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MODEL

OF DEMOCRACY AND THEIR CONVERGENCE IN THE CONSTITUTION OF THE LEGAL STATE

MODELO DE DEMOCRACIA Y SU CONVERGENCIA EN LA CONSTITUCIÓN DEL ESTADO JURÍDICO

Jeyhun Suleymanov Aydin[1]
E-mail: jeyhunsa@hotmail.com
ORCID: https://orcid.orq/0000-0003-1876-7245
[1] Ministry of Internal Affairs, Republic of Azerbaijan.

ABSTRACT

According to the historical science of political and legal teachings, the term democracy, which has an ancient and rich history, has undergone a progressive development. However, according to the teaching of dialectics, development is always the substitution of one quality state for another. At the same time, it implies the inheritance of certain characteristics and mechanisms that occurred in the previous stages in a later stage of development, which in turn determines the sequence and progression of development, otherwise, progress would not be possible at all. In this context, the theory of democracy can be observed in the history of the succession relationship based on the dialectical development of the past. Direct, liberal, social, pluralist, and other theories of democracy have emerged in different historical periods in the process of researching the questions of the concept, essence, and forms of implementation of democracy in the history of state and legal education. The manifestation of these theories as a result of the constitution–building training of individual states revealed the advantages and disadvantages of those theories. This historical process determined the basis of modern democracy based on convention theory in the world. As a result of the conducted research, it was determined that the convention of democracy models is characteristic of the constitutions of these modern democracies. In modern times, direct, liberal, pluralist, social democracies are convergence in the constitutions of Azerbaijan and other European states. But for consolidated democracy, modern democracies must develop electronic democracy.

Keywords: Democracy, constitution, liberal democracy, pluralist democracy.

RESUMEN

Según la ciencia histórica de las enseñanzas políticas y jurídicas, el término democracia, que tiene una historia antigua y rica, ha experimentado un desarrollo progresivo. Pero según la enseñanza de la dialéctica, el desarrollo es siempre la sustitución de un estado cualitativo por otro. Al mismo tiempo, implica la herencia de ciertas características y mecanismos que ocurrieron en las etapas anteriores en una etapa posterior del desarrollo, lo que a su vez determina la secuencia y progresión del desarrollo, de lo contrario, el progreso no sería posible en absoluto. En este contexto, la teoría de la democracia puede observarse en la historia de la relación de sucesión basada en el desarrollo dialéctico del pasado. Las teorías de la democracia directa, liberal, social, pluralista y otras han surgido en diferentes períodos históricos en el proceso de investigación de las cuestiones del concepto, la esencia y las formas de implementación de la democracia en la historia de la educación estatal y jurídica. La manifestación de estas teorías como resultado de la formación constitucional de los distintos estados reveló las ventajas y desventajas de dichas teorías. Este proceso histórico determinó la base de la democracia moderna basada en la teoría de las convenciones en el mundo. Como resultado de la investigación realizada, se determinó que la convención de los modelos democráticos es característica de las constituciones de estas democracias modernas. En los tiempos modernos, las socialdemocracias directas, liberales y pluralistas convergen en las constituciones de Azerbaiyán y otros estados europeos. Pero para una democracia consolidada, las democracias modernas deben desarrollar la democracia electrónica.

Palabras clave: Democracia, constitución, democracia liberal, democracia pluralista.

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INTRODUCTION

The term "democracy" holds a paramount position in contemporary language, its roots tracing back over two and a half millennia. Literally translated as "rule by the people," democracy originated from the Greek d mokratia, coined in the 5th century BCE by combining d mos ("people") and kratos ("rule"). This term was initially employed to characterize political systems in certain Greek city-states, with Athens standing out prominently in this context (Atack, 2017). The historical evolution of democracy, as viewed through the lens of political and legal doctrines, reflects a dynamic process of continuous development, wherein each stage inherits and builds upon the characteristics and mechanisms of its predecessors. This nuanced perspective underscores the intricate nature of democratic progress, emphasizing its continuity and the amalgamation of historical elements into contemporary societal structures (Samaržija & Cassam, 2023).

