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Between Democracy and Ochlocracy in the Context of the Centuries-Old Dispute about the Perfect Form of Government: The Legal Heritage of the Antiquity in View of the Challenges of Modernity

Abstract

The author endeavored to enliven the universal discourse on the perfect system of government applicable to human society, which to many luminaries constitutes a certain paradigm of the science on the state and the law. While adopting a classical, chronological convention of the narrative herein commenced, the author made the time of Antiquity the point of departure, selected the Enlightenment as a form of a modern counterpoint thereto, and then finalized the deliberations carried out here against the reality of contemporary times. The intent of the exploration here was to place the research subject within the interdisciplinary framework, which was undoubtedly supported by the multifaceted nature of the problem at issue and by subsidiary utilization of the advantages of the comparative approach. The intention to present the issue through a broad perspective, transcending the boundaries of academic discourse, was naturally convergent therewith. As a result, the author did not shy from controversy, seeking the purpose of the actions undertaken, thereby in the formation of conclusions on what the applicable law should be. That allowed for the presentation of numerous remarks, assessments, and opinions, among which at least some may be deemed disputatious or plainly speaking, highly debatable. The investigator did not attempt to evade those; on the contrary – sought it in complete premeditation.

Keywords: democracy, ochlocracy, political system, Ancient thought, history of law, philosophy of law

Many forms of Government have been tried and will be tried in this world of sin and woe. No one pretends that democracy is perfect or all-wise. Indeed, it has been said that democracy is the worst form of Government except for all those other forms that have been tried from time to time...¹

Winston S. Churchill, November 11, 1947

¹ <https://winstonchurchill.org/resources/quotes/the-worst-form-of-government/>

1. On the Gravity and Importance of the Issue

To our contemporaries, the above witticism “on democracy” is well-known to the public and often referred to. Its popularity has long since transcended beyond the framework of hermetic discourse engaged in by academic intellectuals. Nevertheless, should we approach it in all seriousness, we would then inevitably be faced with the universal question: does the absence of desired results hitherto absolve us from the duty to explore further and seek a satisfactory answer to the admittedly fundamental question of a perfect, or at least a more perfected form of government? A questionable rest on one’s laurels is hardly commendable, for who is the one that does not strive to at least improve the world?

The topic of exploration approached here undoubtedly cannot be counted among the untouched research questions. However, does this very fact diminish the value of the researcher’s attempt? We may risk an analogy here in full recognition that it shall appear unwarranted to many. More to the point, while going to the theatre to wonder at *Hamlet*, are we journeying to the temple of the art to familiarize ourselves with a fragment of history regarding Medieval Denmark? Or perhaps with a Shakespearean narrative? Hardly. With the latter, we are perfectly familiar. Instead, I would assume that we would be interested in the original exposition of the interpretation thereof by the director, and the performances of actors, for it is in them that we look for the purpose of the play being staged and its unique nature and in them we fulfil our need of cognition, to say nothing of the subjective pleasure of intellectual, emotional, and aesthetic experiences in such a context.

Yet, it is hardly only that. While providing a statement of reasons for the choice of the subject, one may, naturally, delve into the horribly overused, banal words that serve as skeleton keys, such as the universal nature of the problem, its fundamental importance, etc., which in essence smells of sarcasm employed by Witold Gombrowicz in *Ferdydurke*, “for indeed a great poet Słowacki was.” Could it be done? Naturally, because anything could be done. It is only that not everything is worth doing. The view from the perspective of utilitarians should be deemed infinitely more tempting with its humanism; an idea expressed by Bentham by the following turn of phrase, “[...] fundamental axiom, it is the greatest happiness of the greatest number...” Irrespective of how that view may appear infantile, the genuine issue is found entirely elsewhere, “if only were that so easy.” For good or bad, it is not so.

The deliberations of the learned are often accused of having an academic nature. In this context, such a description undoubtedly has a pejorative meaning, depreciating the qualities and value of the academic discourse. Opinions similar to that description are founded on a certain belief, with said belief often followed by a circulation thereof that the results of academic research are of questionable usefulness for the genuine needs and challenges of the contemporary world, be they societal, political, economic, or any other. The world of academia often appears to many as an ivory tower, wherein socially inept intellectuals that engage in fruitless disputes are extracted from the realities of everyday life, squandering the time and the funds of taxpayers for idle, theoretical disputes. Such a misplaced charge that is; how banal and unfair a stereotype. Is it not a fundamental pur-

pose of science to posit questions, search for answers, and form conclusions that serve to facilitate a subjective exchange of observations not on, or at the very least not only on, the law as it stands, but perhaps above all, on what the law should be? All that is not carried out to fulfil a desire to participate in the realization of a Huxleyan vision of a *Brave New World*, but to reinforce the efforts to create a perfect reality.

