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Demokracja w społeczeństwie obywatelskim: analiza modelu państwa

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DEMOKRACJA W SPOŁECZEŃSTWIE OBYWATELSKIM: ANALIZA MODELU PAŃSTWA

Streszczenie: W artykule poddano analizie kwestię sprzyjania demokracji dla rozwoju sfery obywatelskiej, istnienie rozmaitych modeli rozwoju demokratycznego, typów demokracji, konieczność stworzenia uniwersalnego (idealnego) modelu społeczeństwa obywatelskiego.

Słowa kluczowe: demokracja, społeczeństwo obywatelskie, wolność, partie polityczne, samorząd miejscowy

The individual way a person's existence is traditionally associated with organizational and ideological pluralism, i.e. with the recognition of democracy's value. The use of the term "democracy" always causes fierce disputes, as democracy, along with freedom, law and justice can be treated only as a certain principle that provides for the variety of institutions, which ensure the interaction and consistency of interests without losing their independence and fundamental equality.

In some existing theoretical approaches the term "democracy" correlates with the term "civil society", when civil society is identified with the notion of "democratic society". This interpretation of the notion of "civil society" limits its use only to refer to the sphere of social structures operating within the democratic society. Thus, civil society is no longer a phenomenon that is observed even in non-democratic, transitory societies, and it no longer reflects a dynamic communication process between the state and the citizen.

Democracy contributes to the development of the civil sphere but it is also an aspiration of the civil society in the course of its historical development. Its establishment, however, reveals some deep contradictions in the principles of its very existence as well as in the principles of the citizen's existence within it. Researchers distinguish various models of democratic development and types of democracy. The most common division goes along identity and competition theories of democracy. Principles of a classical "identity" democracy include

- identity of rulers and subjects;
- plebiscite (universal participation in the political life through vote, referendum);
- imperative mandate of deputies;
- disregard of the interests of a part of the society in the name of the unity of the people's will.

This form of democracy with its roots going back to the Ancient Greece was based on the principle of direct participation and personal interest of citizens in the creation of the common good for everyone.

This model, however, has a number of serious flaws that were described even by the ancient philosophers who pointed to the possibility of the tyranny of the people, ochlocracy, the rule of the poor. "Identity" democracy completely rejected any conflict of private or group interests with the so called "will of the people". It conditioned the need to first of all ensure at all costs the uniformity of all the people's opinions and then quell the conflicting interests in the name of the national totality. That is the origin for the notion of "totalitarian democracy".

The economist Joseph Schumpeter in his book *Capitalism, Socialism and Democracy* criticized the classical theory of democracy with its demagogical emphasis on the decisive role of the people in taking the most important political decisions. He wrote: "Democracy means only that the people have the opportunity of accepting or refusing the men who are to rule them" [Шымпер 2003, 372]. Thus, the role of the people in this case is reduced to

forming representative governmental bodies by voting, and politicians compete with one another to secure more votes. This is a competition model of democracy, also known as representative democracy.

"...Human society is always...aristocratic by its very essence, to the extreme that it is a society in the measure that it is aristocratic, and ceases to be such when it ceases to be aristocratic", this is a quote from, José Ortega y Gasset's *Revolt* [Optera 1999, 140]. This opinion was shared by many prominent political thinkers, including Vilfredo Pareto, Gaetano Mosca, Arthur Bentley, Max Weber, Karl Popper and Robert Michels, who formulated "the iron law of oligarchy".

Following the pattern of this law English historian Edward Carr wrote: "In every social relationship nature itself creates dominance and dependence. Thus, every organization of people is a powerful oligarchy on the legs of democracy. Everywhere there are voters and those who they elect. Everywhere there is power of the elected leaders over the masses that elect them. The oligarchic structure of the building conceals its democratic foundation" [Kapp 2009, 158]. From this perspective democracy means, as Eckhard Jesse puts it, "not the power of the people, but the power with the people's consent" [Джесси 1996, 42].

The competition theory of democracy is oriented on the Anglo-Saxon legal system. Under "competitive" democracy the rules of the political game require the search for the compromise of interests. This theory brings about liberal democracy with its "elitist" pluralism, and as everything is dominated by individual interests, this theory provides the justification for real pragmatism (utilitarianism) and absence of any civil values. Modern social technologies allow the citizen not only to refrain from taking a direct part in the political process of government and "enjoy being free from politics" with the help of representative democracy, they, through mass media, also dictate "what to think about", thus, effectively blocking any personal opinion. This model features developed technologies for manipulating voters but not with their "religious or civil sense of duty", as in "identity" democracy, but with utilitarian needs.

