“Legal Empowerment Can Be Transformative”

An Interview with UN Special Rapporteur Margaret Satterthwaite

Margaret Satterthwaite & Agenda Estado de Derecho Editorial Team

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Margaret Satterthwaite, the United Nations Special Rapporteur on the independence of judges and lawyers, is a key voice in the defense of justice and the rule of law worldwide. Focusing on judicial autonomy and equal access to justice, Satterthwaite addresses issues affecting regions as diverse as Latin America and other parts of the world, where judicial structures face increasing political and economic pressures.

In this exclusive interview, conducted by our partner, the Agenda Estado de Derecho editorial team, in collaboration with the Rule of Law Program for Latin America of the Konrad Adenauer Foundation, Satterthwaite reflects on the importance of legal empowerment as a transformative tool, the crucial role of diversity in judicial systems, and the challenges faced by countries such as Guatemala, El Salvador and Nicaragua. From her experience, she shares examples of innovation, such as that of community justice workers, and analyzes the impact of judicial reforms in Mexico and Chile, stressing the need to ensure that judicial independence is a non-renounceable principle in any democracy.

Her reflections not only highlight the challenges, but also the opportunities for consolidating inclusive and transparent judicial systems. In her words, “justice is not an abstract ideal, but a concrete reality that must be achieved through collective and sustained efforts”.

1. In your first report to the General Assembly, you emphasized legal empowerment as crucial for improving access to justice for all. What does this concept involve, and why is it important in the context of Latin America?

In my first report to the General Assembly (A/78/171), I examine how legal empowerment can expand access to justice in a rapid, relatively inexpensive and concrete way. This is crucial in a world where an estimated 5.1 million people don’t have meaningful access to justice.

Legal empowerment involves equipping individuals and communities with the knowledge, resources, and tools necessary to understand, use, and shape the law. Its objectives go beyond helping individuals to access justice: by equipping communities with know-how and skills, legal empowerment allows them to transform unfair and harmful laws. And by placing people and communities at the heart of the debate, enhancing their ability to make their voices heard, people-centred justice respects the inherent dignity of all members of the human family, as recognized by the Universal Declaration of Human Rights (see Report, para. 6.).

2. What role could legal empowerment play in a Latin American context?

Legal empowerment holds particular resonance in the context of Latin America, the region with the highest inequality in the world. Unequal access to justice is staggering, fueled by persistent structural inequalities, high levels of poverty, high costs of legal assistance and systemic barriers to justice faced by marginalized groups, including Indigenous Peoples, Afro-descendant communities, women, LGBTQ+ people, and persons with disabilities.

Legal empowerment can be transformative in this context. For instance, in Guatemala, where a significant proportion of Indigenous families lives in poverty and the country grapples with one of the highest rates of violence against women globally, the Women’s Justice Initiative supports Maya women educating other women about their rights while providing skills and resources to combat child marriage and gender-based violence in rural communities. In doing so, this

initiative equips Maya women and girls with the tools to have improved access to justice and transform the societal norms that perpetuate violence.

3. How would legal empowerment be realized in practice?

Legal empowerment goes beyond "know your rights" campaigns and community legal education. It includes innovative approaches to advancing access to justice, such as expanding the legal ecosystem to incorporate community justice workers (CJWs). These individuals, who are not professional lawyers, receive targeted training from civil society organizations, lawyers, or government agencies in areas like negotiation, advocacy, and legal processes. They raise awareness of rights and laws, assist with navigating legal systems, and support community engagement in reforms. For example, in Colombia, community justice workers help refugees, asylum seekers, migrants, and internally displaced persons with case support.

To be clear: CJWs and other legal empowerment advocates do not – and cannot – replace lawyers. Lawyers are essential to protecting human rights and upholding the rule of law. Instead, CJWs serve as force multipliers, providing crucial legal first aid to individuals who might otherwise lack access to legal support. Much like the relationship between doctors and allied health professionals, lawyers and CJWs have essential, complementary roles. Together, they ensure that access to justice is not merely an ideal but a tangible reality. I strongly encourage engaging in open dialogue on how to effectively expand the legal ecosystem to address the significant justice gap, while preserving the independence, competence, and ethical standards of all justice professionals.