2. The Dispute over the Essence of Democracy over the Ages

The term “democracy” is, without a doubt, counted among the most commonly appearing queries in any search engines worldwide and in all known languages. That should be deemed a completely natural phenomenon in a reality where names of a number of contemporary states feature a description, however, phrased to the effect of declaring their democratic character. And therefore, it is not by chance that the above often applies to states wherein observance of the principles of democracy and human rights turns out debatable, at the very least. The instances of that are found in the Democratic People’s Republic of Korea, the Democratic Republic of Timor-Leste, the Democratic Republic of the Congo, the Democratic Socialist Republic of Sri Lanka, and the Federal Democratic Republic of Ethiopia.

Several years ago, and as an academic paper subject to peer review, a column by Piotr Jaroszyński, “Demokracja – politeja czy ochlokracja” was published.² Three main reasons due to which the meaning of the term “democracy” is nowadays so blurred have been discerned therein. The first is the one where the term at issue has not only political but also ideological meaning. The second is the demise of classical education, to which ignorance of the general public as to the sources of Western civilization, wherein democracy has been born is linked. Finally, the third is that democracy in its Greek sense and democracy in its contemporary sense materially diverge in terms of many of their features. As a result, a certain conceptual confusion mainly fosters political turmoil, directly proportional to the diminution of political culture not only among average citizens but also among the elites in power.

It is certainly hardly ground-breaking to find that while the legal heritage of Ancient Rome constitutes invaluable inheritance of Antiquity in the field of judicial procedure, in private law in particular, the conceptual framework in the field of legal philosophy, theory and practice of the societal and political system is owed to ancient Greeks, and in particular to Athenian thought and practice of public life.³ While it has many adherents, that thesis is not actually that indisputable. For instance, Simon Hornblower maintains that the particular, Athenian institutions, contrary to the Roman ones,⁴ influenced the development of contemporary democracies only to a surprisingly meagre extent. Such a view is shared by Mogens Herman Hansen, who posits that none of the Athenian

² Jaroszyński, “Demokracja”, 134.

³ Zajadło, “Graecum est non legitur?”, 7.

⁴ “[...] particular Athenian institutions have been surprisingly little copied [contrast Roman]”. Hornblower, *Creation and Development*, 15.

institutions are found in democracies of today.⁵ It appears that, in spite of all, one should adhere to a view, which is e.g., represented by Ryszard Kulesza,⁶ that the Athenian democracy should serve as a main point of reference for Antiquity while pondering the problem of ancient and modern democracies.

What of the modern side of the matter, then? Here, there seem to be even more options. Even the very attempt at listing them, without any further elaboration on the positions expressed on them, could constitute a self-standing and quite voluminous publication. We could assume (while being conscious of the simplification associated with such an assumption) that the beginnings of the modern democracy should be linked to the philosophy of the Enlightenment, and its dissemination in the constitutional practice – to the turn of the 18th and 19th centuries.

While attempting to distinguish common features of the ancient and the modern democracy, the contemporary researchers consider the authority of the people to be the most important of those, while at the same time stressing the similarity of principles pursuant to which that authority is exercised. Marcel Prélot distinguishes three such principles. The first is liberty – understood as the right of the citizens to freely express their opinions on matters of state. The second is equality – which is that all opinions are of the same gravity. Finally, the third is the principle of a majority – construed as a mechanism of legislation and political decision-making, based on the fact that after a free exchange of views, a position is adopted, with the said position being supported by a majority of opinions on the matters of the state.⁷ Such an approach corresponds to the views of the ancients and to the ancient concept of democracy, determined by the following triad: *isonomia* (Greek: *ἰσωνομία*; equality before the law) – *isogeria* (inalienable right to be heard) – *eleuthera* (liberty).⁸

At this stage, I would draw special attention to the term *isonomia*,⁹ which is subjected to various translations – “equality”, “the principle of equality”, “equality of civic rights”, yet also “equality before the laws”. In this, I would find the crux of the problem, for the term at issue contains a reference to both equality (*isos*) and laws (*nomos*), which is still in dispute as regards Greek source material. In essence, the issue boils down to a question: was the Greek *isonomia* supposed to denote the equality of civic rights, equality of citizens before the law while in procedures before the courts, or both?

The above problem has not faded from relevancy even after the passage of hundreds of years, when the foundations of modern democracy were being laid. In essence, the same dispute flared up in the wake of the French Revolution. The constitutional rules of the first basic law in the history of France were being deemed contradictory. The area in dispute was the conflict of the right to direct or indirect participation in legislation, granted to all citizens, with the stipulations of the Constitution that were introducing three “census” tiers of property thresholds, with the exercise of civic rights ultimately dependent on meeting those thresholds. The justification for those census rules was the

⁵ Hansen, *The Tradition of Ancient Greek Democracy*, 5ff.

⁶ Kulesza, “Demokracje antyczne i współczesne”, 18.

⁷ Rachwał, “Władza ludu czy elit politycznych?”, 72–3.