Democracy as a means and form of government is not a salient feature of liberal ideology, but they both combine with each other as two equivalent

ideas that nowadays coexist in a way that one cannot be imagined without the other. It means that a one-sided individualism cannot be treated as a precondition of a democratic ideology, as only a combination of individualism and universalism makes it possible to reconcile the personal and the common on the legal ground.

The character of interrelationships among freedom, law and democracy was studied by a famous French sociologist of the previous century and a Russian immigrant Georges Gurvitch (1894-1965), who in his article *The future of democracy* (1927) wrote: "In modern times the democratic idea crystallized through the merger of the three trends of ideas that originated and functioned separately from one another; each of them independently and in isolation from the others failed to produce the democratic ideology that came into being only as the result of synthesis, which established a dynamic equilibrium among the three elements that complement and interchange one another" [Гурвич 2006, 35].

The three elements that create the democratic ideology include: a) the idea of the rule of people or the popular sovereignty; b) the idea of equality; c) the idea of personal freedom. Thus, Gurvitch defined democracy as a complex synthesis with a dynamic equilibrium between the ideas of freedom (the idea of freedom refers solely to the individualistic principle) and equality (the idea of equality as a function of the Whole). As in each of the following epochs the building elements of democracy got more complex, the form of the equilibrium between them also changed.

Gurvitch also emphasized on the organic interconnection between the idea of democracy and the idea of law, as it is the law where the problem of the equality of many individual "I's" within the "moral and social Whole" can be reflected, i.e. the problem of synthesis between individualism and universalism. "Both the democracy and the law are the two sides of the same phenomenon.

There is no democracy outside the law. If the law has future, then the democracy has it as well. If the democracy were doomed to fail, it would mean a severe blow to the idea of the law, a significant degradation of the influence of the law on the social life giving way to lower elements".

Only the mediation of the legal freedom allows to develop individual freedom. It means that legal freedom promotes the establishment of the diverse civil, group organizations and associations that promote participation and effective protection of the same person providing the opportunity to develop his or her multifacet and original character as well as own individuality. This is the way the personal freedom is exercised just like the way the future of the democracy is formed.

And, finally, Gurvitch makes an important conclusion: democracy is not just a political principle of organization, it can be applied everywhere where there are associations of people. In addition, the continuous development of democracy makes the balance between the state and the society, which was upset in the modern time, recover in favor of the society. To the question of what the future of democracy can be, the possible answer that comes to mind is the following: the future of democracy is in its multidimensional and universal character, its integration into all modern areas of human relations, its proliferation beyond just a political organization. Democracy is an organizational means for a mature society so the interaction of the civil society with the state can be arranged only with the democratic foundation when the state recognizes the rule of law.

When interpreting democratic reforms that took place in the societies during the 1990s democracy in the social and political practices is often identified with liberalism. Democracy, however, cannot be treated just as the result from the introduction of postulates of only one of the ideological trends. Democracy is a synthesis of achievements in conservatism, social democratism, Marxism and other trends. Liberal and individual values orientation makes democracy one-sided, as the nation "is not a preset average for the multitude of every single individual or atomistically interpreted individuals; it is rather a natural totality of the majority of social, cultural, ethnic, religious, civil and other communities" without which "democracy as a power of the majority cannot be imagined".

Historical experience quite convincingly shows that the progress in the formation of the civil society is conditioned by the deliberate search for and arrival at a compromise between all the conflicting powers, a compromise be-

tween the principles of individualism and universalism. The path to this compromise is inherent in the society's ideas of the highest values of its collective existence. Some societies go along the path of observing the principles of "identity" democracy, while others follow the principles of "competitive" democracy. The society is "civil" to the extent its social relationships correspond to the requirement of natural and historical process, thus, creating conditions for meeting the needs and interests of a particular individual.

The presence of the civil society can be observed with the "civil society" content parameters that are researched, namely, the idea of freedom, the idea of law, the idea of democracy that always form a unity aimed at promoting the development of the civil society. The character of their correlation as well as the sense load creates the peculiarity of a particular civil society. The need to visualize the structure of the civil society conditions the necessity of creating a universal (ideal) model of the civil society.

The ideal type of the civil society (a universal model) is much more substantial than the existing phenomena. This modern universal ideal model of the civil society provides for a high level of citizens' involvement in politics. Both the state and the civil society are deeply interpenetrated.

The present time is characterized by the fashionable and advanced idea of the social state; this idea in its general formula has been formulated in a series of modern constitutions (in Germany, Spain, Turkey, Russia, Ukraine and others) [Карась 2003, 19]. The idea of the social state is first of all the idea of the enhanced role of the state in dealing with social issues and is primarily connected with the spread of public and authority government.