4. The rapporteurship has recently received information about threats to judicial independence in several Latin American countries, including Mexico, El Salvador, Guatemala, Bolivia, and Nicaragua. What common concerns have been expressed to the rapporteurship regarding these issues across the region?

From the information received by my mandate and the cases I have been following closely, one critical issue in these countries, and across the globe more generally, are attempts by powerful political or economic actors to weaken the independence and impartiality of judges and other justice system personnel whose job involves checking excesses by other government branches and the economy.

In my 2024 report to the Human Rights Council (A/HRC/56/62), I highlighted trends that illustrate how autocratic governments strategically weaken independent justice systems. These strategies include capturing or curbing judicial institutions by appointing politically aligned judges, restricting the competencies of the judiciary, or reducing its resources.

A notable example is the lack of transparency in judicial appointments and the exclusion of civil society from these processes, which create opportunities for undue influence and obscure the reasoning behind such decisions. In Guatemala, for instance, despite numerous recommendations from this mandate and other national and international bodies, the selection of judges for the Supreme Court and Court of Appeal remains opaque, with limited public participation. In Mexico, a recent reform introducing the popular election of judges raises additional concerns about the adequacy of measures to ensure judicial appointments are transparent, merit-based, and free from undue influence. Such practices risk prioritizing political loyalty or alignment with party interests over competence and impartiality, in contravention of the minimum standards established by international law.

Another troubling regional trend has emerged in the weaponization of the judicial system to silence or retaliate against judges, prosecutors, and lawyers. In Nicaragua, for example, reprisals against human rights lawyers have escalated, with the government using measures such as disbarment and denationalization as tools of retaliation for their professional activities. Similarly, in Guatemala, the systemic criminalization and harassment of judges, prosecutors, and lawyers working on cases related to corruption reflects a deliberate effort to punish independent justice actors. In El Salvador, lawyers and human rights defenders face harassment and threats from authorities, a concern exacerbated by the ongoing state of emergency and recent legal reforms that strip due process guarantees

and overburden defense attorneys and the judiciary. In a number of countries, we have seen the dangerous labeling by officials of independent judges and lawyers as "*traidores de la patria*" or "enemies of the state".

These issues illustrate a broader pattern of undermining judicial independence, the separation of powers and the rule of law in the region, with profound implications for human rights and democratic governance. I hope to continue working with all stakeholders to bring attention to these challenges and I look forward to my upcoming visit to Guatemala in May 2025, which will provide an opportunity to engage directly with relevant actors and further assess these pressing concerns.

5. Recently, you made a visit to Chile, what insights can you share from that trip and your observations?

During my recent visit to Chile, I had the opportunity to observe and engage with the country's justice system, which stands out for its strong institutions and significant strides in modernization. I was particularly impressed by the independence that judges experience in their day-to-day work and the country's investment in technology, such as its digitized court system, which enhances access to justice, especially in remote areas. The Judicial Academy also plays a vital role in preparing meritorious judicial candidates for this important career.

However, I also witnessed critical challenges that require urgent attention. Vulnerable groups, including Indigenous Peoples, migrants, and Afro-descendants, face systemic barriers to accessing justice. The unequal experiences of justice based on wealth and social status were highlighted in my discussions, with many pointing to a dual system where the wealthy often benefit from expedited and more lenient proceedings, while others endure lengthy delays and harsher penalties.

Chile's ongoing efforts to reform its judicial system are promising but require action and political will to address structural inequities. The concentration of administrative and jurisdictional functions within the Supreme Court, allegations of influence in judicial appointments, and the lack of full equality before the law for Indigenous Peoples were recurring themes during my visit.

The resilience of Chile's institutions and the commitment of its civil society to advocate for transparency and inclusion left me very impressed. While challenges remain, the genuine desire for stand up for democracy, the robust foundation of Chile's judicial system, and the commitment to collaborating with the international community – with many special rapporteurs visiting – give me confidence that the country can carry out the necessary reforms if political will is brought to bear.