⁸ Kiereś, “Jaka demokracja”, 19ff. See also Hansen, *Demokracja ateńska*, *passim*.

⁹ Further on the issue see Lengauer, “Isonomia”, 609.

extensive interpretation of the appropriate article of the Declaration of Rights,¹⁰ allowing *in fine* for differentiation of the above rights due to personal virtues and talents, which were in turn equated with the property held by an individual. In that context, one of the arguments in favor of that rule was the amount of tax paid to the benefit of the public.¹¹

It may be telling, and ostensibly surprising, that the approach to the classical and modern democracy on part of their respective contemporaries appears to be markedly different; decidedly more critical in ancient times; universally approving as of today.

The dispute on the essence of democracy may also be viewed from an entirely different, substantially more optimistic perspective. For the sake of an attempt at confronting such perspective, we shall assume a thesis that, indeed, the dispute, discourse, doubts, polemics, and the pluralism of views constitute the very crux of democracy, not a threat to it. “I wholly disagree with what you say and will contend to the death for your right to say it”.¹² While those charming words by Voltaire are usually regarded as an expression of apotheosis for the ideas of tolerance and freedom of speech, they are perfectly apt also in the above context. Do they sound beautiful? Doubtlessly, albeit on one condition. Not unlike the fact that the essence of the message may only be fulfilled while observing and prioritizing the perceptive capabilities of the recipient, the meaningfulness of discourse is conditional on consensus as to the conceptual framework and the intellectual potential of interlocutors that is at least similar. Even the most heated discussion between a blind person and a deaf person on the issue of the mesmerizing charm of the palette of colors and the divine poetry of notes within Mahler’s symphony appears to be somewhat less creative, to put it euphemistically. That very same concept may be presented in a much more colloquial manner, yet it would be for naught, as it would contribute nothing further. To conclude: democracy and ochlocracy are parallel worlds, and the impression of compromise between them is an illusion. Does then the dispute itself constitute the crux of democracy? Ultimately, it would plausibly depend on the interpretation. However, I would exercise great caution regarding the absolute endorsement of such a thesis.

¹⁰ Déclaration des Droits de l’Homme et du Citoyen de 1789, Article 6: “La Loi est l’expression de la volonté générale. Tous les Citoyens ont droit de concourir personnellement, ou par leurs Représentants, à sa formation. Elle doit être la même pour tous, soit qu’elle protège, soit qu’elle punisse. Tous les Citoyens étant égaux à ses yeux sont également admissibles à toutes dignités, places et emplois publics, selon leur capacité, et sans autre distinction que celle de leurs vertus et de leurs talents”. http://classes.bnf.fr/laicite/references/Declaration_droits_de_l_homme_citoyen_1789.pdf.

¹¹ Wiązek, “Ustrojowo-prawna pozycja legislatywy”, 422–3.

¹² “Je ne suis pas d’accord avec ce que vous dites, mais je me battrai jusqu’à la mort pour que vous ayez le droit de le dire.” Those words, commonly attributed to Voltaire, are in truth an apocryphal quote. Those that attributed it to the French philosopher and disseminated it in abundance under his name were basing on a letter of February 6, 1770, wherein François-Marie Arouet had purportedly made a similar remark to a priest, Le Riche. In fact, those words were authored by an Englishwoman, Evelyn Beatrice Hall, who used them in a book *The Friends of Voltaire*, published in 1906 under a pseudonym S.G. Talentyre. She later confirmed her authorship of the famous phrase, admitting that she had ought not to put those words in quotes. <https://www.projet-voltaire.fr/culture-generale/voltaire-citation-apocryphe-je-ne-suis-pas-d-accord-avec-vous/>.

3. On Democracy in Ancient Thought

The ancients did recognize that democracy exhibits a tendency to devolve into its own antithesis. Herodotus provides both of those extremes: adherents and opponents of the rule of the people. Firstly, he glorifies the government by the people in the speech of Otanes by the following: “As for the rule of the people, it has above all the most beautiful description of any, i.e., equality before the law [...] let us vote then, in order for us to refrain from the rule of one and elevate the rule of the people: for it is on the people that all depends,” while subsequently subjecting it to scathing critique by the tirade of Megabyzos. Thus, the latter professes,

There is nothing more unwise and supercilious than an unthinking mob, and it quite clearly cannot be suffered to have the people who escaped the arrogance of a tyrant fall victim to the arrogance of an untamed mob. For it is that when a tyrant undertakes something that he does it with awareness, while the mob has no awareness at all; how could they have such, where neither anything good was learnt by them, nor did they come to know anything good on its own? Thus, they swiftly forgo matters of state, launching themselves onto them with abandon, like a wild mountain river.¹³

