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 IM. STANISŁAWA STASZICA W PILE**

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Philosophy of democracy and Principles of Democracy

A summary of democratic principles frequently characterizing the concept of democracy cannot reduce democracy only to its principles. Democracy represents a form of government, a way of political life where these principles are put into practice. Within the framework of Slovak constitutionality, the principle of democracy plays a key role. It relies on consideration that democracy is the most rational and progressive system the mankind has ever developed in the field of politics. In our circumstances, the idea of democracy along with its legislative background and protection of human rights can be considered the most critical idea of humanism in the Constitution. The declaration that Slovakia is a democratic state, however, does not define the principle of democracy or guarantee democratic constitutional principles. It is necessary to seek the construction of the principle of democracy in the respective articles of the Constitution. Democracy and its separate principles are expressed in the ultimate legal rules in the democratic countries.

The Concept of democracy

People (commonalty) do not represent a homogenous entity characterized by shared views and standpoints. This fact excludes the possibility to exercise the power in a state directly and proximately. Thus a group of people characterized by similar views and having majority in a society is selected. This brings us to the question, which was positioned many times by many philosophers and theoreticians, i.e. whether a certain group of people, called a majority, can represent people (commonalty) as such.

J. J. Rousseau ranks among the strongest opponents of the majority principle stating that “ it violates the natural order, if majority rules and minority obeys.” Sartori under majority principle understands the rule of dispute resolution alleging “ unless a majority “rule of a play “ is adopted universally,

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democracy lacks a rule for conflicts resolution and thus it can hardly operate as a democracy.” /14,p.49/ He further states that unless a society adopts the majority principle or at least impliedly identifies itself with it, it does not accept democracy as a regime or political form. The selection of majority, its representatives, is exercised via democratic elections. To answer the question whether majority can in fact represent the people (commonalty) we can state that, in compliance with the majority principle, there exists a presumption that majority can meet a better decision than a minority can, while both of them are constantly changing which in fact ensures realization of new and changing opinions. Thus a member of a minority can become a member of a majority in the future and foster his views and interests. The majority rule applies not only in general elections but also at the decision-making in a representative body. The majority rule in democratic countries should be statutorily and constitutionally limited and must not interfere with the minority and individual rights.

Thus a majority view aimed at establishing social consensus must be born in a discussion and represent a compromise with a minority or minorities; majority must respect constitutional and statutory rights of a minority as well as rights and liberties of individuals, minority and minorities are entitled to participate in overseeing state institutions created in consequence of majority rights implementation. If majority were not limited by minority, democracy could change into oppression of minority by majority, into a rule of the street which Polybius called ochlocracy.

Principles of Participation

Principle of participation as a democratic principle rests with the fact that citizens have a right to participate in state administration either directly or via their elected representatives. This principle also ensures that citizens participating in state administration enjoy equal basic rights and liberties and also guarantees that no person can be excluded from participation in state administration or from access to elected or other posts. Principle of participation in state administration is constituted on the constitutional and statutory state guarantee of universal and unlimited right of all citizens to participate equally in state administration based on statutorily stipulated:

- forms and methods – referendum arrangements, electoral and voting rights;
- restrictions limiting all citizens either as a result of statutory regulation or decision of proper state authority; or
- equal rights and duties of citizens participating in state administration, prohibition of discrimination and exclusion from participation in state administration and from access to elected and other posts./ 14,p.79

Indirect participation of citizens in public sphere is exercised via representative bodies legislature, executive and judiciary chosen by citizens in democratic elections either through direct election or through decision of the already elected representatives on authority conferred on them by the people. Direct participation of citizens in public administration is reflected also in the institutes of direct democracy, i.e. referendum, plebiscite, option, and peoples' initiative.

"Pluralism is more than anything else, a deep belief in the value of diversity." Pluralism represents an inseparable part of contemporary democracies, it is a real proof of the substance of human life on the social background. Diversity of views is a hallmark of a society, as it is created by people having different views not necessarily shared. If there was only one view in respect to the solution of public matters, it would be unnatural leading probably to political manipulation, concentration and abuse of power. In a democratic society, pluralism is necessary in both the political and economic spheres.

