



Representative Democracy - its Meaning and Basic Principles

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Abstract: The notion of representative democracy and its deconstruction is quite difficult and very complex. It has an ancient genesis of its appearance and development which dates back to Hellenic civilization, while its evolution resulted with the overthrow of the absolutist power of monarchies and the beginning of the election of the first representative bodies by the people's vote. Consequently, the division of state power into three levels is unfolded as: the representative-legislative power, led by the representatives elected by the people; executive power, led by the monarch and government and judicial power, led by the courts. This separation of powers system has paved the way for its development and consolidation and is implemented by its theological principles: Equality of all citizens before the law; The legitimacy of state power; Fulfillment of popular sovereignty; Participation in public life; Majority rule and minority rights; Protection and respect for human rights; Political pluralism; Free and fair elections; Separation and restriction of power. This paper discusses the contemporary challenges of the manifestation of representative democracy using intertwined scientific methods such as: analytical, comparative, historical and qualitative method.

Keywords: Democracy; power; sovereignty; political pluralism; human equality

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1. Introduction

Representative democracy is a form of governance in which the people exercise their right to make political decisions through their elected representatives. In this way, the people elect their representatives to the representative bodies. The very essence of representative democracy lies in the fact that the will of the people is fulfilled through representative bodies directly elected by the citizens themselves. The highest state body, elected by the people, is accountable to the people and is obliged to act in accordance with the interests of the latter (Berisha, 2011, p. 39).

Historically, representative democracy has gone through stages of its development, which were neither easy nor quick. With the creation of large nation-states whereby it could not be governed through forms of direct democracy, representation became a necessity, without any alternative. John Stuart Mill as a proponent of representative democracy focused mainly on how to ensure efficient government and respect for personal rights and freedoms, whereas the Frenchman Charles Louis de Montesquieu created ideas on democracies, which are still characteristic of modern democracies. Montesquieu spread the idea of a representative democracy, whereby the people would elect their own representatives to make decisions and promulgate laws.

Representative democracy has become indispensable for democracies, whereby citizens find it easier to make decisions. Thus, Montesquieu spread the idea of power sharing as well, whereby the separation of powers meant that the legislature (parliament), the executive branch (government) and the judiciary (the courts) must be completely separated and have the power to control each other (IDEA, 2004, p. 26). The very essence of representative democracy consists in the fulfillment of the will of the majority of citizens, through institutions and representative bodies directly elected by the people. The sovereignty and governance of the people is not directly exercised by the people but through the representative bodies elected by the people and empowered by the mandate to govern the state (Bajrami, 2005, p. 39).

Representative democracy is fulfilled by three basic institutions:

1. Electorate;
2. The representative body;
3. The center of political decision-making.

The electorate is the bearer of sovereign power, as this power cannot be exercised directly, and it elects its representatives who constitute the representative body-parliament. This representative body from the electoral body is charged with the mandate and responsibility of governing the state within a certain period of time. The role of the electorate in the system of parliamentary democracy is twofold: it elects the representative bodies, empowering them with the mandate and responsibility for governing the state, and exercises political control over their work through elections (Bajrami, 2005, p. 40).

So, the people delegate to them:

1. The power to issue normative acts,
2. The right to design governing policies (EMA, 2009, page 10).

Modern democracies are defined and implemented through representation and they are essentially the state government representation systems, which are conducted by authorized persons. Through authorized procedures, the democratic ideal seeks to maximize the extent to which governance will be representative of citizens (Latifi, 2009, p. 27) and will respond to their demands and interests as well.

For the purpose of drafting the paper “Representative democracy, its meaning and basic principles” intertwined research methods are being used. Namely, following research methods are used: historical, comparative, statistical, qualitative, analysis and synthesis as well. To decipher the notion of representative democracy, historical method has been used in order to distinguish the present and development of representative democracy throughout different periods of time. To deconstruct the notion of democracy throughout different contexts, the comparative method has been applied in order to assess its development across different countries with different qualities and dimensions of development. The principles of representative democracy have not been developed in a tangible way. They have developed in different countries, through different stages, until the standardization of the principles of contemporary representative democracy.

