

**THE CURRENT OUTLOOK FOR  
HUMAN RIGHTS AND DEMOCRACY**

San José, April 2003

## **TABLE OF CONTENTS**

A complex scenario . . . . .	3
Old problems, new dramas . . . . .	5
How we see and how we act . . . . .	8
A preliminary balance sheet . . . . .	10
Institutional perspectives . . . . .	12

## **A COMPLEX SCENARIO**

Today's human rights scenario should be understood in all its great complexity: as a place of highly dynamic interaction between State, civil society and the international community; a dense web of relationships and reciprocal influences in which stakeholders come together and their spheres of action often overlap or build on one another; and a spectrum of complex problems and new challenges for the work of the Institute.

Conditions have changed since the time, over two decades ago, when the Inter-American Institute of Human Rights was created. Today the inter-American system for the protection of human rights is fully developed, based on a broad collection of legal instruments derived from the American Convention on Human Rights, jurisprudence of the Court and recommendations of the Commission. Most of the countries in the region are parties to the system, and today they have democratic political systems and constitutions that explicitly recognize human rights. They have a fast-growing array of State institutions to protect the rights and freedoms of all. Organizations of civil society have consolidated their experience in this field, and the international human rights community has grown and is active on many fronts.

This text was written as part of an exercise to explore strategic lines for coming years. It examines some of the most significant features of today's scenario: the dynamics of the many stakeholders, recurring dramas and new problems. It draws on experiences accrued by the Institute and is intended as a tool for finding better ways to respond to emerging realities. It is an analytical review, conceived as a strictly practical exercise and makes no claim to offer an exhaustive description or a judgment on the situation of human rights in the region.

Twenty years ago, the field of human rights was seen fundamentally as a battleground between civil society and the State. Today it should be understood in all its great complexity: as a place of highly dynamic interaction between State, civil society and the international community; a dense web of relationships and reciprocal influences in which stakeholders come together and their spheres of action often overlap or build on one another; and a spectrum of complex problems and new challenges for the work of the Institute.

Over the past decade, most of the countries in the region have faced the challenge of amending constitutional texts and undertaking judicial, electoral and educational reforms. This has created many opportunities to introduce international human rights standards into legislation, institutional structures and public policies in these fields.

During these years, the public sector has acquired a multiplicity of institutions to address issues of human rights: autonomous Ombudsman offices, human rights defenders or prosecutors; programs and projects by cabinet ministers of the executive branch, specialized committees in the legislative and judicial branches and in electoral bodies, human rights offices in the armed forces and the police. These entities have shouldered not only the task of investigating and responding to charges of rights violations, but also the work of promoting and monitoring compliance with and respect for human rights and democratic practices within the structure of the State and in relations between State and civil society.

Nongovernmental human rights organizations have consolidated and diversified. The earliest ones were created primarily to present complaints of violations and provide legal defense to victims. Alongside these pioneers, many other organizations have come to the fore to undertake more specialized work with specific human groups such as women, children, indigenous peoples and those of African descent, rural dwellers and the residents of large cities. Other civic organizations specialize in certain groups of rights, such as access to justice, economic, social and cultural rights, environmental law and the exercise of democracy. In general, such organizations promote and defend specific interests in terms of fundamental rights, and some have begun to move into the field of accountability and fighting corruption.

The issue of human rights has firmly taken its place on the action agenda of social movements, along with local or sectoral issues that range from demanding recognition of full citizenship to meeting basic needs or providing employment. This phenomenon is relatively recent. It reflects a major expansion in the corps of stakeholders on the human rights scene and calls for new ways of understanding and addressing their problems.

The international human rights community has also expanded and diversified. Entities of the United Nations system and the Organization of American States, as well as international development banks, have placed the issue of democracy and human rights at the top of their working agendas. The same is happening with bilateral cooperation, which offers technical assistance and financial support for a broad spectrum of programs and projects, including the promotion of rights and the strengthening of participation. An international thicket of nongovernmental organizations is working for democracy, human rights, development, the environment and other related issues, interacting with governments and multi- and bilateral agencies in many forums and events.

A fast-growing collection of international instruments, both binding and declarative, has been drafted, adopted and ratified by the nations of the region, providing a very sound normative basis for State/society interaction. Standing out among them are the creation and implementation of the International Criminal Court, the adoption of the Inter-American Democratic Charter and the ratification by numerous countries of conventions on the rights of women, children and indigenous peoples. World conferences on the environment (Río), human rights (Vienna), development (Copenhagen), women (Beijing) and against racism (Durban) have showcased the wealth and complexity of this scenario, with multiple stakeholders interacting around agendas that are critical to them all.

## **OLD PROBLEMS, NEW DRAMAS**

The current political, social and economic setting of human rights poses challenges that demand innovative responses and call for an in-depth understanding of historical factors and new developments in the Americas and in the ways this hemisphere fits into a globalized world.