Political pluralism in a society is characterized by diversity of political subjects, political parties, by differences in their political or electoral programs on the bases of which the voters can choose the party or program that suits them best. An important role is thus played by the free competition among political forces and programs. Political pluralism is exercised mainly in elections. Except for these, political pluralism is reflected also in freedom of speech, freedom of association, rights to establish political parties or movements.

Political pluralism represents a legal institution encompassed in constitutions and statutes of all the democratic countries which also guarantee its observance. Economic pluralism represents diversity in the field of property. It is reflected in pluralism of owners, forms of ownership, and free competition in the free market. /20,p.98/

Political understanding of freedom was well known already to ancient Greeks who followed the idea that freedom in a democratic society is shown via freedom of conduct, i.e. that every person can act or speak freely within certain legal framework. /6,p.71/

Exceptional importance was given to freedom of speech, isegoria, and to equality of all legal subjects, isonomia. Freedom in a democratic society means that a state cannot interfere with the sphere of individual life, particularly with an individual's property or security. Under the second condition, a state can act only within the framework of law and pursuant to law and citizens are allowed to do anything not prohibited by the law. A human being is born free and a state must guarantee this freedom and not to interfere with it. Human freedom, however, is not absolute and unlimited. Some state interventions into the individual sphere of freedom are admitted. These interventions, however, must be based on the grounds of valid law and comply with certain criteria. In this respect much importance is given to generality, general character of law, based on the rule of law and not on the rule of the people.

Constitution of a state and jurisdiction represent, broadly speaking, a deal between citizens and public authority showing the consent of the citizens with some extent of interference under exceptional circumstances and precisely stipulated by the law of the public authorities with legal freedom for the sake of integrity. State interferences must not become a rule and should be applied only in exceptional circumstances. "State authority must guarantee not only freedom of an individual, but it must also guarantee his security, property and protect him against negative consequences of anarchy disintegrating the state, laws and general public policy". Equality just as freedom and justice represent the most important values expressing and protecting contemporary law. Equality means that people as human beings are equal, this fact, however, does not exclude natural inequality based e.g. on biology. In a democratic state it is necessary to guarantee equality in rights, or legal equality, i.e. equality of people in the eyes of the law. Law must be observed by everybody, people have equal rights and freedoms, equal right to legal protection irrespective of all differences. Equality in law should be reflected in both law creation and law implementation. Pre-selection of certain persons or groups is quite rare at present, reverse discrimination being one of the exceptions. This form of preferential handling connected with prohibition of discrimination balances the shortfall between chances of minority and majority in a society. In contemporary democracies, however, there exist hidden forms of inequality. It is mainly social inequality reflected in the material sphere, in property and inequality in earnings, consumption and alike. Freedom and equality in a democratic society is shown not only in the area of personal freedom and personal equality, but also in the field of politics as political equality and freedom. These forms of political freedom and equality guarantee equality of political subjects.

Rule of law represents such a kind of political regime where the execution of state power is limited by the law, frequently it is used as a synonym to constitutional and legal government. It is characterized by execution of state power through laws with the purpose to protect freedom, justice and legal certainty. It is because the requirements imposed on the existence of the rule of law are closely related to democracy. Democracy suits the rule of law best. In the contemporary jurisprudence, whether in theory of state or in legal theory, four models of rule of law are considered, i.e. liberal, material, welfare, and democratic models. The liberal model of rule of law is connected with capitalistic era and free competition, it is based on strict distinction between private sphere and state influence. Pursuant to this model, the laws in their substance must be general and abstract. Only such laws can meet the requirements of equality and free competition. The democracy based rule of law, unlike the liberal model, resigns to the requirement of general character of laws. This rule of law anticipates a constitution based on democracy and basic human rights, it demands an active and independent civil society. Basic rights and legality of administration represent its main elements. In connection with the

material model Alexander Brörtl states: "The requirement of material rule of law is that a state should seek fair regulations capable to ensure consensus.

It is not only requirement of legitimacy, but also of stability." Welfare state governs, guarantees and sets conditions also in the areas previously protected against any state interference. In a social sense, freedom must be constituted to ensure human dignity.