From the other side, qualitative method of research ensured valuable data on the development level of representative democracy and rule of law as well. The literature and methodology used in this paper is of a mixed character. The opinion of various well-known authors who have contributed to the theory of democracy has been analyzed. University textbooks, scientific articles, various legal acts which regulate the status of state institutions have been used as well.

2. Basic Principles of Representative Democracy

Nearly two-thirds of the states are said to have a democratic state system. This is more of a wish and a claim than a reality. In the first place, it is the desire of people around the world to equate it with prosperity, but also the claim of the leaders of the states to increase their political capital or their democratic credentials (Bufi, 2010, p. 79). They are a prerequisite for establishing a democratic system, but true democracy is more than just electoral arithmetic. In the history of mankind there are cases of dictators and tyrants, who have been elected regularly by the electorate, but in fact have implemented non-democratic and dictatorial systems, e.g. Hitler in Germany, Fujimori in Peru, Aristides in Haiti, Milosevic in Serbia, Lukashenko in Belarus, etc. (Latifi, 2009, p. 28). On the other hand, in 2002 a UN report stated that out of 200 countries in the world, only 82 states could be called fully democratic (Bufi, 2010, p. 79).

However, it is difficult to determine in numbers how many states are building a democratic system and how many others are on the path to democracy, because democracy is a political notion that is constantly in process. Democratic regulation is reinforced at the moment when important political and social forces accept democratic processes (Donatella, 2006, p. 67) whether positive or oppositional.

Representative democracy is based on many complex principles, whereby the most important one are:

- Equality of all citizens before the law;
- The legitimacy of state power;
- Fulfillment of popular sovereignty;
- Participation in public life;
- Majority rule and minority rights;
- Protection and respect for human rights;
- Political pluralism;
- Free and fair elections;
- Separation and restriction of power.

2.1. Equality of All Citizens before the Law

Equality means that all citizens are equal before the law. It's also sanctioned by international normative acts that exceed state standards and oblige states to adhere to them. These acts sanction norms through which no one can be unjustly discriminated against on the basis of gender, race, religion, political beliefs or any other form of discrimination (OHCHR, Universal Declaration of Human Rights, Main 2021). Equality before the law and the principle of non-discrimination is an essential feature of the concept of the rule of law. The formal equality of people before the law, in practice, represents an international standard, which must be realized not only by legal definitions, but also by legal mechanisms and institutions, by which citizens are everywhere protected from arbitrariness (Bajrami, 2005, p. 56). States through constitutional and legal acts integrates these international standards which become an integral part of the state legislation and have binding character too. All people, always have the right, without outside interference, to decide in full freedom, when and how they wish to decide on their domestic and foreign political status (Goodwin –Gill, 1994, p. 25) for their individual and collective rights and through political pluralism to build the rule of law.

2.2. The legitimacy of power

The legitimacy of power is a fundamental aspect of the democratic state to which the attributes of a democratic state are connected, in one way or another. Legitimacy stems from the people and the law. The people legitimize their power, their institutions and their leaders, giving them the mandate to govern by their vote (the verdict of the people). Meanwhile, the elected bodies through fair and free elections must function democratically and provide institutional mechanisms for the fulfillment of the general social interests (Bufi, 2010, p. 84).

For a government to have the right to establish institutions and enact laws for a population, it must enjoy legitimacy not only sociologically but also normatively, that is, to meet the conditions or norms relating to the quality of institutions and content of the laws, and that the discussion on them be impartial and open. Legitimacy is a precondition for the democratic functioning of the state and an instrument that ensures the political credibility of state institutions. The legitimacy of democratic institutions stems from the people, or more precisely from the electorate. After the end of the term of the legislature, regular parliamentary

elections are held in accordance with the constitution and other legal acts. Legislation usually ends with the end of the term, as defined by applicable legal acts (Haxhiu & Meha, 2019).