Forced disappearances, systematic torture and the suspension of civil and political rights have become rare. However, fundamental human rights continue to be violated, and impunity remains. Violence and crime have increased, along with citizen insecurity. Popular discontent with the functioning of democratically elected governments is on the rise. Discrimination continues to be a troubling hallmark of our societies, and poverty and inequality are growing. Societies no longer practice solidarity or tolerance, and education does very little to change this.

Old tensions from the decades of authoritarianism and armed internal conflict have not been fully overcome, and in some countries, the right to life and to humane treatment are still vulnerable as a carryover from the authoritarian past and the social breakdown triggered by civil war. Peace accords were signed to put an end to domestic confrontation, but some governments have yet to put them into full effect, and efforts to set up truth commissions and comply with their recommendations are still paltry. In some cases, remnants of the structures of repression remain in place, with structural causes not yet resolved. Where civil war still rages, the rights of citizens are at constant risk, making it very difficult to assign responsibility or prosecute and sanction those who perpetrate violations of human rights and international humanitarian law.

The sense of insecurity is on the rise, and several sectors within our societies are applying heavy pressure for these problems to be addressed forcefully, without concern for the constraints that human rights might impose. The same trend is gaining greater momentum under the pretext of fighting terrorism and drugs. This is particularly alarming in a hemisphere where economic factors are creating tension between civil society and the government and feeding certain forms of social breakdown. Violent clashes are becoming more frequent, placing both participants and law enforcement officers at risk.

With the restoration of democracy, electoral systems were modernized and regular elections have been consolidated as a mechanism to ensure the turnover of power. In several countries, constitutional succession has won the day even in critical times. Political parties also face a brighter future, as the most long-standing parties have been renovated and new ones have appeared on the scene. Today there are more political entities at the center of the ideological scale and, with very few exceptions, movements that advocated armed takeover have disappeared.

The media are beginning to play a more critical role in democratic life, not only as source of information, but also as means to measure public opinion, learn about the people's aspirations, and develop

political criticism. All this clearly broadens the base of democracy, but a spreading misconception has been confusing democracy with development. It has become commonplace among the general public to finger lagging efforts at human development, attributing their failures to a malfunctioning democratic system. As a result, politics as a whole have fallen into discredit, voters stay away from the polls, political parties are losing ground as mediators of social demands, and in general, democratic institutions are growing weaker. It would be a mistake to ignore the close relationship between good governance and development; but it is also very important to stress that democracy, the rule of law and human rights are values in and of themselves, outside of which human development stands very little chance of survival.

Despite certain progress such as growing recognition of the intrinsic value of diversity, discrimination continues to be a bitter distinguishing mark of our societies. Some steps have been taken over the past few years to rewrite the rules, but no satisfactory solution has yet been found to the marginalization of women, senior citizens, children, indigenous peoples, communities of African descent, and persons with disabilities.

Poverty and socioeconomic inequality have become more acute, and social gaps have widened. Governments have proven incapable of responding adequately to the basic needs of the population, and sustainable human development is still a distant dream. The environment continues to deteriorate, and many countries have registered setbacks in implementing economic, social and cultural rights. “Structural adjustment” measures taken in the past decade have seriously jeopardized programs to cover the basic needs of the population, at least temporarily, and above all, have interfered with the exercise of fundamental rights to education, health, food, and decent housing. Such risks need to be taken into account in programs for human rights monitoring, promotion and education.

The foreign debt burden erodes more and more of the resources available for social investment and deepens absolute poverty and relative inequalities. International inequality, at a time when free-trade negotiations continue to flourish, poses new concerns for human rights.

Numerous organizations have arisen over the past two decades, expressing social concerns of the most diverse kind, and in many cases, their work is solid and highly professional. Even so, our societies continue to be deeply fragmented. Most of the people belong to no organization or associative entity whatsoever. We continue to be extremely individualistic and noncohesive, and we have serious difficulty organizing or assembling political and social solutions to our problems. Because mutual distrust is everywhere, it is extremely difficult to build effective channels for communication and harmonious cooperation between governments and the organizations of civil society. Formal education, which now extends to almost everyone to some degree, has shown no sign of reversing these trends by becoming an instrument to promote such values as solidarity and tolerance, or promoting human rights and democracy.

Without a doubt, globalization is advancing inexorably, bringing advantages and risks that have an impact on of human rights and democracy. The tidal wave of technology and communications is connecting people everywhere and holds immeasurable promise; but the poorest seem to be falling farther behind, along with groups that already experience discrimination. Because of the forms it has taken, the new technology seems to be intensifying exclusion.