Some modern researchers believe that the concept of the social state can be more adequately described by the category of "social service" that allows to analyze the state in the context of the developed legal civil society as a state of social service. It provides the ground to implement the idea, developed in some modern theories, – the idea of integrating the state into the system of civil society institutions and putting into effect the aspiration for social solidarity within the state.

The civil society influences the decision-making by the authorities through a system of institutions and organizational structures that is present in every society. Institutions are the forms of expressing the public opinion,

which, as Ludwig Woltman stated it, "at all the stages of political organization, from the horde to the republic of a civilized nation, plays a crucial part, as it performs the simplest kind of political decisions.

Families, which think differently, individuals, social groups express their economic and moral needs in political parties and influence the internal political development of the state" [Вольтман 2000, 87]. That is why it doesn't seem justified to exclude political associations, such as parties, from the civil society.

Already in the 18th century David Hume wrote that under every government system there is fight between the power and freedom, and neither can defeat the other in this fight. Individual freedom creates the foundation for many parties that divide the nation into warring camps, and all that can undermine stability and threaten freedom itself.

David Hume distinguished factions into those that are founded on the personal friendship or animosity with the members of rival parties, and factions that are founded on the real dissent of opinions and interests. Real factions are founded on the interest, on principle or affection. "Factions founded on interest are the most reasonable, and the most excusable, because they are always specific and predictable in their operation" [Юм 1996, 218].

Alexis de Tocqueville thought that parties and civil organizations were a "necessary evil" inherent in the free forms of government. He styled great the political parties that "cling to general, and not to especial cases; to ideas, and not to men, and believed that those parties had a noble cause. While minor parties and organizations in his opinion were bearers of "egoism" ideology, as "their language is vehement, but their conduct is timid and irresolute; they only agitate, tear and disturb the society" [Токвиль 1999, 234].

Political parties are an important institution of the modern civil society, as they unite people of the same political trend to mobilize the ideas on a number of matters and to participate in governmental bodies, or to persuade the government to fulfill these ideas. Under Article 2 of the Law of Ukraine "About Political Parties in Ukraine" of October 16, 2012, "A political party shall be understood as a legally registered voluntary association of citizens adhering to a certain national social development programme, aimed at assisting in

the formation and expression of citizens' political will, participating in elections and other political events.

In addition political parties also stimulate active participation of citizens in politics, influence the political activity of the parliament and the government, promote the exercise of the citizens' rights, maintain the constant contact between the state and the society" [Закон України 2012].

Social associations with latent political power represent another structural component of the civil society that is revealed in politics. They include voluntary non-profit social associations, trade unions, linguistic societies, minorities of immigrants, youth and feminist movements, new alternative movements, corporate associations, political clubs and associations, pressure groups. The components of the civil society also include "interest groups", "stakeholder groups", "organized groups", social movements.

The difference between them may be too introspective, but that is what generates the interest in them. So "pressure groups" are the groups that try to achieve their goal by influencing the government rather than nominating candidates for elections and assuming any responsibility for the government's actions; "interest groups" are usually trade associations like "Privatized Enterprises Association" or "Industrialists and Entrepreneurs Union"; "organized groups" are groups that are created for political purposes, but they do not include state bodies or party groups; "stakeholder groups" are associations that are connected with the decision-making by the government; "social movements" are the mechanisms of voicing the public opinion; "protest organizations" are forms of social organization; "protest action" is defined as a form of social activity; "ad hoc political force" is a form of clientela, that is formed to support a particular person – a leader.

Catherine Fitzpatrick states that the structure of the civil society in the USA comprises numerous human rights groups: these are solidarity groups (support), and promotion groups (lobby), monitoring groups (oversight), research groups [Фицпатрик 2002, 196]. These groups use the following motto in their operations: "Think globally, act locally", and they play a role of a buffer zone between the society and the government, the state and the citizen. In addition they serve as a reminder to Congressmen about the duty of protecting their voters' rights.

As the person is the main element of the civil society, its structure is composed of all the social institutions whose mission is to promote the realization of the person's interests and needs.

Thus, the local self-government system as an institution is present in every society, and it aims to share the responsibilities and powers with the state government structures. According to modern researcher Mark Orzykh, this institution is the most important structural element of the civil society that contributes to the implementation of the very concept of the "civil society". Modern local self-government systems realize the social choice between the ascribed duties and the free preference, between the civic duty and personal rights, between the needs of the collective good and the values of the individual good. The existence of self-government institutions determines the character of the civil society and the state correlation [Карась 2003, 18].