It is vital to consider that state institutions cannot be illegitimated due to the dissatisfaction of some groups or any political party. Instead, modalities need to be found on how to overcome potential difficulties and look at the possibility of filling in the gaps by bringing new alternatives. This will contribute more to the empowerment of state institutions which will enable the fulfillment of the highest quality criteria for the credibility of the legitimacy of state power. The high level of abstention in Kosovo's independent parliamentary elections speaks to a drop-in voter confidence in leaders and institutions and a crisis of legitimacy in which the new regime finds itself. In Kosovo context, citizen continues abstaining from the right to vote and express their distrust in the sincerity of politicians who are running for public office. One thing is for sure: when big parties are unable to mobilize the majority of voters, while small parties and civic initiatives cannot get enough confidence to compete with big parties, then the legitimacy of the entire political elite is in risk (Haxhiu, 2014). This is happening on the political scene in Kosovo, where for almost two decades due to the legitimacy crisis, the electorate from 2001-2019 has abstained about 100% to participate in the elections. So, out of 79.9% of voters who took part in the 2001 elections, in 2019 only about 41% of them participated in elections (KQZ, 2019).

2.3. Fulfillment of Popular Sovereignty

Popular sovereignty means the fulfillment of the political will of the people through the concept of majority rule. It's carried out directly by the citizens or through representative bodies, directly elected by the citizens. The concept of majority rule does not mean oppressing the minority and ignoring its role in political life (Bufi, 2010, p. 82).

Democracy, as a governing system of the people, supports its legitimacy on the principle of popular sovereignty exercised through the forms of representative democracy (elections) and guaranteed through formal freedoms of belief, expression and organization, so that the election result truly reflects the will of the people. The electorate, in the sense of the theory of popular sovereignty, is the bearer of sovereign power. Since the sovereign cannot exercise this power directly, he elects his representatives, who together constitute the representative body, the

parliament. After the expiration of the deadline, or before its completion, in case of early elections, the electoral body re-elects the representative body. In fact, the American political scientist Anthony Downs in his well-known work "Economic Theories of Democracy" from 1957, stressed that democracy in a way is like the market where voters are consumers, while parties are the business enterprises that should make the best offers for voters, so there is competition between the parties (Baliqi, 2017, p. 101).

The role of the electorate, in representative democracy, is twofold: Initially, it elects representative bodies, charging them with a mandate and responsibility for governing the state; and in addition, it exercises political control over their work through elections (Bufi, 2010, p. 89). The people may exercise these rights at any time, in accordance with the constitution and other applicable legal acts.

2.4. Participation in Public Life

Participation is a prerequisite for building a democratic system. Democracy works best when we have an active civic commitment to participate in public life and improve living conditions. The right to participate is at the heart of human rights and is the foundation of the principles, visions and values of objective democracy. Political engagement provides valuable knowledge and experience, that is, some kind of political socialization (Tranoy, 2006, p. 20). The issue of participation is usually seen from two aspects: from the aspect of the percentage of citizens as a voting body in an electoral or decision-making process; as well as from the aspect of non-inclusion of all segments of the citizens in the democratic processes, mainly in voting. Low turnout of the citizen always means undermining the democracy. How democratic are liberal political systems, where the president or government is elected by just over half of the population using their vote? This means that despite its majority, it is supported by a minority of the electorate (Latifi, 2009).

If 50% of the electorate has participated in the presidential election, while the winning candidate has received 50% +1 vote, which means that the president has been elected with 25% +1 vote of the general electorate, then does it make sense for us to believe that the president represents the will of the majority of a country's electorate? Legally yes, but morally not. Therefore, a certain number of states, by legal acts, have entrenched that it cannot be considered that the elections have been successful, if less than half of the registered voters have participated in them. Only

the participation of the majority of voters in elections by absolute majority legitimizes its representatives to legitimately exercise representative power.