At the same time, breakthroughs in communication and new technologies offer enormous benefits for human rights and democratic values. Many successful experiences with spreading information and know-how have already been reported. Specialized networks have sprung up to target specific issues or population groups. Energetic international responses have challenged threats to democracy, and grave, massive violations of human rights have received worldwide visibility. New forms of communication and technology have paved the way to early warning systems. They will also provide the means to forge effective responses in the fight against corruption.

## HOW WE SEE AND HOW WE ACT

Social sectors that have traditionally remained vulnerable assume certain perspectives, viewpoints, interests, specific needs and forms of organization that reveal recurring problems such as marginalization and exclusion. The Institute has legitimized these experiences by applying three cross-cutting perspectives in all the tasks it undertakes.

The current human rights scenario offers several specific ways to understand problems and respond to them. These modes of seeing and acting take the form of perspectives, viewpoints, interests, specific needs and types of organization adopted by specific stakeholders such as women, indigenous groups and other social sectors. Having been kept for many years in conditions of vulnerability, such groups have developed platforms for organization and action by which they work together to obtain and defend the rights that pertain to them collectively and specifically. In recent years, such processes have drawn attention to recurring problems such as marginalization and exclusion, and have enriched the agenda of human rights work with such issues as **gender equality, recognition of diversity and full participation by civil society in public affairs**.

Collectives of **women** worked hard for many years to achieve recognition of their specific rights. Their efforts expanded the scope of human rights by bringing gender equality to the fore. Their action approach proved to be an exemplary means of obtaining new international legal protection and having it incorporated into national legislation. Their gains are finally becoming visible in such fields as the administration of justice and political participation, and call for new mechanisms of human rights education and promotion. Women's achievements have also drawn attention to the particular problems of other social groupings and have demonstrated the advantages of using sectoral approaches.

The movement of **indigenous peoples** also offers new experiences valuable to human rights work in such matters as rights, political participation and access to justice. Some countries have even amended their constitutions, particularly countries that have a high percentage of indigenous population or very active movements for ethnic revitalization and advanced organizational processes. The new provisions recognize diversity, establish systems for intercultural and bilingual education, and create special systems for political/territorial administration, such as special districts (comarcas), regional entities and indigenous territories. Some also include functional legislative representation through quotas. The role of indigenous authorities is gaining greater recognition for resolving conflicts and administering justice at the local level, and the legal customs and traditions of these groups are receiving a new appreciation. Progress in all these areas is still incipient, especially legislative development and identification of creative solutions to make national law compatible with indigenous traditions. Already several interesting solutions have been worked out and are supported by constitutional jurisprudence. These processes have revealed the value of ethnic and cultural diversity as a means of organizing our ways of understanding



and promoting human rights. Work with other social sectors, such as communities of African descent and certain national minorities, benefits from this experience.

Society as a whole is the main actor on the stage of human rights. However, as can be seen in the above paragraphs, many parts of society are isolated or marginalized by their own choosing or because the political and socioeconomic system tends to exclude them. Human rights issues and the nongovernmental entities established to promote and protect human rights made a major contribution toward creating a society that never ceases to defend rights and to exercise democracy. In the past, these organizations took a position of confrontation with the State. Today, growing numbers of people believe in the importance of seeking and continuing a dialogue between the two. Together, organizations and the State can build common solutions and conduct joint projects, cooperating together for everyone's benefit and sharing the knowledge and experience they have acquired. The challenge is to create openings for dialogue and joint effort in those countries where they do not exist, promote them and energize them where they are still incipient, and defend them where they are more or less established. It is important to recognize that such initiatives should not replace the role of political parties and other movements as liaisons with the State. But it is no less true that, when political parties are in crisis, social movements and the wide constellation of civil organizations serve to freshen the political atmosphere. They also facilitate positive interaction between organized social sectors and pertinent State entities. Although such relationships always need to grapple with the difficulties that arise from a climate of prejudice and mutual mistrust, they have proved to be very useful for identifying and shaping shared responses and, therefore, should be protected and strengthened.

## A PRELIMINARY BALANCE SHEET

The Institute has established clear criteria for ranking issues by priority . Accordingly, in recent years it has emphasized three sets of rights, and today it has become very knowledgeable about these rights and how they affect its target population.

Over the past three years, the IIHR has particularly emphasized the fast-changing conditions surrounding three particular sets of rights that account for a broad swath of human rights and are of particular interest to the Institute's traditional constituency. These groups of rights are: access to justice, political participation and human rights education. It has conducted pilot studies on these issues in six countries of the hemisphere and identified certain trends that stand out as a provisional balance sheet.

In the final decade of the twentieth century, systems for the **administration of justice** were targeted by programs for reform and strengthening. As a result, the number of judicial institutions grew, geographic coverage improved, and the range of issues addressed by the courts widened. As part of reform in several countries, the judiciary has created a formal career path, and schools for judicial training have been created or strengthened. Numerous countries have opened offices for mediation or alternative resolution of conflict, along with local mechanisms for settling disputes, such as justices of the peace. Today a number of countries offer public defender facilities in criminal court and for low-income people.