Aristotle can hardly be deemed to be an apologist for the rule of the people, as he counts democracy among wicked systems of rule, beside tyranny and oligarchy.¹⁴ The Philosopher substantiates his position while levelling criticism at the principle of equality, which was fundamental to the Athenians. Namely, he considers that “[...] the democratic regime was a product of a belief that those who are equal to one another according to a certain criterion are equal to one another in general [...]”¹⁵ As a result, the people demand equal access to every right, which according to Aristotle, is not a good solution for a state, for authority is then entrusted to a mob, to people without adequate preparation for governing, who are ruled by emotion and not by knowledge when making decisions.¹⁶ Democracy postulates equality, yet it terminates that equality in practice, turning it into “numbercracy.” Thus the principle of majority voting reigns, and in spite of the fact that the majority is always inferior. In that manner, ochlocracy comes into view, being a concealed despotic regime, susceptible to deference to demagogues.¹⁷

For the teacher of Alexander the Great, politeia comes as a response to the deficiencies of democracy (as the best possible system of government); it constitutes a mixed form: one rules (monarchy) while depending on the best (aristocracy), by consent of all, or of the majority.¹⁸ The message of Thucydides corresponds in an interesting manner with the views of the author of the Nicomachean Ethics, with the former putting the following words as those of Pericles who symbolizes, or even embodies, the golden age of Athenian democracy:

¹³ Hdt., *Dzieje*, 240.

¹⁴ Malmon, “Arystotelesia poszukiwania”, 15.

¹⁵ Arist., *Polityka*, 196.

¹⁶ Malmon, “Arystotelesia poszukiwania”, 16.

¹⁷ Kiereś, “Jaka demokracja”, 21.

¹⁸ Jaroszyński, “Zachodnia demokracja”, 13.

[...] our system of government [...] is called democracy, for it is based on the majority of citizens, and not on the minority. In private disputes any citizen is equal before the law; where importance is concerned, an individual is recognized not because of belonging to a particular group, but due to personal talent with which he distinguishes himself; no one who is capable of serving his homeland shall be precluded by poverty or uncertain ancestry from attainment of honours. In private life, neither do we peer into the behaviour of our fellow citizens with suspicious curiosity nor address our neighbour with dislike should he concern himself with that which makes him glad. [...]. Mindful of understanding in private life, we are observant of laws in public life.¹⁹

Are those words closer to the concept of democracy, or rather to that of *politeia*?

While the approach to democracy on the part of Aristotle may be described as cautious, the criticism of the rule of the people by Plato is both incomparably more decisive and comprehensive. The latter goes so far that Karl Popper does not hesitate to describe him as a prophet or the father of the totalitarian system due to it,²⁰ irrespective somewhat of the fact that the phenomenon of totalitarianism was completely unknown in the time of Antiquity.

In modern democracies, similar dangers appear to be even more pronounced. While securing formal equality for all, the contemporary democracy in practice provides perfect conditions for those who are, while possessing the capability to aptly organize themselves, able to efficiently fulfil purposes contrary to the common interest (the benefit of the community), and at times contrary also to the interest and the will of the majority. In the world of today, both dictatorships and oligarchies choose the expedient – and trendy – front of democracy.

It would be prudent to agree with a statement that, at the level of constitutions of respective states and of today (in principle, in a similar manner as in democratic Athens), the will of “the people” is of paramount importance, second to none.²¹ Indeed, it is, yet one cannot forget that in classical, ancient, and – more precisely – Athenian democracy, the concept of the “people as the sovereign,” or of the citizen, referred only to the circle of citizens – democracy was at that time not the rule of the general public, but only an authority, or a civic regime. For instance, in the second half of the 5th century B.C. approximately 400 thousand people were resident in Athens, yet adult men who enjoyed civic rights constituted approx. 10% of the resident population.²² Is then ancient democracy comparable to the contemporary forms of government that purport to refer to the ancient constitutional traditions? One cannot attempt an answer to such a question, and it is even not worth attempting when it would be clad in the convention of a “zero-one” plebiscite. The dichotomous approach to the problem is a misunderstanding; waiting for an answer in the form of a “yes-no” alternative should be deemed puzzling. In that context, I fully share the position represented by Jerzy Zajadło, whom I have quoted above. Nevertheless, I shall not conceal that the views espoused by those he describes as the “second group of authors”²³ are significantly closer to my own beliefs. Similar views are

¹⁹ Thuc., *Wojna Peloponeska*, 18.

²⁰ Szacki, *Historia myśli socjologicznej*, 26; cf. Popper, *Spoleczeństwo otwarte*.

²¹ Kulesza, “Demokracje antyczne i współczesne”, 26.

²² Rachwał, “Władza ludu czy elit politycznych?”, 71.