2.5. Majority Rule and Minority Rights

Representative democracy and constitutionality by this principle mean the protection of the individual or a group of individuals from the arbitrary rule of the majority. According to Sartori: “the people who decide according to the absolute majority criteria are in most cases, a body that represents the people and that reflects as a majority that elects them”. However, it is true that the people calculated according to the absolute majority criterion are divided into a majority that wins everything and a minority that loses everything, which should not be allowed (Giovani, 1998, p. 16).

The sure evidence to judge whether a country is really free is the quality of security enjoyed by minorities. In democracies, the opposition is a body of the people’s sovereignty, as vital as the government. To suppress the opposition means to suppress the sovereignty of the people. Democracy, in addition to the will of the majority, must also create political space for the political articulation of the minority and include it in political life. In parliamentary life, the concept of majority government is realized in such a way that the political party that has won, it is elected to parliament, takes the mandate for governance and implements its political program. Meanwhile, parties representing the minority in parliament remain in opposition and present themselves in the role of controlling and criticizing the majority government. Only correct relations between the majority and the opposition, and the respect with their mutual cooperation, facilitate the development of democratic relations in society (Giovani, 1998, p. 17). These relations in society can only be achieved by respecting political pluralism and the rule of law.

2.6. Protection and Respect for Human Rights

The protection and monitoring of human rights underlie the functioning of the rule of law. Every person should enjoy all human rights and freedoms, without any restrictions as to race, color, gender, language, religion, political or other opinion, national or social origin, property, birth or other. No distinction shall be made on the basis of the political, legal or international status of the State or country to

which each person belongs, whether the State or the country is independent, protectorate or under any other restrictive conditions of sovereignty (Universal Declaration of Human Rights 1948, Article 2).

A democratic state has a duty to ensure and respect, protect and fulfill all human rights in order to create the safest possible conditions for its citizens (EMA, 2009, page 11). Securing and guaranteeing human rights is considered another attribute of democracy. Citizens' freedoms and rights are increasingly being treated as universal international categories. In democratic states, it is not only the role of civil liberties and rights that matters, but also the institutionalization of their protection. To ensure the active role of the citizen within society, political rights and freedoms are of particular importance, such as: freedom of thought, freedom of political association, freedom of speech and information, etc. The concept that all people are born equal and free in terms of their rights and dignity is at the heart of the functioning of a democratic community. The democratic state has a duty to ensure, protect and fulfill all human rights in order to ensure that all its citizens can live free from fear and address their demands (Latifi, 2009).

The development of democratic elections and, henceforth, the very existence of democracy is impossible without respect for human rights, especially freedom of expression and the press, freedom of assembly and association for political purposes, including the creation of political parties. Respect for these freedoms is especially vital during election campaigns. Restrictions on these fundamental rights must comply with the European Convention on Human Rights and in general, with the request that they should be based on law, in compliance with general interest and respect the principle of proportionality (Venice Commission, CDL-AD, 2002, Strasbourg, p. 26). There are quite some countries, nowadays, that have legal restrictions on freedom of speech. This fact, if interpreted in a restrictive way, may be acceptable but may lead to abuses in countries without a liberal and democratic tradition. For example, European standards are violated by an electoral law, which allows insulting or humiliating statements against officials or other candidates. According to these standards, the circulation of defamatory information about candidates during the election campaign is considered a criminal offense and the candidates are considered responsible for some criminal offenses committed by their supporters (Venice Commission, CDL-AD, 2002, Strasbourg). This, in a way, disciplines the competing candidates during the election campaigns, to be restrained during the expression of the public speech, which is in the function of respecting human rights.

2.7. Political Pluralism

Political pluralism consists in the existence of a plurality of political forces through which each individual finds the space to freely express his political convictions and ideas. Political pluralism means the diversity of political parties, coalitions, values, alternatives and ideologies that dominate the country's political spectrum and give voters the opportunity to choose (EMA, 2009, p. 10). Pluralism, according to the concept of Western democracies, is the form of regulation of their societies. This is about a large number of politically, economically, religiously, ethnic and other interest groups, freely formed, which are in competition with each other and try to gain political and social influence. Political pluralism means the free possibility of political parties to act as fundamental subjects of parliamentary life. It affirms the free expression of different political attitudes, alternatives and options, their confrontation and competition. Although there is a reciprocal interaction between political pluralism and democracy, there is no sign of equality between them (Haxhiu, 2014).