Froomkin et al., (2024) highlight that the etymological roots of democracy transcend mere linguistic considerations, giving rise to profound questions surrounding the establishment of a government "of" or "by" the people. For instance, the pivotal inquiries include determining the suitable unit or association for democratic governance, ranging from towns and cities to countries, corporations, universities, and international organizations. Additionally, defining the constituents or eligible citizens, raises essential questions about participation criteria, potentially leading to alternative governance forms like aristocracy or oligarchy (Malka et al., 2022; Somervill, 2011). Assuming an appropriate association and dēmos, the organizational structures needed for effective citizen governance become a critical consideration, varying across different types of associations. The resolution of citizen disagreements constitutes another important question, contemplating whether majority rule should universally prevail or if minorities can resist or override the majority in specific circumstances. Another query revolves around defining a proper majority, considering whether it encompasses all citizens, voters, or specific groups and associations. These inquiries culminate in the sixth and pivotal question: the justification for "the people" ruling, prompting a nuanced exploration of democracy's comparative merits against alternatives such as aristocracy or monarchy. Thus, Plato's proposition of an aristocracy led by a minority of highly qualified individuals catalyzes examining the rationale behind or against such perspectives, ultimately contributing to the broader philosophical discourse on the superiority of democracy over alternative governance structures (Koenig, 2022).

Currently, democracy serves as a pervasive social construct with applications across various facets of public life. For example, beyond the political realm, democracy finds expression in the interpretation of works of art, wielding significant influence in shaping societal public opinion and artistic preferences (Brunkhorst, 2024). Despite diverse interpretations surrounding its semantics, in the modern political lexicon, democracy is predominantly perceived as an ideal social structure founded upon a system of universal values and a corresponding worldview. Historical examinations within the realm of political and legal teachings underscore the term's progressive development, emphasizing its ancient and rich historical trajectory (Brennan, 2023). However, viewed through the lens of dialectics, this development is conceptualized as a continuous substitution of one qualitative state for another, involving the inheritance of specific characteristics and mechanisms from preceding stages, thereby shaping the sequence and progression of development (Blühdorn, 2020; Prenowitz, 2002).

In the historical evolution of democracy, the succession of theories can be discerned through the dialectical development of the past. Each theory of democracy emerging in different historical periods is intricately linked to and influenced by the teachings of its predecessors, utilizing and sometimes critiquing them. This interconnection forms the basis for the theoretical foundations of democracy. The various models of democracy that have arisen throughout human history have not only enriched the conceptual theory of democracy with progressive ideas but have also played a pivotal role in the construction and development of democratic states (Schaefer, 2007). Consequently, a comprehensive study of the theoretical knowledge surrounding the genesis and historical development of democracy, as well as the establishment of individual democratic institutions, holds paramount importance for nations undergoing constitutional state-building processes. Global experiences highlight that contemporary democratic state constitutions often exhibit a convergence of models originating from different historical periods, emphasizing the integration of progressive qualities. The convergence theory, however, specifically underscores the integration of these progressive aspects. Considering the above, and to elucidate the essence of this process in the context of the Republic of Azerbaijan's constitution, the goal of this article is to analyze the democracy models based on the laws of dialectics.

DEVELOPMENT

The first historical form of government based on majority rule is direct democracy. It was this model of democracy

that prevailed in the ancient Athenian polis. Here, the people's assembly, which is considered the main institution of power, had the authority to make laws and decisions without any intermediate institutions such as political parties, parliament, or bureaucracy. As long as ancient Athenian democracy was under the influence of wise and influential leaders, social contradictions were eliminated, and the full power of the majority provided for individual interests by reckoning with different opinions and allowing freedom of speech. However, the change of influential people, the absolute nature of power, the increase of economic contradictions, and general moral disorder dealt a crushing blow to Athenian democracy, and the regime of ochlocracy (mob rule) was established in the state.