²³ Translated from the original Polish text: “It is obvious that certain forms of Athenian direct democracy, restricted only to thousands of free citizens, are incapable of being transposed and applied verbatim to contemporary mass societies consisting in tens or hundreds of millions of people. This does not mean,

professed by *inter alia* Marcin Król, who posits that the democratic nature of a given system is best gauged by the manner of treatment of various minorities by that system.²⁴

4. Democracy As It Is Seen by Our Contemporaries

The Athenian society was fundamentally different from the societies of today. No great divides between wealth and poverty like those of today were present. It cannot be overlooked that democracy (of any time) exhibits a close correlation with the existence (varied, albeit numerous) middle class. That was related *inter alia* to the fact that the sense of responsibility form and solidarity with the interests of the community had been much stronger.²⁵

It is not befitting to contest the facts. However, the fact that something is objective as it is, does not absolutely mean that it must be that way or, moreover, that it should be so. One can hardly agree with the opinion by Jacques Barzun, who strongly advocates that there is no “theory of democracy.” According to his words, “there is only a theorem of democracy, i.e., the universally accepted statement capable of being encapsulated in a single sentence – a theorem of democracy. That statement is as follows: “[...] the most important thing for free humanity is that the people are to be sovereign. I strongly disagree that such a popular sovereignty presupposes civic and societal equality.”²⁶

As a consequence, the reality of contemporary democracy becomes an illusion, wherein the democratic façade constitutes but an attractive decorum.²⁷ According to Hans Kelsen, democracy is a most overused political concept that is used in accordance with the current political fangle, to all possible ends and on various occasions, and one that took multiple, often mutually contradictory meanings.²⁸

Many decades ago, Gaetano Mosca had already pointed out that democracy should not be taken to mean fictitious quantitative sovereignty of the majority, which always shall be governed by the minority of those more intelligent, more enterprising, and more organized.²⁹ Some scholars are inclined by that constation to form a thesis positing that the current democracies are inheritors of the Roman republic to a greater extent and

however, that in such a context we cannot consider the very essence of democracy – whether it amounts to the decision of the majority, or whether it rather should be grounded in deliberation and consensus? In simple terms, it may be said there have been two opposing positions that have appeared in contemporary academia. According to some authors, despite obvious differences between ancient democracy and contemporary democracy, the essence of the political decision-making process remains unaltered – it is based on the will of the majority [...]. The second group of authors takes an opposing position – in that while democracy is ultimately also about some intent expressed in one voting or another, the very act of voting should be preceded by insightful deliberation, rational exchange of reasoning, reflection, and weighing reasonable interests of various societal groups also including, or perhaps including in particular, the rights of minorities.” Zajadło, “*Graecum est non legitur?*”, 8–9.

²⁴ Król, *Słownik demokracji*, 11.

²⁵ Kulesza, “Demokracje antyczne i współczesne”, 19.

²⁶ Barzun, “Teoremat demokracji”, 3.

²⁷ Kulesza, “Demokracje antyczne i współczesne”, 27–8.

²⁸ Kelsen, *O istocie i wartości demokracji*, 5.

²⁹ Quoted after: Żyromski, *Gaetano Mosca*, 112; cf. Rachwał, “Władza ludu czy elit politycznych?”, 73.

thus inheritors of an oligarchic form of government.³⁰ Multi-contextuality of the word “democracy” necessitates a blurring of its scope and contents, which in turn causes (something that is lamented by the advocates of democracy) that it becomes a certain literary trope, used thoughtlessly and in accordance with lingual inertia.³¹

According to Charles Wright Mills, the rule of the people may be more readily counted among idealistic intents and noble postulates rather than genuinely achievable political occurrences.³² This is not an isolated view. The opinion of Lech Zacher, in that scarcely anyone believes that democracy is the rule of the people, should be deemed accurate.³³ Already in 1956, Gabriel A. Almond pointed to political culture as the most important factor for the durability and stability of the democratic system.³⁴

When democracy is defined in terms of origins or purposes of authority, grave interpretative discrepancies and numerous ambiguities become a problem. Thus, it is plausible that using a procedural definition would be more advantageous. Joseph Schumpeter supplied a most accurate interpretation of that approach to democracy.³⁵ He drew attention to the imperfections of the “classic theory of democracy,” which defined democracy in terms of “the will of the people (an origin)” and “benefit of the public (purpose).” His concept of democracy was described with an appellation of “institutional.” It equates the essence of democracy with a mechanism of arriving at a political decision, within which individuals are endowed with the power to decide by virtue of a competitive contest over the ballots of voters. As a consequence, political systems are democracies to such an extent that their most powerful decision-makers are elected in equal, fair, and periodic elections, during which candidates freely compete for votes and in which virtually any adult person can participate.

According to Robert Dahl, democracy is rather some ideal state which was never genuinely achieved in reality, nowhere at all.³⁶ The model of polyarchy by Robert Dahl stems from the opposition against two theoretic standpoints: the concept of the rule of majority embodying “popular will,” and elitism (elite theory).³⁷

5. On Dangers to Democracy in the Contemporary World

According to many indices that measure the quality of democracy in the contemporary world, in recent years there is a discernible decrease in the number of states deemed to be full democracies³⁸. Pursuant to the international survey titled “Variety Soft

³⁰ Kulesza, “Demokracje antyczne i współczesne”, 29.