For the past 200 years the right to local self-government has been constitutionally recognized in most of the states. Many forms of local self-government can be traced back to the times of principalities, duchies, counties, self-governed cities (Magdeburg Rights), dioceses. The term "self-government" was introduced into legal science in 1850 by a Prussian lawyer Heinrich Rudolf Gneist referring to British municipal bodies.

Historically British local self-government bodies emerged on the basis of associations that helped the poor. They duplicated the functions of health care institutions that later turned into local city, town and village district councils and replaced health care districts according to the structure of municipal corporations (the then name of cities) [Папхоменко 1999, 189].

An important role in the self-government theory development was played by Alexis de Tocqueville's idea. He claimed that the importance of the American experience in state development lies in the way the state was formed – it was a bottom-up process that started with the self-governed religious communities.

The origins of self-government in the social life of the Rus can be traced back to ancient times. Even in "Ruska Pravda" a *verv* (neighborhood) is treated as a legally responsible community with administrative and court autonomy. A community was recognized by the Prince administration as a self-governed

ancient form of social association and was introduced into the system of the state administrative government.

The pre-revolutionary Russian political thought tried to develop an optimal model of zemstvo (elective district council in pre-revolutionary Russia) self-government system of the Russian State and suggested a great number of local self-government theories. The "free cornfield theory" ("free ploughed land theory"): 1) the community matters differ from the state matters; 2) the community is a subject with its own inherent rights and the interference of the state in its affairs shall not be permitted; 3) self-government officials are community and not state officials. Thus, the community bodies created a sort of "a state within a state", a system of parallel authority that today would be called a civil society sphere.

The idea of the state's non-interference in the community affairs was developed in the "social and economic theory" that referred to self-government as the management of the community's own affairs by the community itself. As these affairs are usually economic by nature, that provided for the minimum governmental supervision.

In 1864 was the year when Russian zemstvos were established. Zemstvo institutions were legally recognized as not governmental but community establishments that are aimed at achieving a specific local economic goal. Prince Aleksandr Vasilchikov is considered to be a developer of this reform. He believed that "self-government is a state of internal government under which local affairs and positions are managed and filled by local residents – zemstvo inhabitants". Among the local self-government bodies Vasilchikov distinguished two categories – "public unions" (village communities, volosts (small districts), city/town councils, Municipal Dumas (councils)) and "territorial and administrative districts" (zemstvo establishments).

Boris Chicherin was another strong supporter of "public self-government theory" but he had some disagreements with prince Vasilchikov. He emphasized that "there are two elements that are combined in the state government organization and they are state and public elements". From German researchers he borrows the idea of a community as a "corporate union that preceded the state".

In his fundamental work *On Popular Representation* Chicherin suggests an idea of "institution states" (like Russia) and "corporation states" (like the USA, Great Britain and others). He says that "the traditional lack of Russian people's independent action should be balanced by proactive government" [Чичерин 2005, 361]. Thus, Chicherin believed that self-government bodies should perform the functions of the state government, at the same time they are not state governmental bodies.

A different perspective on this issue is reflected in the "state theory" that was first formulated in Germany by Lorenz von Stein and Heinrich Rudolf Gneist, and in Russia by a publicist Aleksey Golovachev. This theory reserved all public management to the state's domain, while the main task of self-government was not in separating from the state but in serving its interests.

The idea of zemstvo establishments as "state institutions" was advocated by academician Vladimir Bezobrazov. He stated that zemstvo establishments had a lot of freedom but no powers, and that made them powerless. On the problem of self-government he remarked the following:

"Real self-government bodies that emerged on the social foundation under the influence of public needs do not cease to be state institutions, that is why they have to be included into the overall government system as its integral links". In the late 19th century theoretical aspects of self-government were developed in the works by Professor Aleksandr Gradovskiy who was the first Russian scholar to establish a clear division between "decentralization" and "self-government" with the salient feature of "political equality and existing solidarity of the society".

He also supported the state theory of self-government claiming that "the state is a power, which does not exist on its own, and operates through the society and for the society" [Гаджиев 1991, 29]. And another theory that should be mentioned in this context is "political theory of self-government". Its main idea lies in contrasting zemstvo (i.e. civil foundations) with oprichnina (period of arbitrary rule of Tsar Ivan the Terrible) (i.e. government and bureaucratic foundations, the officialdom).

In Russia the state theory of self-government prevailed over the public theory. It influenced the development of zemstvo reform in 1890, which strengthened the state control over the zemstvo system. But the recognition

of local self-government bodies by self-governing associations as legal persons created the basis for further development of local self-government theory. But after the Bolsheviks disbanded the All-Russian Constituent Assembly on the 5th of January 1918 they issued a decree that liquidated all self-governing bodies. Now the state itself was proclaimed to be a representative of the whole society.

