participation is drawn through a more institutionalized “hope” of citizens for economic well-being, which would allow “the mass electorate to define its own politics of equality.”<sup>29</sup>

Overall, there is a lack of clarity about the individual concepts addressed in this paper and their connections to each other in practice, especially due to the continued lack of knowledge about the precise “relationship between democracy and poverty.”<sup>30</sup> However, instead of focusing on the definitions or searching for perfect linkages between democracy, equality, and poverty—we can choose instead to analyze what happens “on the ground” when specific legal procedures and

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<sup>28</sup> Arjun Appadurai, “Hope and Democracy,” *Public Culture* 19, No. 1 (Winter 2007), 30.

<sup>29</sup> *Ibid.*, 33.

<sup>30</sup> Ashutosh Varshney, “Democracy and Poverty,” in Deepa Narayan, ed., *Measuring Empowerment: Cross-Disciplinary Perspectives* (Washington, DC: World Bank, 2005), 384.

infrastructures are advocated and implemented. It is in the specifics of practical law reform that we can find deficits, conflict triggers, as well as potential remedies for problems resulting from our overly broad concepts of democracy, including the many democracy theories that are routinely challenged and disproved, and find where any gaps might surface, i.e. those legal deficiencies that are potentially influencing the quality of life for the poorest citizens.