³¹ Kiereś, “Jaka demokracja”, 22–3.

³² Quoted after: Rachwał, “Władza ludu czy elit politycznych?”, 69.

³³ Zacher, “Demokracja jako rozczarowanie i nadzieja”, 28.

³⁴ Almond, “Comparative Political Systems”, 391–409.

³⁵ Schumpeter, *Kapitalizm*, 336ff.

³⁶ Dahl, *Polyarchy*, 1–10.

³⁷ Antoszewski, *Modele demokracji*, 23.

³⁸ Democracies deemed to be incomplete are often equated with the concept of “electoral democracy.” The essence of democracy therein is reduced and restricted to absolutized, albeit periodic and competitive elections, while the gravity and importance of the other contextual features of the system are dispensed with.

Democracy” of 2020, for the first time since 2001, over a half of humanity all over the world live in states categorized as authoritarian. According to other research, i.e., that of Freedom House, a US organization, the last 14 years amount to a yearly decrease in the scope of freedoms all over the world. Furthermore, according to the ranking of democracies published by *The Economist* in 2020, the general stage of development of democracies all over the world is at its lowest since 2006, and thus since the moment of drafting the first similar report on democracy; only somewhat less than 6% of states currently fulfil the criterion of full democracy, while already in a 1/3 of states democratic façades only constitute various types of concealment for regimes that plainly cannot be deemed “democratic,” irrespective of the fact that many dictators are fond of stating that the state which they rule perfectly satisfies the criteria of a democratic state. Paradoxically, one can find that this can vouch – in a sense – for the force of the idea of democracy, despite the ideal of democracy being quite far removed from reality.³⁹

If I were to answer the main question on the principal source of dangers to democracy, I would find that it is aggressive populism. I would not see it, as some would, in e.g., radical Islam, which is as of now eagerly being highlighted to that end; for I would put that (similarly to other religious orthodoxies) within a broader phenomenon, namely xenophobia, which is exquisitely representative of the above-mentioned populism. This is despite the fact that the concept of populism sometimes serves as a skeleton key of a kind, or perhaps a front, that often is employed in discourse as a quintessence of all the problems of contemporary democracy. Lethal populism creates a simplified, black-and-white view of the world, finding delight in conspiracy theories. It proposes quick and uncompromising solutions to problems while being anti-elite and anti-intellectual. While often referring to the sentiments of a simple person, it has much more moralizing (in the worst possible meaning of the word) rather than programmatic nature.

There is no great exaggeration in such an apocalyptic emphasis on the scale of danger. As of now, support for populist parties is twice the one that existed in the 1960s, which translates to a threefold increase in the number of parliamentarians from populist parties.⁴⁰ Did the tragic events of the 20th century teach nothing to no one? *Historia magistra vitae est*, as we are glad to say. Is the global apocalypse really written into the fate of humankind? Let us hope that it is not. However, for it not to occur, it is vital to part ways with passivity, with thoughtless surrender to the illusion of the idolatrous dogma of divine perfection on the part of the system of arithmetic majority, which constitutes a triumph of quantity over quality. Using the experiences of Athenian democracy, which can be reduced to the canons that “the source of authority is the will of the people,” “the purpose of authority – the benefit of the people,” is perfect construction material for the democratic fiction⁴¹.

An especially critical position *vis-à-vis* that concept was adopted in particular by Giovanni Sartori, who considered that free elections with subjugated opinions express nothing. Sartori, *Teoria demokracji*, 135–45.

³⁹ <https://www.youtube.com/watch?v=E7ckU8y3DXM>. See also: <https://epodreczniki.pl/a/demokracja--zaley-i-slabosci/Doyq2BIJf>.

⁴⁰ The traditional divide of the “political aisle” into the right and the left understood economically and axiologically became obsolete, and thus should be considered antiquated as of today. It was superseded by the divide into populist authoritarianism and cosmopolitan liberalism. Cf. <https://www.youtube.com/watch?v=E7ckU8y3DXM>.

⁴¹ Świeca, “Współczesne demokracje”, 139.

There are two sides to every coin. Thus, democracy is worth considering not only through the depressing lens of populist threats, of which wrote Jan-Werner Müller,⁴² Yascha Mounk,⁴³ Steven Levitsky and Daniel Ziblatt,⁴⁴ or finally, Michael J. Sandel.⁴⁵ The quality which above all provides the quintessence for the concept and the nature of democracy is, in my view, freedom. It is certain that I do not remain an isolated revolutionary as to such a position. It is fully espoused by e.g., Adam Jamróz, who provides that freedom is one of the foundations of democracy in a democratic society, alongside a reservation to the effect that while the principle of freedom is worded in absolute terms, it is obvious that it must be legally restricted.⁴⁶ Such a position was familiar both to ancient Greeks⁴⁷ and to modern philosophers, who expressed that e.g., in the first Declarations of Rights from the 1700s.⁴⁸ The Virginia Declaration, which begins by finding that all men are by nature equally free and independent,⁴⁹ has recognized in that very first section the rights to life, personal liberty, to means of acquiring and possessing property, and to obtain happiness and safety⁵⁰ as inherent and inalienable. The French resolution, which declares in its first Article that humans are born and remain free and equal in their rights,⁵¹ counts freedom, property, safety, and resistance against oppression in the subsequent one.⁵² Both of those legal acts consider freedom, placed at the forefront, to be of supreme value, albeit the French one delineates its boundaries by finding that those are marked by the freedom of other people (something that the American one does not provide).⁵³