Admittedly, these accomplishments are not necessarily reflected in higher quality solutions for people who go to court, swift resolution of their concerns, or affordable judicial processes. All three concerns have repeatedly been cited as obstacles to the right to access to justice. The justice system finds that its work load has grown much more quickly than its infrastructure and staff. Prison conditions, along with the rights of the incarcerated, are deteriorating every day in many places, and the situation is especially critical for those being held without trial.

Many unfinished tasks continue to pose pressing challenges: training for justice employees in the doctrine and practice of human rights, better coordination among formal, alternative and traditional means for settling conflicts, and wider knowledge and use of international standards and systems for the protection of human rights.

**The right to political participation** has seen satisfactory progress in the development of legislation, institutions and technical resources, beginning with the right to vote. Elected governments have regularly succeeded one another over recent years with few exceptions, and major problems with governance have been solved at the ballot box. As was stated, however, political parties have still to consoli-

date their role as the linchpin of democratic life. Although citizens may exercise the vote, they are very dissatisfied with their governments.

Citizens have begun to find broader arenas for participation in places where territorial organizations have assumed active roles in addressing the needs of the population, and even in managing local governments. Even in the best of cases, these new mechanisms are unable to aggregate local dynamics into a national policy, a task the political parties have yet to shoulder fully.

Although democracy has been formally restored, a number of critically important steps have not yet been taken. Political parties need to become democratic and return to their position as vehicles for organizing citizen participation and expressing the demands and aspirations of the people. Moreover, the population needs to be educated for life in democracy.

**Human rights education and education for democracy**, as established in the Protocol of San Salvador and a dozen other international instruments, has yet to be introduced at the core of the curriculum and of educational programs, nor is it reflected in the textbooks or education as practiced in public schools. A positive trend can be detected in establishing a legal basis for human rights education, but progress is uneven from one country to another. While many countries have adopted international obligations, not all have modified their constitutional systems to reflect these obligations. General laws of education are slowly being changed, but these reforms are not extended consistently to other bodies of law. There are signs of new public policies that favor human rights education in several countries, but in general, they have not been consolidated as government policy, and instead take the form of an often highly disperse mosaic of temporary programs and projects. Institutional development is uneven. Certain shortcomings and delays are very visible, and systematic information is not available for certain countries and issues.

Despite all this, formal education continues to stand as the most important vehicle for disseminating human rights and teaching people how their rights can be enforced. This type of education is more commonly offered to the poor and marginalized sectors, most often through the work of women's groups and indigenous organizations, which extend to their members the opportunity to learn about human rights and democracy. However, many activities are also promoted by organizations of teacher unions and by labor unions in general.

## **INSTITUTIONAL PERSPECTIVES**

This panorama gives cause for optimism based on the many achievements already made, and for moderate caution in view of risks taking shape on the horizon. Despite real progress, the working agenda is extremely broad, and resources, whether human, financial, material or temporal, are always in short supply.

What is the place of the IIHR in this picture? What issues should be given top priority? Where should it target its efforts geographically? What groups should it particularly emphasize? Who should be its counterparts and how should it relate to them? How able is it to respond to human rights needs and to the demands of international agencies of cooperation, social organizations and State institutions? When should it select a particular line of action or conduct a project, and when should it walk away? How can it make the most efficient and effective use of its resources and international assistance? How can it maximize its efforts? What are its institutional strengths, and what are its weaknesses?

Over the past 22 years, the IIHR has asked these questions and offered answers based on its experience in the region. The questions and their answers point to a framework for an institutional strategy that will undergird medium- and long-term action plans.

When the human rights perspective is present, government institutions and political systems face the challenge of demonstrating that a viable, inclusive democracy is indeed possible. The international crisis in the Middle East has drawn world attention away from the inter-American community just at a time when the move toward democratization is stumbling and the responses of earlier years appear too simplistic for the complexity of today's conflicts. After 11 September 2001, when the inter-American system signed the region's Democratic Charter, fear became so widespread that many social initiatives were filtered through a lens of threat and mistrust. Even so, the IIHR holds on to the hope that Latin America and the Caribbean will assert their belief in human rights and that the phenomenon of globalization will culminate in trade agreements and treaties that are fair. For today, the IIHR holds aloft the importance of globalizing social victories that our democracies have won through hard struggle: rights of women, union rights, rights to education and full political participation. Finally, the IIHR is firmly convinced that, to the degree that social inclusion can be assured, inequality will diminish, faith in democracy will grow among groups traditionally neglected and excluded, and our societies will be more conscience-led to fight the corruption, poverty and misery that affect too many of the countries of the American hemisphere.