

The Way of Democracy

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ABSTRACT

This article aims to perform a re-discussion on democracy from its genesis and its path to liberal democracy, in comparison with the transnational dimension of globalization and the new forms of global citizenship, based on classical and contemporary authors. The text was produced from the line of research Constitutionalism and Production of Law.

Keywords: Democracy; Transnationality; Globalization; Global citizenship

INTRODUCTION

One of the most important debates currently taking places academically concerns the Future of Democracy, using an expression used by Bobbio in one of his books [1].

The foundations of modern democracy date back to a time when distances were measured on horseback. In the dawn of the age of light, technological options were rudimentary. However, for a minimally consistent discussion of what democracy will be or might be like in the 21st century, it is imperative to take into account the commuting movements of capitalism, including the present moment of the dawn of neonationalism.

For a new conception of democracy, it is very likely that it will be grounded in the hyper complexity of the connected society which is increasingly dependent on the information technologies of the digital world. A neocartesian world in which almost all activities will be expressed by algorithms.

The emergence of sustainability is as a paradigm shaping the sciences [2]. Democracy has been adapting to the various stages and mishaps of modernity and has come a long way to the Contemporary State. And it will have to adapt to the exponential advances of science in the 21st century.

The same phenomenon occurred at the beginning of the modern state, when the bourgeois revolutions of 1789 and 1848 almost transformed the democratic ideal into a commonplace of modern political thinking. All who opposed the democratic regime were careful to kindly reverence the fundamentally recognized principle, or tried to hide behind a prudent mask of democratic terminology.

LITERATURE REVIEW

The way of democracy and the new forms of global citizenship

In the last decades before World War I, no leading statesman or celebrated thinker has ever made any public statement in favor of autocracy. Indeed, even with the growing class struggle between the bourgeoisie and the proletariat during this period, there was no opposition to the regime of government. Liberalism and Socialism had no ideological difference in this regard. Democracy was the watchword that in the 19th and 20th centuries dominated political thinking almost universally.

Therefore, it is important to note this abrupt reversal movement that happens in today's world from the combination of factors such as Putin, right-wing rise in Europe, Trump and even Bolsonaro, who runs a country that is one of the ten largest economies in the world. Like any fashion word or trend, democracy began in the early 20th century to lose its original meaning. It has been used for many, often contrasting, purposes.

The social revolution, mainly the consequence of the Industrial Revolution and the First World War, pushes this political value called Democracy for revision. The Contemporary State, conceived and forged in this environment, tended, with the utmost energy, to the realization of a Democracy that, together with social values, represents its theoretical essence.

In the 20th century, the movements of democratic socialism at some point in history are divided into two distinct factions. One of them, autocratic, gives rises to various regimes where

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Received: 26-Aug-2019, Manuscript No. JPSPA-19-1703; **Editor assigned:** 29-Aug-2019, PreQC No. JPSPA-19-1703 (PQ); **Reviewed:** 14-Oct-2022, QC No. JPSPA-19-1703; **Revised:** 21-Oct-2022, Manuscript No. JPSPA-19-1703; **Published:** 31-Oct-2022, DOI: 10.35248/2332-0761.22.10.001.

Citation: Cruz PM (2022) The Way of Democracy. J Pol Sci Pub Aff. 10:001.

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democracy is only taken into consideration to lend a facade name to the regime. The other remains faithful and determined to preserve the minimum values of democracy and gives rise to the states of Western Europe.

Many of these reconciliation movements between democracy and the proposed social state functioned as a new form of conceptualization for the democratic regime itself. However, to this day, no category of the general vocabulary of state theory and constitutional law is more pervaded by controversy than democracy.

Used by Herodotus for nearly three millennia, the meaning of this category has changed over time. Democracy in the old age, which began to come to life among the Greeks six centuries before Christ, had a short life, as is well known.