6. Final Remarks

It has been pointed out that in a democracy based on quantitative equality and not on the qualitative one, a vote of a wicked man means the same as that of a virtuous person. The advantage of the majority is the advantage of a number, not that of rightness. The

⁴² Müller, *What Is Populism*, 135.

⁴³ Mounk, *The People vs. Democracy*, 393.

⁴⁴ Levitsky, Ziblatt, *How Democracies Die*, 320.

⁴⁵ Sandel, *The Tyranny of Merit*, 288.

⁴⁶ Jamróz, *Demokracja*, 16.

⁴⁷ “Eulethera” apart from “isonomia” and “isogeria”, as referred to above.

⁴⁸ The Virginia Declaration of Rights, June 12, 1776. <https://www.archives.gov/founding-docs/virginia-declaration-of-rights>; Déclaration des Droits de l’Homme et du Citoyen de 1789. <https://www.conseil-constitutionnel.fr/le-bloc-de-constitutionnalite/declaration-des-droits-de-l-homme-et-du-citoyen-de-1789>.

⁴⁹ The Virginia Declaration of Rights, June 12, 1776, Section 1: “[...] all men are by nature equally free and independent.”

⁵⁰ *Ibidem*: “[...] they cannot, by any compact, deprive or divest their posterity; namely, the enjoyment of life and liberty, with the means of acquiring and possessing property, and pursuing and obtaining happiness and safety.”

⁵¹ Déclaration des Droits de l’Homme et du Citoyen de 1789, Article 1: “Les hommes naissent et demeurent libres et égaux en droits.”

⁵² *Ibidem*, Article 2: “[...] la liberté, la propriété, la sûreté, et la résistance à l’oppression.”

⁵³ *Ibidem*, Article 4: “La liberté consiste à pouvoir faire tout ce qui ne nuit pas à autrui: ainsi, l’exercice des droits naturels de chaque homme n’a de bornes que celles qui assurent aux autres membres de la société la jouissance de ces mêmes droits.”

people-sovereign, construed in terms of the majority made absolute, exhibit a natural tendency to govern in accordance with their own interest, without respect for the benefit of the public, which may lead to democracy turning into anarchy, tyranny, oligarchy, or (as I consider most likely) ochlocracy.⁵⁴

The purpose of the state and its form of government is the happy life of its citizens and not a fanatical obsession with fidelity to some idea of varying and debatable contents. Irrespective of the controversy regarding such an idea and the debatable nature of its interpretation, it is only a means to an end and not an end in itself. Instead of being directed by a misleading virtue of fidelity to an absolutized democracy, we should be moved by the drive to ensure the greatest happiness for the greatest amount of people.

Should we want to live our lives with dignity, as free people with a sense of security and with a real opportunity for prosperity, we must redefine the canons of the contemporary democracy in a manner corresponding to the dynamically changing reality. How, precisely? However seditious might that sound, I would see the basic direction of desired changes, and the main conclusion for the laws that should be, in amendments whose foundation would be to contest the principle of universal suffrage (be it either the right to stand for elections, or the right to vote).

In such a manner, we enter the scope of the problem of “census rules,” or electoral eligibility rules. It may constitute a hardly comfortable area of discussion for the moderator animating the narrative, for electoral eligibility rules are an issue causing controversy already since the commencement of the democratization of elections in the 19th century.⁵⁵ In spite of that, or perhaps precisely because of that, it is vital for further elaboration to determine the concept of electoral eligibility rules, as such a concept is not construed uniformly in the Polish literature of constitutional law.⁵⁶ That could, in turn, cause certain controversy and doubt.⁵⁷ Excluding prohibitions that would be individual in nature, we are to assume here a comparably broad understanding of the concept of an electoral eligibility rule (a “census rule”), holding that it is any exclusion of suffrage for a group of persons who lack certain attributes that substantiate the possibility to exercise suffrage; this primarily applies to the right to vote, yet also, to a lesser extent, to the right to stand for elections.⁵⁸ In the context of the opposition to democracy and ochlocracy, I would specifically consider the concept of the so-called “census of education,” or a rule limiting suffrage on the grounds of possessed education.⁵⁹ The traditional description does not appear to be as fortunate, as it smells of a suggestive simplification that distorts the complexity of the problem.