Modern general scientific principles underscore that social system stability requires self-regulation of its operation. The spontaneity of processes in the society is balanced by the social institute which is the state. However, the state structures' advance planning cannot replace the creative and reproductive element (citizens' voluntary activity).

On the whole the presence of local non-profit voluntary associations is an indicator of the "civil society" efficiency and activity. They are seen as the most capable entities to solve important social problems as their operation motto is "self-help" and "pluralism in social provision", and that is why they often act as an auxiliary or even an alternative to traditional state protection. From the vertical perspective they interact with two spheres: with the "bottom", i.e. active members who make up these organizations, and the "top", i.e. institutional environment where they act as associations among other associations.

The environment of these organizations, however, does not create any rigid boundaries with the state, market and civil "sectors", it does not create its own separate "third sector", because this environment is also open to the influence from neighboring sectors. That is why it constitutes a peculiar combination of state, local, market, social and other elements in specific "proportions" that depend on historical and social development conditions.

Thus, they can be, on the one hand, politically active subjects, as they want to support and represent the interests of their members on the political scene. On the other hand, they also act as providers of social services, and sometimes may have the role of a social club at the local level where various forms of social life are encouraged and supported.

The specific character of voluntary civil organizations and other civil society structures in various social systems corresponds to the principle of the

unique character of political, cultural, social and historical factors of their formation. In general this specific character can be revealed already at the level of legal families typology.

So, the Anglo-Saxon type of civil associations is characterized by an extensive network of voluntary civil associations with production, human rights protection and communicative functions. They also account for a huge share of social work at the local level. The second type is called Scandinavian. Here civil associations generally specialize in expressing the interests of social groups as well as lobbying.

The provision of social services and social protection are the responsibilities of the state that has to "deserve" the right to be called "social". The third type – Romano-Germanic or Continental European – is characterized by the will of the largest and most influential civil associations of all periods to create a corporate partnership with the state, and it would allow them to enjoy a privileged status among other less influential associations. The religious and legal type is characterized by a wide range of civil associations that originally combine commercial and market needs with the mutual exchange relations within a clear group affiliation, it allows them to retain a special status and maintain a certain distance from the state apparatus. Thus, even the most general overview of the problem of civil society's structural peculiarities shows the necessity for further research into the social and cultural context, i.e. the rules, practices and styles of decision-making, cultural guidelines, which substantially influences the character and functions of certain civil society structures' operation.

The definition of the modern civil society model shows that the more "universal" such a definition of the civil society seems, the more structural elements it will have, the elements that will not correspond to the specific forms of certain societies' existence at any stage. There is no rule that would establish a clear ratio of these elements to qualify a certain society as a "civil society" and deny another society this privilege. It is quite possible to suggest that a certain "ideal" level of unity and coordination of the abovementioned components may indicate a level "civil society's" maturity, at the same time we have to bear in mind that the maturity as such may mean the final stage in the civil society's development in its old capacity.

The ideal civil society as a reproduction of an artificial model is a completely different type of social existence. In the foundation of the civil society phenomenon there lies a practical need for and expediency of the self-preservation of the stable society capable of self-reproduction; where the operation of internal organization mechanisms is adequate to personal interests of its members. Since its emergence the society has been improving the system of joint relationships and institutions that promote the protection of the individual. Legal systems, the ideas of freedom, equality, solidarity even today continue to determine social and cultural peculiarities.

The state and the civil society coexist in an indivisible space, they constitute the two means of public life organization. Being interdependent they are not identical. The state reflects the public opinion, it is always a result of a victory of certain social powers and their values. So it is evident that upon winning a certain social power, that used to represent a civil opposition, now wants to create its own government system, i.e. to take the helm of state. The new state will form a new public opinion, i.e. a new civil opposition, which may later use the power of the public opinion, the power of civil disobedience to develop the state. The history has been developing along these very lines. The ideal model can be implemented only for a short period of time after the civil power with the citizens' recognition and support becomes the state power. It is this period that may account for the highest positive citizens' activity.

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DEMOCRACY IN CIVIL SOCIETY: ANALYSIS OF STATE INSTITUTIONS MODEL

Abstrakt. The article analyses the issue of promoting democracy in order to develop the civic sphere, favouring various models of democratic development, types of democracy as well as the necessity to create a universal (ideal) model of a civic society.

Key words: democracy, civic society, freedom, political parties, local self-government

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