It cannot be said that political pluralism automatically produces democracy and the development of society. But it can be unequivocally stated that for political pluralism to be functional and productive, it must be democratic. Pluralist theory is based on the conclusion that this process is not implemented in an uncoordinated form and by all means, but in the form of a constructive development, built on compromises, the aim of which is to achieve an acceptable result for all. It can be implemented in society when political parties and other forms of political organization and union coexist and interact with different political and program orientations, mutually respecting the political diversity between them, based on the principles of objective reason.

2.8. Fair and Free Elections

By the notion of free elections, we mean a legal framework that will ensure the regularity of the electoral process through which voters can freely express their choices. While the notion of fair elections means that there are conditions for exercising the civil and political rights of voters (Glossary of Parliamentary and Legal Terms, 2005, p. 278). The democratically elected government is for the citizens an 'expired' agreement, the contract of which is strengthened during the pluralist elections through free voting and in ordinary cases ends with the performance of the constitutional mandate (Baliqi, 2017, p. 86). Free and fair

elections represent the central institution of democratic systems, as they determine the way in which elected state institutions are created and the way individuals are elected. Power should be based only on the will of those who elect the bodies of power. They ensure fair competition between entities with different political options and alternatives. Democratic elections affirm political pluralism and create space for political warfare of political parties, for the purpose of preserving, taking or participation in state power (Bufi, 2017, p. 83).

Free and impartial elections are the most fundamental features of democracy, which distinguishes this form of government from other forms. During elections, voters have the opportunity to express their political will through voting and have the right to punish their representatives in the next election if they feel that the latter do not represent them properly. In a democracy, there are no permanent mandates, all those in power receive the vote of confidence for certain periods of time, after which they must again undergo the electoral process. But free elections only create the premises for the creation of a democratic system. They do not guarantee the democratic functioning of a state or its legitimacy (Bufi, 2017). Elections are considered impartial only when the bodies conducting the elections are completely independent of the state authorities during the electoral process, consistently respecting the constitutional and legal principles and rules for pluralistic elections.

2.9. Separation and Restriction of Power

The eminent philosopher of ancient Greece, Aristotle, is thought to be the first thinker to mention the notion of separation of powers. In his well-known work "Politics", he states that: "There are three fundamental powers in all government:

- a. The first is the one that deals with state issues (legislative),
- b. The second is the power of the state (executive) needed to act,
- c. The third involves the judiciary (Zaganjori, 2002, p. 98).

The principle of separation of state powers means the form of state government based on the independent exercise of legislative, executive and judicial power. This system exists in those states where the legislative, executive and judicial bodies are in a certain relationship of independence. This means that each of these bodies is competent to independently perform certain tasks provided by the constitution and law. However, this independence is not absolute because their functions are

intertwined so that no power has precedence over others. The power control and balancing system provides a convenient and mutual control mechanism (EMA, 2009, p. 11). The implementation of these functions should not be concentrated in a single hand. The separation of powers is a political doctrine that has its origins in the period of absolutism, which was initiated by the high aristocracy in order to limit the absolute power of the king. This doctrine was consolidated after the collapse of absolutism and this was a very important step for freedom and democracy. This principle was announced by J. Locke in 1690 and in particular by Montesquieu in 1748, in the struggle against absolutist power. Establishing a balance or equilibrium between the three powers is the basis for the functioning of representative democracy. Balancing the power in democratic states must achieve two main goals: to ensure the independence of powers; and to limit power by defining check and balance mechanisms. This system in democratic states must ensure political stability and mutual cooperation between state bodies and institutions (Bufi, 2017).