Distinguishing between the interest of the community as contrary, by definition, to the particular interest is fundamental to understanding the political mindset of the ancients with regard to the general interest of the community, which did not conceive of it as a mere aggregation of particular interests, but rather as the expression of a superior good, imbricated in the infallibility of the law, which allowed the general development of the community and its citizens as formators of the polis.

In ancient times democracy meant government of “many” or popular government. Even with the experience of democratic government in some Greek city-states in the sixth, fifth, and fourth centuries BC, the term did not necessarily have a positive connotation.

By developing a typology of the different types of Government of Anjali [3], organized them into three “pure” types—Monarchy, Aristocracy, and Republic—and three “impure” types—Tyranny, Oligarchy, and Democracy—being the Republic the Government exercised by the “many” to serve the interest of the community and democracy a degenerate variant of the government of the “many” who exercised it in their own interest.

This distinction between the interest of the community, meaning something opposed by definition to the particular interest, is fundamental to the understanding of the political mindset of ancient culture, which did not understand the general interest of the community as a mere aggregation of particular interests, but rather as the expression of a superior value, represented by virtue and law, which allowed the cognitive and moral development of the citizen of the polis.

The intention of the mainstream of Greek and Roman philosophy was to conceive of a just and harmonious Government in which citizens subordinated themselves to this “entity” that was above their particular interests.

Leaned toward a “mixed” government that, from the perspective of heteronomous ethics, would integrate into a single government what the three pure types could have as positive. The most widespread opinion in antiquity was that any government of the “many”—of the “poor”, as Aristotle had already pointed out—once the multitude, if governed, could only do so by motives inherent in their class hostility, radically refuted by the high ends that should guide the citizen. In other words, the tendency was to believe that the multitude

government, as government of those without sufficient economic independence and livelihoods, inevitably led to the destruction of every possibility of organized social life, since, implicitly or explicitly, it was assumed that the “poor” were incapable of ends that transcended their interests [4].

In Greece, the group of citizens entitled to the exercise of direct democracy concentrated almost all the power of the city-state, thanks to the almost unlimited sovereignty of the popular assembly that exercised direct democracy and determined all legislative, judicial and governmental actions.

For the Greek and Roman political theory, citizenship was a natural disposition of the socially emancipated individual, which automatically included the exercise of civic duties towards the community. Neither the “popular” government nor the “mixed” governments of antiquity were based on the separation between the political and the civil communities.

The difference between this scenario of miscegenation between the political, the social and modern democracy is the distinction between the “public” institutional and administrative structure, represented by the state, and the “private” group of individuals.

Democracy has always had as its requirements the inalienable rights, reciprocal duties and persevering virtues of individuals. In this sense, about Democracy, Rousseau wrote that, “if there were a nation of Gods, it would govern itself democratically. A government so perfect is not suited to men”. From there we began the long road to one of the modern conceptions of democracy that, no matter how bad, will always be better than the best of dictatorships.

The concept of democracy that has been progressively imposed since the 19th century refers to the relations between state and society and not to the duties towards the community, and it foresaw a regime of government in which the political power of the state would belong, by right, to the whole population, that is, to the people, understood as the group of citizens without exclusions for reasons of social class, race or gender, and not just a specific and limited group of people.

The ultimate purpose of Democracy would be the control, intervention and definition by citizens of the objectives of political power, the ownership of which would correspond to them equally, in accordance with the principle that the Government should reflect the will of the people.

Several authors that approach Aristotle, point out that the separation between public and private life, which ultimately benefits the former, has become the most obvious sign of the civic conception of freedom and the republican or revolutionary ideologies of the modern world. In fact, perhaps its most emblematic feature, at least for legal science [5].

In a modern democratic system of government, popular sovereignty would always be delegated to state institutions, which would exercise authority on behalf of those who delegated it.

In practice, the functional scheme of democracy as it was sketched in the 18th century and sought to consolidate itself in the 19th century was based on the separation of state powers-

legislative, executive, and judiciary-which dealt with public actions in three distinct spheres-elaboration and approval of laws; administration and execution of public activities under the aegis of the law and the application of sanctions to those who did not comply with the law or the resolution of private conflicts between citizens.