Alexander Brörtl sets out the basic principles of rule of law as follows:

- guarantees of basic rights and freedoms
- legitimacy and legality
- sovereignty of people
- separation of power
- checks and balances
- supremacy of constitution and laws
- legal certainty

The principle of the basic rights and freedoms guarantee relies on protection of individual freedom against any state interference. The main purpose of all institutions and rules in a democratic jurisdiction is the freedom of its citizens while the rule that freedom of an individual ends where freedom of another individual commences applies./14,p81/

Principle of legitimacy presumes that citizens affirmatively evaluate and accept the state authority which is reflected in normative legitimacy or, on their own discretion, they approve this authority which is reflected in sociological legitimacy. Legitimacy of state authority is reasoned by legality. Legality represents a form in which law is shown. Legality means that certain function of state power is constituted and executed in compliance with law. Existence of laws which are in compliance with the conduct of those who are subject to it, represents its very basis. The principle of respect of sovereignty is an inevitable condition for real operation of rule of law. This principle is combined with subjective right to public participation in democratic constitution of the will, at equality of chances, with a bulk of institutionalized practice of civil determination set forth by objective law. All people are politically equal, they should enjoy real chances to be successful in an organized society according to constitutional principles and, if they manage, they should have a possibility to exercise state power in legislature or executive.

In connection with the principle of sovereignty of constitution and laws, rule of law relies on implemented, free and democratic constitution. The merit at implementation of this principle rests with the need to have a consistent system of law and provide for order in the jurisdiction.

Constitution represents the first positive step towards law creation, it represents a framework out of which legislation should arise. Legislation represents the main source of law by which the need for legislative regulation of all the major social relations in all their complexity is met. Certainty of a citizen that law shall be applied in his respect represents the ground and

basic element of legal certainty. Pre-requisites as the need for predictability in decision-making of state authorities, need for concrete character and unambiguousness of laws in order to be able to assess one's legal position are necessary to reach the state of legal certainty. To set the limits for retroactivity is also very important.

The Slovak constitution provides that critical issues related to public interest can be decided by referendum. This institute of direct democracy which decides issues of major public interest has been regulated in the Slovak Republic by primary legislation having superior power in the system of laws. Rule of the people as legitimate basis of the existence of state power which is not allowed to decide in such matters was thus recognized.

Direct democracy via referendum has found its place in many democratic countries and today represents direct participation of the public in political decision-making and, in this way, the concept of democracy as the rule of the people through direct participation is realized. The use of referendum in the 90-ies of the 20th century in western democracies was increased. At present, however, it is not possible to apply this direct form of democracy in an extent as it used to be in the past. But the institute of referendum still preserves its relevant position.

Representative democracy was established in consequence of the constitution of national states and on this historical background many drawbacks of direct democracy emerged. The main one was its high cost and dependency of citizens on their employers which was also one of the main arguments why the Great French Revolution was reluctant to grant the right to vote to all the citizens. Equally, women were under the influence of their husbands in the United States of America. Slaves and Red Indians did not enjoy equal status with the rest of the population and thus were deprived of the right to vote. Illiteracy was also claimed to be one of the impediments to direct democracy. The population growth as well made it more difficult to apply this direct form of democracy. Huge political community excluded the option of mutual recognition, understanding and assessment. Decisions are passed very frequently in the sphere of politics which makes the application of direct democracy almost impossible. Access to information and their processing is vital for proper decision-making and the huge social diversity results in incompetence to rule./8,p.99/

Representative democracy was created in consequence of the need to dispose of the drawbacks of direct democracy resulting from the population growth. Selection of representatives became the way of public participation in political decision-making. The grounds of representative democracy lie as far as in the Middle Ages when the predecessors of the contemporary parliaments were constituted. The need to establish a responsible majority represented the motive to reduce the political community. It is much more complicated to establish a majority within representative democracy than it is in the direct

one. The principle of representation is exercised via self-selection within a political community and via expressing opinion to the initial selection of political parties. Self-selection generally means selection of representatives within a smaller community through reduction of the number of candidates. Each person can nominate himself or anybody else.

Self-selection is effective mainly in homogenous smaller communities as it was the case in England in the 19th century where the universities nominated their representatives to the House of Commons.