If there is one country in which the separation of powers is carried out in the most perfect way, it's the United States. To better understand the doctrine of separation of powers, we must analyze three issues:

1. The same people cannot be a member, in more than one of the various government bodies,
2. The institutions of a certain power cannot control or interfere into the activity of institution belonging to another power,
3. The government institution should not exercise the functions of another government institution. Control and social impulses would not be possible if power were concentrated in a single hand. Effective control and influence of power are achievable only with the help of the state. For this reason, free social communities require the separation of powers into different independent bodies, in order for them to control each other mutually and to prevent the concentration of power and its monopolization.

If parliament and government are engaged in the same function, then they are also controlled by each other. Actors, through the system of "checks and balances", represent a system of counterbalances and balance, interconnected. The government and parliament are interdependent and need a consensus on formulating basic political decisions. The obligation to cooperate retains the element of control (History.com Editors, 2020). On the other hand, there are

opposition parties in parliament as another element of autonomous control of power, which is exercised independently. The concept of separation of powers also includes the periodic re-election of holders of political office. The fact that the president is obliged to be re-elected among his rivals and can be re-elected, under most constitutions only once, limits his power to a considerable extent (Haxhiu & Meha, 2019). The same applies to the parliamentary election period. The shorter they are, the stronger the influence of public opinion and the electorate. The latter are also participants in the entire system of separation of powers and control. From the abovementioned, it appears that there is no strict division between the legislative, executive and judicial branches of government. At the same time, modern democracy claims to disable any monopolization of power. In this way, the influence of the state in democratic countries is limited by a complicated system of limiting power through weights and counterbalances. In the view of modern democracy, the protector of all these values is the legal norm in the rule of law, which must be specifically protected by the independent judiciary. This is the biggest and most serious challenge to be fulfilled by the states aspiring to representative democracy.

3. Conclusions

Representative democracy has come to the fore in the late Middle Ages in the states of Western Europe after a fierce war between the absolute monarchies on the one hand and the high aristocracy on the other. This war was waged and intensified with the aim of stripping the absolutist power of the monarchs, who exercised their power arbitrarily and without a constitution and laws. The idea of issuing written constitutions was intended to limit the arbitrary power of the monarch, dividing and defining three independent forms of exercise of state power and at the same time defining the bearers of these powers. It took decades and centuries for the real division of state power. This division and this balance of state powers has developed through a series of general principles which throughout history have not been developed uniformly. After the end of World War II, a large number of international acts were adopted which refer to the protection of human rights and freedoms, as well as the establishment of the rule of law. Thus, representative democracy took its pace of development, adopting and then implementing the universally accepted principles of consolidating representative democracy: general elections, direct, equal, secret and free elections. These principles have been put

into practice by consistently respecting popular sovereignty and international acts for the protection and respect of human rights and freedoms.

4. Recommendations

Representative democracy has been created and advanced through principles that have been adopted either in domestic legal acts or through international legal acts. Representative democracy is not perfect, because it is constantly evolving, either due to shortcomings of objective nature such as inadequate legislation in force, or of a subjective nature, such as the avoidance and violation of legal norms by public office holders, that hinder advancing representative democracy and the rule of law. Representative democracy is cultivated through the following steps:

- Amendment of international legal acts that are outdated and insufficient for the advancement of representative democracy,
- Adoption of new international legal acts which empowers persons who have obstacles to participate in elections such as: stateless persons, small ethnic groups, and favoring the gender equality towards election participation,
- Entrenching by constitutional and legal acts the strictest balance of state powers, especially between the legislative and executive powers,
- The constitution of the states is to define in more detail the political responsibility of persons who bear the highest state functions,
- Drafting genuine electoral codes that precisely and rigorously provide for the punishment of the representatives of the political entities that participate in the elections, in case of their representatives violating the dignity or the personality of the political opponents.

To make these changes happen the will, knowledge and support of state institutions is utmost required. This can be achieved by people who are politically neutral and who have high professional training in the abovementioned areas.

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