It should be stressed that the evolution of democracy as a generic notion-popular government-and as a practice-representative democracy-was not convergent. The genesis of the modern concept of democracy originated in a relatively short period of time, with the eighteenth-century English revolution, the United States declaration of independence, and the French Revolution. It is during this period, between the mid-seventeenth and early eighteenth centuries, that the idea that a political order cannot be established without listening to the popular will arises. Jorge Miranda explains that to designate the democratic principle, the French Revolution launched the phrases 'sovereignty of the people' and 'national sovereignty', which still persist in numerous Constitutions, in doctrine and in practice [6].

The notion of popular government was polyhedral and had several variables. For some theories of democracy since the late 18th century, the principal of these variables was direct and not representative democracy, identified first as authentic democracy, since every legislative movement would be the result of the deliberation of a popular assembly.

In the first half of the 19th century, a fierce dispute arises in Europe between the old aristocratic regime and the new democratic regime. In 1831, the Belgian Constitution enshrines a parliamentary system similar to the English one, in which the Executive Branch acquires essentially a ministerial and no more royal nature, leaving the King with only the power of arbitration, intervening only to restore harmony between powers. States such as Denmark and the Netherlands also adopted this system in 1848. Sweden and Norway, with slight variations, also affiliated with Parliamentarism in 1809 and 1814, respectively.

In the second half of the 19th century, adherence to liberal democracy was almost total. In the United States, the victory of the North against the South in the Civil War in 1865 consolidated this regime and capitalism, as well as reinforcing the Federation and the democratic government.

In France, democratic parliamentarism also developed in the 19th century, although the 1814 Constitution established a regime of limited monarchy, in which the king had a monopoly on legislative initiative, the right to veto and the right to dissolve the parliament [7].

The notions of direct democracy and representative democracy existed in the 19th century, inserted in many movements favorable to the Constitutional Government, which meant a Parliamentary Government that had some characteristics of representative democracy-separation of powers, political representation, elections, etc.-but limiting, in one way or another, Parliament's powers and restricting the right to vote on the basis of barriers to popular participation determined by property and wealth criteria [8].

Democracy of the 20th century was shaped by various advances of representative democracy, which eventually prevailed, even for operational reasons. Direct Democracy has remained in institutes such as the Referendum and Plebiscite, used by constitutionalized state societies on special and relevant occasions.

Democratic theories, at the same time, have maintained a wide range of approaches. Apart from those that are pure normative theories, the rest do not have as their starting point the ideological debate about democracy as it had been started in the 19th century.

In the 19th and early 20th centuries, in the Western world, as noted earlier, the so-called liberal democracy model became widespread. The concept of liberal democracy became possible only when theorists-at first a few, and then most liberal theorists-found reasons to believe that 'one man, one vote' would not be risky for property, or for the continuity of societies divided into classes. The first systematic thinkers to think so were Bentham and John Mill in the early 19th century [3].

With Liberal Democracy, Democracy has been consolidated as a fundamental value, seen as the most suitable regime to meet human needs and that most respects the nature of man. Notwithstanding the undemocratic tendency of liberalism and liberal parliamentary, the theory of government and representative democracy eventually imposed itself when, in the late 19th and early 20th centuries, suffrage became practically universal.

To further emphasize this assertion, statement that "the idea of Democratic State as the supreme ideal has been consolidated, reaching a point where no system and no ruler, even when patently totalitarian admit that they are not democratic".

Contemporaneously, especially since the second postwar period, liberal democracy has undergone several modifications, giving rise to a new type of regime that calls "techno democracy". Such a regime resulted from the evolution over time of liberal democracy and is in effect to this day, and it has been improved from the proposals of digital democracy.

The first was based on economic competition and market law; the second is based on large collective management companies that plan their activities and impose their products through advertising and evolving media. The first intended a weak state that did not intervene in the economic domain; the second requires that governments ensure overall coordination of production, consumption, and exchange through different interventions and stimuli [6]. The first witnessed the confrontation of cadre parties and the second confronted mass parties, disciplining their supporters and their leaders, which they integrate in a collective action.