The experience of ancient Athenian democracy showed the human race that the masses cannot always make fair and rational decisions in the marketplace and on the streets. Due to historical realities, democracy in certain cases (if it is not limited by law, if incompetent people are brought into the administrative apparatus, etc.) can provide an opportunity for individual forces to abuse democratic institutions. During the Middle Ages, except for some city-states, authoritarian monarchical rule prevailed in Europe and throughout the world for many centuries. The word "democracy" disappeared from the European lexicon for almost two thousand years, or it was used as an improper form of government in Aristotle's sense (Rustamov, 2000, p. 44).

In the development of political and democratic thinking, the concept of liberalism, which emerged in the modern era, had a certain role. Thus, liberalism, for the first time in the history of social thought, limited the powers of government through the constitution and other institutions, protected the rights of minorities from the despotism of the majority, gave inalienable, fundamental rights to the individual, and confirmed individuals as the main element of the political system. Constitutionalism, separation of powers, popular sovereignty, parliamentarianism, and other democratic concepts that have converged in modern constitutions are considered the main ideas of liberalism. In this sense, although liberalism made important contributions to the development of democracy for many years, the basic principles of classical liberal democracy did not apply to the entire population – the lower class, the working class, and women as in ancient Athenian democracy and therefore it could not be the full power of the people. Undoubtedly, this approach led to the gradual intensification of social conflicts in countries where liberalism prevailed (Rustamov, 2000, p. 152).

In such circumstances, the attempt to eliminate the defects of liberal democracy and create real people's power

influenced the formation of the model of social democracy. On the other hand, sometimes in academia, the model of social democracy is confused with the concept of "socialist democracy", which originates from Marxism and especially Lenin's theory of democracy. In truth, "socialist democracy" with its institutions of acclamation (only superficial approval of the decisions made by the top) plays the role of a veil to hide the totalitarian structure of society, as actual power was concentrated in the hands of the communist party leadership, not real democracy. The attempt to implement it led to the creation of totalitarianism, suppression of all kinds of personal freedom, and terror against non-thin kerns. For example, at the end of the XX century, under the leadership of the communist party, this kind of "socialist democracy" revealed its true nature once again by killing a lot of people in Kazakhstan, the Baltic counties, Tbilisi, and Baku during the events of January 20th.

In contrast to "socialist democracy", the ideology of social democracy, which arose in the second half of the 19th century, played a unique role in the evolution of constitutionalism. The development of the ideas of the social democracy model - the social state and socially oriented market economy - led to the emergence of socioeconomic rights. According to the requirements of the second generation of human rights, the state should serve to establish social justice in society based on this principle. However, in that period, the limitation of absolute power, as well as the ideas of freedom, equality, and humanism can be considered democratic values carried over from ancient and medieval times.

The quantitative and qualitative changes in democracy in the 20th century determined the emergence of new pluralistic and representative models of democracy. For instance, the pluralist democracy model considers it necessary for various, sometimes conflicting forces, groups, parties, and public organizations to freely participate in political processes in accordance with their programs. Although the ideas of pluralism make their contributions to the development of democracy, historical experience shows that its abuse can lead to certain negative events. According to the dialectic, conflict is the general form of existence that moves the world, and struggle is the source of development. The absolutization of these contradictions and struggles by many philosophers is today considered a dangerous factor.

The emergence of representative democracy models in the 20th century led to the actualization of the electorate problem at a new level. It is a scientific fact that development and management issues in a democratic society in the modern world are based more on the principle of

elitism and that elites with high intelligence and ability play a decisive role. For the implementation of democratic state-building, the formation of skilled, professional personnel and a political elite with high political and legal culture is of particular importance. The modern era considers it important to solve the problem of preventing absenteeism in elections. In this field, relevant tasks fall on legal science.