6. You co-founded and led Amnesty International USA's program to defend the human rights of individuals persecuted for their sexual orientation or gender identity. From your current position at the UN, how diverse do you believe the composition of the judiciary is in Latin America?

Enormous strides have been made in extending human rights to LGBTQ+ people since I began working on these issues in the 1990s. The basic right to exist as an openly LGBTQ+ person without facing execution or imprisonment, the recognition of same-sex marriage, and the existence of affirmative protections against discrimination on the basis of sexual orientation or gender identity, were almost unimaginable when I was a young human rights advocate. However, there is still a long way to go for openly LGBTQ+ people, especially in terms of representation in high levels of elected or appointed office.

The judiciary in Latin America has seen significant progress in diversifying its composition, particularly in increasing the presence of women. Over the past few decades, feminist movements and gender equity laws have helped women gain access to judicial positions in many countries across the region. In several nations, women even outnumber men in lower and mid-level judicial roles, reflecting growing equality in the legal profession.

But women's representation decreases significantly at the highest levels of the judiciary, such that in some countries' apex courts, women are a small minority or not represented at all. This disparity shows that women still experience obstacles in obtaining the

highest positions in the judiciary. Studies show that cultural biases and gendered expectations often prevent women from reaching leadership positions.

7. What good practices have you identified in the region that could contribute to strengthening the representation of women at the highest levels of the judicial power?

Important efforts on this front are underway. Countries like Chile and Colombia have established gender-focused offices and policies within their judicial systems to promote equity and inclusion. And many countries in the region have taken some steps to encourage Indigenous Peoples, Afro-descendent people, and those from lower-income groups to join the judiciary. But achieving meaningful diversity in the judiciary requires more than formal policies or quotas. It necessitates dismantling deep-seated biases and creating institutional cultures that value inclusion. From my perspective, this is a critical area for both regional and international collaboration, and we must continue working toward diverse judiciaries.

I would like to note that the judiciary in many countries continues to lack adequate representation of Indigenous Peoples in particular. This underrepresentation perpetuates systemic inequities and undermines trust in judicial institutions among Indigenous Peoples, who often face discrimination and marginalization in the legal system. Without meaningful inclusion of Indigenous Peoples in the legal system and robust training of judicial officers, I fear this dynamic will continue.

8. Another pressing issue is the application of a gender perspective in access to and the administration of justice. What do you see as the main challenges in this regard?

Promoting gender parity measures at all levels of the legal system is essential, as it strengthens democracy by enabling the equitable distribution of social power and opportunities. But gender parity also improves the quality of the justice a system delivers.

Former United Nations High Commissioner for Human Rights, Navanethem Pillay, has said that the only way to ensure women's perspectives in the administration of justice, including in judgments delivered by national tribunals, is through the inclusion of women's life experience through the appointment of women judges who also represent the diversity of society. I saw this in my own early career, when I served as a law clerk to one of the first women to be appointed to a federal Court of Appeals. Having her as a role model was essential.

I believe our work must embrace women's parity and also go beyond it, ensuring all legal operators can use a gender perspective in their work. Robust training in gender analysis is key.

9. From the rapporteurship's perspective, what is your analysis of the new judicial reform taking place in Mexico?

As I emphasized in my communication to the authorities of July 2024, the judicial reforms in Mexico are deeply concerning from the perspective of judicial independence and impartiality. While the intention to enhance democratic participation in judicial appointments might appear positive, the mechanisms adopted – such as the direct election of judges and the elimination of the Federal Judiciary Council (CJF) – lack critical safeguards needed to protect against undue political and economic influence in the appointment of judges across the country.

Independence and impartiality are fundamental to ensuring the judiciary can function as a neutral arbiter and a check on other branches of government. Unfortunately, the reforms introduce significant risks. For instance, the alignment of judicial terms with political election cycles and the absence of clear, merit-based criteria for appointments mean that campaign dynamics may influence judicial decisions. For instance, it could compel judges to prioritize public or political approval over impartiality and legal principles.

There remain numerous unresolved questions regarding how the new system will manage the selection of judges from the nearly 50,000 applicants to judicial positions. I will closely monitor developments in this matter.

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