Expressing a view to the initial selection of the representatives is another way of representative democracy implementation. In this procedure the parties nominate candidates out of their members and offer them to the voters for selection. System of representative democracy comprises the issue of responsibility, namely who the representative is accountable to, for what activities and who is entitled to assess the representative's conduct. In representative democracy the responsibility is conferred on the elected representatives and probably the most acceptable form of responsibility is the responsibility for a certain time period or set of decisions. Decision-making procedure plays a vital role. Political sphere creates a pertinent environment for economic activities and thus the economic sector tries to influence the decision-making procedure and, consequently, the accountability of the elected representatives to economic subjects and to the voters is split. The private sector is more capable to influence the decision-making than the voters are. "Representative democracy is based on the maximum exclusion of a citizen from the decision-making process. After selection of their representatives, sometimes certain extent of decision-making is still retained with the citizens. Thus representative democracy exercises the rule of the people indirectly via selecting some of them to rule in their name at a certain time. The main purpose of democracy as the rule of the people is complied with, even though alienation of politics consequently arises."

Participatory democracy was created in consequence of the lack of representative democracy and inability of citizens to participate in political decision-making in the periods between elections. Participatory democracy which arose in the 20th century gives the possibility to govern not only to the elected representatives but also to the active social strata. The need for participation of the active social strata was reasoned by highlighting of the importance to meet decisions more fitting individuals or social groups. Such a decision-making would be more transparent and comprehensive. Theoretician P. Pettit understands the term participative democracy as a synonym to civil freedom. Participative democracy is implemented through cooperation between elected representatives and active social strata. Elected representatives and political institutions represent the direct participants, while respected personalities from the non-political sphere, mass media, big economic associations, NGOs as well as trade unions represent the indirect participants. Participation is reached through cooperation with consultative bodies from

non-political sphere, miscellaneous membership institutions – partly from state and non-state sphere – and eventually through the institute of direct co-decision-making. Participative democracy, however, brings along also such phenomena as lack of professionalism and favoring.

In Slovakia many interest groups and NGOs enjoy traditional position, however, since 1989 an increase of interest non-political groups can be reported. Participation of the third sector in the political decision-making is typical for Slovakia, their activity is, however, limited only to debating the issues as the responsibility rests with the political institutions. The Constitution of the Slovak Republic guarantees its citizens the right of association, right of speech and also the Rules of Parliamentary Procedure grant the NGOs the right to participate in the legislative procedure via comments or even through rising new issues.

Democracy today is understood in the meaning of liberal democracy. It means that modern democracy entered the real world through its liberalization. The first attempts to establish liberal democracy can be found in the 18th and 19th centuries. We can proceed on Rousseau. Even though he put forward the main principles as freedom, defense, protection of an individual, his testimony can be considered more in the meaning of non-liberal democracy. Marx praised communism much more than democracy and understood freedom as something absolute and non-compliant with the contemporary meaning of the liberal concept of freedom. Democracy is connected with a society governed by a state where a free development of an individual represents a condition for free development of a society. Such a society represents an ideal for Marx and actually is a version of pure libertarian society.

Lenin understood the idea of democracy in liaison with the existence of a state. He alleged that if the state was wrong so was the democracy and described it as an organized systematic usage of violence and thus where there was violence there was no democracy.

In his considerations, however, democracy leaps from one stage to another. Generally speaking, democracy in his view meant dictatorship based on exercise of power and violence. All states in the world trying to establish communist regime are dictatorships. Dictatorship allows for unleashed exercise of power and thus the liberal image of freedom becomes excluded from this concept. To rule in the interest of the people represents the basic requisite for democracy.

Conclusion

Liberal democracy, as we know it today, has passed a long development to reach its contemporary state. It is closely connected not only with freedom but also with equality. The distinction between liberalism and democracy rests in the fact that liberalism calls for freedom and democracy seeks equality. Today, however, these two elements are connected and the purpose of the liberal

democratic systems is to provide for the liaison of freedom and equality. By the way of illustration we can mention western democracies which are both democratic and liberal. It is necessary to state that only some freedoms are acceptable for democracy just as equalities having minute importance in view of democracy. Liberalism relies on an individual, democracy on a society. Liberal democracy is often used to describe the western democratic political system. This system is applied in countries such as Australia, the USA, the Great Britain, New Zealand, Canada and others. It is related to political system where the attempts to rise the civil rights standards prevail.