We believe that a democratic state must have a sovereign political elite. This elite, which serves national statehood and is distinguished by its intellectual abilities, can unite around national leaders, bring together the potential energy of the people, and mobilize it for construction work. It is necessary to admit that to bring the worthiest people of society to political power, it is not enough to just come to the polling station and vote. For this, the electorate must also have a democratic, political, and legal outlook, including the opportunity to choose from among the best candidates.

The participatory model was created as an alternative to the elitist democracy theory, proving that people's participation in political life is not limited to elections. This model also envisions the direct participation of citizens in discussing important public issues and adopting political decisions through referendums. Referendums and elections are the main institutions of the participatory democracy model. In modern democratic constitutions, both institutions are used in the implementation mechanism of people's power.

In the case of the Republic of Azerbaijan, the referendums, which are the direct expression of people's power, are given special status in the constitutional legislation. The interest in this institution is legitimate and historically based. Thus, people's participation in making important decisions makes citizens responsible for the fate of the country; it can foster a sense of solidarity. The results of the constitutional referendums held in the Republic of Azerbaijan once again confirmed these considerations of participatory democracy. Thus, our citizens adopted important referendum acts to advance consolidated democracy and more reliable guarantees of human rights in our country.

In the modern era, the rapid development of information and communication technologies has brought forth the idea of creating a model of "Electronic democracy". We believe that the creation of "Electronic democracy" is one of the main factors for ensuring modern and flexible governance based on people's power in our country, increasing transparency in the activities of state bodies, and eliminating situations that create conditions for corruption. In our modern world based on the values of the information society and the democratic state, "Electronic democracy" is viewed as a concept aimed at increasing the overall efficiency of the state's activities in developed countries (USA, Great Britain, France, etc.).

"Electronic democracy" means the provision of information and e-services by state institutions to all citizens, legal entities, and individuals, including citizens and stateless persons living in the territory of the country, in the implementation of public power. It effectively enables the participation of citizens in the affairs of the state, using modern information technologies (Villa & Gonsalez, 2022). The main purpose of the opportunities created is to increase the efficiency of public administration, reduce the "distance" between civil servants and citizens in the provision of social services, and simplify and make these relations more transparent. The wide application of electronic services by state bodies, increasing their number and quality, and increasing citizen satisfaction with services are the means to achieve this goal (Tavares & Vieira, 2022).

According to international experience, the "Electronic Government Portal", which is organized based on the "one-stop" principle and gathers the electronic services provided by state bodies, is an integral part of electronic democracy. The activity of the "Electronic Government" portal in our country is mainly regulated by the Decree of the President of the Republic of Azerbaijan dated February 2013. The portal serves for the centralized presentation of electronic services of state institutions, their use by users, obtaining information and data, as well as the implementation of control over the execution of appeals. Current analysis shows that more than 200 electronic services have been provided to users by about 35 state institutions on the portal. Every state institution implements its electronic services based on the "One Stop Shop" principle.

In order to organize administration based on people's power in our country, further increase the efficiency of state bodies' activities, ensure transparency, and eliminate bureaucracy, the measures towards the development, improvement and increasing the number of electronic services should, of course, be continuous. One of the important measures in this context is the Decree of the President of the Republic of Azerbaijan on the creation of a single electronic information system for citizen appeals in local executive authorities. With this decree, in accordance with subsection 10.2.4 of the 2014-2020 National Strategy of the President of the Republic of Azerbaijan on the development of the information society in the Republic of Azerbaijan (this strategy was approved by the Decree of the President of the Republic of Azerbaijan on April 2nd, 2014), it envisages the creation of a single electronic

information system for citizen appeals in local executive authorities to ensure that clerical work is carried out electronically and to track citizen appeals. This system ensures the registration of citizen appeals to local executive authorities, monitoring, the preparation of various analyses on them, the acquisition of statistical data on the activities of state bodies, and eliminating conditions that create opportunities for corruption.