What defines democracy is, therefore, not just a set of institutional guarantees or the rule of the majority, but first of all respects for individual and collective projects, which combine the affirmation of personal freedom with the right of identification with a social, national or particular religious collectivity.

Despite the difficulties that this type of approach entails, some authors have tried to study democracy with a systematic logical bias. For example, in his well-known work on the constitution defined Democracy as the identity between the dominators and the dominated, between the rulers and the ruled, between the ruling and the obeying. For him, the key to democracy is the existence of identification between those who order and those who obey so that the strength or authority of those who rule or govern must be based on the will, mandate and trust of those who are governed so that they govern themselves.

Bobbio [1], starts from a minimal definition of Democracy, which, to him, is the set of rules that aim to establish who, in a given social group, is authorized to make collective decisions and through what procedures. The illustrious thinker starts from the idea that every social group is obliged to make binding decisions for all its members in order to provide for their own survival. However, these decisions must be made by individuals in the group (only one, some, many, all) and in order to be accepted as a collective decision they must be made on the basis of certain norms, with Bobbio also pointing out that they are those that set out which individuals are authorized to make binding decisions for all members of the group, and on the basis of which procedures. Bobbio [1], further adds, in analyzing the issue from the point of view of citizenship, that Democracy must also mean a regime in which all adult citizens have political rights.

The goal of Democracy is the liberation of the individual from authoritarian coercions, his/her participation in the establishment of the rules that will be obliged to observe, whereas economically and socially the benefit of Democracy is translated as the existence, within the community, of living conditions that assure each one of the safety and convenience acquired for their destiny. A democratic society is, therefore, one in which the inequalities arising from the area of economic life are excluded, in which fortune is not a source of power, in which workers are defended from oppression, in which each one can finally assert a right to obtain from society protection against the risks of life.

Other authors oppose the idea of democracy meaning the government of the majorities. For whom Democracy cannot be understood merely as the Government of the Majorities, but it must be a system of life in which political minorities are assured of the possibility of legal existence in national life. In this sense, the idea of plurality of political parties, their legal coexistence within the community, the rotation of majorities and respect for minorities must be understood. From this conception, Democracy would be a regime in which the majority could not do whatever they wanted, but rather that the majority and minority, or majorities and minorities, should coexist harmoniously within a set of laws that guarantee not only respect for minorities, understood here as co-participants in the political process, but also for the possibility of the minority becoming a majority by the decision of those represented.

When he wrote that in a democracy, the will of the community is always created through a discussion between majority and minority and the free consideration of all for and against a given regulation. Such discussion not only takes place in Parliament,

but also, and above all, in political meetings, newspapers, books, and other media of public opinion. A democracy without public opinion is a contradiction.

Moreover, the “democratic” sense of a society is very broad. There is democracy when most citizens do not have adequate access to consumer goods. Democracy would be a technique of equality and should be understood as a legal mechanism to protect the working masses. It would ultimately aim at the possibility of the existence of an economic democracy.

It can be noted from all these definitions how extremely difficult it is to formulate a single and exact definition of the term. In fact, all concepts and notions presented are correct as they portray at least one facet of the theme. And it should be noted that Democracy does not mean just a set of rules and procedures. This can be well understood when he writes that the rules of the game make up a minimal definition of democracy; a starting point. At the state level, as Bobbio has shown in several works and especially in *The Future of Democracy*, the rule of the majority has been cited as basic. But the premises of democracy in social organizations, small communities, and systemic law-though linked to this minimal definition-can certainly be combined with other criteria of collective will formation. This is the twofold challenge of the theory of law and state: On the one hand, to overcome the methodological constraints that enclose law, sovereignty, and democracy in the state space; on the other hand, build explanatory models that account for the new reality.