In general, the liberal democracy is based on certain principles, e.g. belief in individualism combined with the idea of moral and rational freedom of an individual, belief in reason and progress relying on development and rising of mankind, consensual social theories desiring internal order without conflicts. Liberal democracy highlights protection of rights and liberties of individuals and minorities. It represents a form of representative democracy organized in the meaning of enhancement of legitimate government. Elected representatives are authorized to decide on legal and political issues and, of course, are under the duty to observe the jurisdiction and Constitution representing the basic law of the state.

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Abstract

As the title of suggests the article deals with the problems of democracy, its philosophy and also dominant principles. The author reflects interpretation of democracy on the society with their different understand.

Democracy represents a form of government, a way of political life where these principles are put into practice.

Democracy and its separate principles are expressed in the ultimate legal rules in the democratic countries. Principle of participation as a democratic principle rests with the fact that citizens have right to participate in state administration either directly or via their elected representatives. This principle also ensures that citizens participating in state administration enjoy equal basic rights and liberties and also guarantees that no person can be excluded from participation in state administration or from access to elected or other posts.

Methodology: In the article I using method of analyze – I analyzing dominant problems of democracy-its principles in democratic countries. Another method is comparison-understanding democracy from historical aspect. And the end I also using method of synthesis-explanation democracy understand today.

Keywords: democracy, society, principles, law, freedom, equality, justice. liberty, injustice, social justice, rule of law, jurisdiction, totalitarianism

Filozofia demokracji a zasady demokracji

Streszczenie

Jak sugeruje tytuł artykuł ten zajmuje się problemami demokracji, jej filozofią oraz głównymi zasadami. Autor rozważa interpretację demokracji przez społeczeństwo oraz jej wielorakie rozumienie.

Demokracja reprezentuje formę rządu, sposób życia politycznego gdzie zasady są wcielane w praktykę.

Demokracja i jej poszczególne zasady są wyrażane w ułtymatywnych zasadach prawnych w krajach demokratycznych. Zasada partycypacji polega na tym, że obywatele mają

prawo uczestnictwa w administracji krajem bądź bezpośrednio, bądź poprzez swoich wybranych przedstawicieli. Ta zasada również zapewnia, że obywatele uczestniczący w administracji państwowej cieszą się równymi prawami i wolnościami oraz gwarantuje, że żadna osoba nie może być wyłączona z uczestnictwa w administracji państwowej oraz z dostępu i wyboru na inne stanowiska.

Metodologia: w artykule zanalizowano dominujące problem demokracji i jej zasady w krajach demokratycznych. Inną metodą jest porównanie – rozumienie demokracji w aspekcie historycznym. Na koniec użyto metody syntezy – dzisiejsze rozumienie demokracji.

Słowa kluczowe: demokracja, społeczeństwo, zasady, prawo, wolność, równość, sprawiedliwość. swoboda, niesprawiedliwość, sprawiedliwość społeczna, zasada prawa, jurysdykcja, totalitaryzm

Философия демократии, а основы демократии

Краткое содержание

Как следует из заглавия, эта статья занимается проблемами демократии, её философией, а также её важнейшими принципами. Автор рассматривает интерпретацию демократии обществом, а также её многостороннее понимание.

Демократия представляет форму правящих кругов, способ политической жизни, где её основные принципы претворяются в жизнь.

Демократия и её основные принципы представлены в форме ультимативных юридических принципов в демократических странах. Основа партиципации заключается в том, что граждане имеют правопосредственно участвовать в администрировании страной, либо посредством своих выбранных представителей. Этот принцип также обеспечивает то, что граждане, участвующие в государственном администрировании, пользуются равными правами и независимостью, а также является гарантией тому, что никто не может быть исключен из участия в государственном администрировании, а также доступа и выбора на другие посты.

Методология: в статье была проанализирована доминирующие проблемы демократии и её принципы в демократических странах. Другим методом является сравнение – понимание демократии в историческом аспекте. В конце был использован методы синтеза – сегодняшнее понимание демократии.

Ключевые слова: демократия, общество, основы, право, свобода, равенство, справедливость, независимость, несправедливость, общественная справедливость, основа права, юрисдикция, тоталитаризм

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