One of the most important documents in the field of democracy formation in our country is the Presidential Acts on providing access to executive power bodies through ICT means. According to the Regulation on the Procedure for the preparation and adoption of normative legal acts of the executive power bodies approved by the decree of the President of the Republic of Azerbaijan dated July 27th, 2011, drafts of normative legal acts prepared by the Cabinet of Ministers and Central Executive power bodies of the Republic of Azerbaijan (except information whose access is limited by law) are posted on the portal for public discussion. Proposals regarding the draft regulatory legal acts posted on the portal are taken into account if deemed appropriate; a reasoned answer is presented to the person who proposed.

In order to ensure the implementation of the abovementioned Presidential Decree, on June 25th, 2021, the Cabinet of Ministers of the Republic of Azerbaijan approved the Rules for placing draft normative legal acts prepared by the Cabinet of Ministers and central executive authorities on the "Electronic Government" portal. These rules define the procedures for placing drafts of normative legal acts prepared by the Cabinet of Ministers and Central Executive authorities of the Republic of Azerbaijan on the "Electronic Government" portal, for open (public or professional) discussion of projects, as well as for providing feedback to those who participated in the discussion.

In the Decree of the President of the Republic of Azerbaijan "On some measures in the field of the provision of electronic services by state bodies", it is stated that it is necessary to provide electronic services to the population to ensure modern and flexible management and increase transparency in the activities of state bodies. For this purpose, an electronic service section should be created on the official websites of the central executive authorities, a list of documents required for the implementation of the service should be posted, and citizens' applications with those documents should be accepted electronically. To ensure the implementation of the decree, by the decision of the Cabinet of Ministers of the Republic of Azerbaijan dated November 24th, 2011, "Rules for provision electronic services by central executive authorities in specific fields"

and a "List of types of electronic services" were approved (Cabinet of Ministers of the Republic of Azerbaijan, 2011).

One of the modern mechanisms provided for the efficient provision and protection of human and civil rights and freedoms in our country is the State Agency for Citizen Service and Social Innovations under the President of Azerbaijan. It was established by the Decree of the President of the Republic of Azerbaijan on July 13th, 2012. The main task of the agency is to provide unified management of "ASAN Service" centers, as well as coordination of activities of employees of state bodies operating in the service centers, control, and assessment, mutual integration of information systems of state bodies, acceleration of the process of organizing electronic services, and improvement of the management system in this field.

The structure and charter of the agency were approved by the decree of the President of the Republic of Azerbaijan dated September 9th, 2012. Rules of activity regulation and behavior in "ASAN Service" centers were approved by the decision of the Board of the State Agency for Service to Citizens and Social Innovations under the President of the Republic of Azerbaijan dated June 6, 2013. Today, "ASAN Service" provides more than 250 different services to citizens in the centers, in addition to state bodies, private companies, and enterprises. In "ASAN Service" centers, the employees of the internal affairs bodies also provide our citizens with transparent, prompt services related to issuing ID cards, changing driver's licenses, and solving other issues.

CONCLUSIONS

Through the application of the historical-comparative method, research has discerned that the constitutions of contemporary democratic states manifest characteristics aligned with various democracy models, including plebiscitary, elitist, liberal, social, and pluralist paradigms. Considering Azerbaijan, the country has traversed a commendable trajectory in the establishment of a democratic regime, marked by three distinct phases: the attainment of national consensus, the successful negotiation of a preparatory phase, and the establishment of a functional democratic system. However, the overarching aim for Azerbaijan remains the attainment of a consolidated democracy. This entails not only achieving democratic processes but also ensuring the enduring stability and depth of democratic institutions.

Then, to accomplish a consolidated democracy, it is imperative for constitutional states, including Azerbaijan, to embrace and develop e-democracy. The integration of electronic means into the democratic framework can

enhance citizen participation, transparency, and responsiveness in governance. This evolution aligns with the global trend where modern democracies increasingly leverage technology to augment their democratic processes. Therefore, the incorporation of e-democracy emerges as a pivotal component in ensuring the vibrancy, inclusivity, and resilience of its democratic institutions, propelling the nation into the forefront of progressive governance in the contemporary era.

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