The notion of democracy is closely linked to that of a regime of government exercised by the people and that gives them the necessary conditions for participation. Ultimately, therefore, Democracy is a regime of government characterized by conferring the ownership of power on the people. Thus, democratic government is the one that develops forms capable of enabling the people to exercise direct or indirect power.

Currently, democracy faces a world system that is a product of transnational industrial capitalism and which integrates both preindustrial and postindustrial sectors. Then the utopia of a fairer society and a better life can only prosper with the insertion of democratic principles in capitalist practices, an idea that, being utopia, is as necessary as capitalism itself. In spite of the disappearance of the boundaries that separated political systems due to their adherence to antagonistic economic models, the problem of the relationship between Democracy and the market economy remains high. The problem lies in the possible incompatibility between the “self-determination of the state”-as a theoretical reflection, in turn, of the will of the sovereign popular majority-and the financial and economic power of large corporations.

This dialectic gains greater intensity, if considered a phenomenon known as globalization, which confirms the subordination of the Modern Constitutional State to the decisions adopted in the economic circuits that form the large multinationals and the financial markets, in which the leading role is taken by banking institutions with considerable degree of independence in regards to democratic environments.

This reality is on the agenda of the most advanced doctrine, which understands that efforts are needed to democratize capitalism and make it solidary, overcoming the idea of individual or group accumulation, to the detriment of the whole of global society. Rethinking Democracy, at this historic moment, means doing so from a pluralism that has two strands: The plurality of actors who will dispute world governance and that will break the paradigm of modern state endogeneity, and the plurality of cultures which demand that freedom is lived in the service of social inclusion and equality is lived in the service of the difference. This clearly implies going much further than the model of liberal representative democracy. Democracy theory does not necessarily have to be reinvented, but it certainly has to reorient itself. The term “rethink” should be understood as an attempt to capture and focus on the new problems of a page-turning story that begins all over again.

DISCUSSION

Even so, some of the characteristics of modern liberal democracy may be present in this new transnational environment. Democracy must also be understood as a regime in which rulers, once vested in power by the people, will exercise it according to the will of the ruled, that is, there must be reasonable harmony between rulers and the ruled, so that power is effectively exercised in the name of the people. For the existence of this harmony, the channels of participation and control in and of the Government must be permanently open to the participation of the Society, without hindering or delaying the implementation of the governmental actions claimed by the community. Having made these considerations, the part that should be emphasized is the need for effective citizen commitment to democratic decisions, forming the link between democracy and citizenship. There is no citizenship without democracy being assured, enabling the link between the individual and the state.

The importance of Citizenship for Democracy, who states that there is no citizenship without the awareness of affiliation to a political collectively, in most cases, to a nation, as well as a municipality, to a region, or even to a federal assembly, such as the one towards which the European Union appears to be advancing. Democracy rests on the responsibility of the citizens of a country.

CONCLUSION

Democracy, as theoretically conceived contemporaneously, relies on the effective political participation of the citizens of a

country. If these citizens do not feel responsible for their Government, because it exercises its power in a territory that seems hostile or strange to them, there can be no representativeness of the leaders or their free choice by the governed.

In this case, Democracy will also be compromised. More specifically, it is not possible to conceive of citizenship without a legal order that protects it. This order is usually expressed in three basic strands: Civil rights, political rights and social rights. However, in this article we wanted to focus on citizenship as political participation and, therefore, one should consider citizenship as a public dimension of man's participation in the social and political life of the state. Despite this, the aspects that concern cultural, socio-political and historical elements that present themselves with this condition of social being cannot be neglected.

Very often, citizenship is seen as an expression of the political regime, in which the citizen is allowed to participate in the government process, especially through voting. As in the Contemporary State it is not possible to restrict citizenship to the voter citizen. It should be understood that the term means the political participation of the citizen, in its various forms, to achieve the purposes proposed by the Democratic Rule of Law in its version adapted to the characteristics of the connected world society. It is precisely at this point that citizenship assumes a fundamental role for democracy, when it is linked to the citizen's capacity for political participation.

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