The very idea of a similar eligibility rule and attempts at implementing it have their own history; rich and in no way unambiguous. I do not recognize dogma, and I consider the contemporary belief in the immutability of deeming universal suffrage as a determining factor of the democratic nature of the civic society to be one. This equates a means with an end. Thus, I do not share a view that there are no rational arguments to be found

⁵⁴ Jaroszyński, “Zachodnia demokracja”, 12.

⁵⁵ Esmein, *Prawo konstytucyjne*, 273–9.

⁵⁶ Uziębło, *Cenzusy wyborcze*, 6.

⁵⁷ See e.g. Garlicki, *Polskie prawo konstytucyjne*, 154; Galster, “Prawo wyborcze”, 195–6.

⁵⁸ Cf. Uziębło, *Cenzusy wyborcze*, 6–7.

⁵⁹ For more on the subject see Cieślak, “Cenzus wykształcenia”, 164–71.

for a serious discussion on that subject, all the more where an author of a similar thesis admits in the statement that follows it that it is a desirable state of affairs that the electors make their choices consciously.⁶⁰

I find that the negative approach to the issue follows largely from the improper perspective of the situation. I agree that the reduction of the issue to the requirement of the ability to read and write while having a nucleus of rationality does not in itself prejudice the qualifications of those who decide on the grant or the refusal of granting suffrage. A similar logic applies to equating education with possession of a formal document proving completion of a certain stage of education – especially today, when offering education to everyone made the value of diplomas and titles drop. It would be undoubtedly frivolous to decide on suffrage solely based on an IQ test. However, I would seriously consider something to the effect of an examination or a civics test that would verify basic competencies that are important from the point of view of rationality as regards the electoral act to be made, with such an examination or a test focused on basic knowledge, most notably in the field of economy and law and the ability of logical reasoning.

“Therein lies the problem,” and I am forced to agree. Nonetheless, in my opinion, it is only “therein” that the problem lies. Excluding technical aspects of commencing such a “civic competence examination” that would be the condition to exercise suffrage, I would pinpoint the essence of the matter to that very issue: what to consider a rational analysis and how to interpret the eventual results.

Bibliography

Legal sources

The Virginia Declaration of Rights, June 12, 1776. <https://www.archives.gov/founding-docs/virginia-declaration-of-rights> (accessed: 17.03.2022).

Déclaration des Droits de l’Homme et du Citoyen de 1789. <https://www.conseil-constitutionnel.fr/le-bloc-de-constitutionnalite/declaration-des-droits-de-l-homme-et-du-citoyen-de-1789> (accessed: 8.03.2022).

The Constitution of France of September 3, 1791.

Printed sources

Aristotle [Arist.]. *Polityka z dodaniem Pseudo-Arystotelesowskiej Ekonomiki* [Politics]. Transl. Ludwik Piotrowicz. Warszawa: Państwowe Wydawnictwo Naukowe, 1964.

Herodotus [Hdt.]. *Dzieje* [The Histories]. Transl. Seweryn Hammer. Warszawa: “Czytelnik”, 1954.

Thucydides [Thuc.]. *Wojna Peloponeska* [The Peloponnesian War]. Transl. Kazimierz Kumanięcki. Warszawa: “Czytelnik”, 1953.

⁶⁰ See Uziębło, *Cenzusy wyborcze, passim*.

Studies

- Almond, Gabriel Abraham. "Comparative Political Systems". *Journal of Politics* 8 (1956): 391–409.
- Antoszewski, Andrzej. "Modele demokracji przedstawicielskiej". In *Demokracje zachodnioeuropejskie. Analiza porównawcza*, eds. Andrzej Antoszewski and Ryszard Herbut, 15–26. Wrocław: Wydawnictwo Uniwersytetu Wrocławskiego, 1997.
- Barzun, Jacques. "Teoremat demokracji". *Ameryka* 236 (1990): 17–28.
- Cieślak, Tomasz. "Cenzus wykształcenia w prawie wyborczym". *Czasopismo Prawno-Historyczne* 5 (1953): 158–79.
- Dahl, Robert Alan. *Polyarchy: Participation and Opposition*. New Haven: Yale University Press, 1971.
- Esmein, Adhémér. *Prawo konstytucyjne*. Transl. Karol Lutostański, Władysław Konopczyński. Warszawa: Nakładem Księgarni F. Hoesicka, 1921 [reprint: Warszawa: Wydawnictwo Sejmowe, 2013].
- Galster, Jan. "Prawo wyborcze do Sejmu i Senatu RP oraz status prawny posłów i senatorów". In *Prawo konstytucyjne*, ed. Zbigniew Witkowski, 12th edition. Toruń: Towarzystwo Naukowe Organizacji i Kierownictwa "Dom Organizatora", 2009.
- Garlicki, Lech. *Polskie prawo konstytucyjne. Zarys wykładu*. Warszawa: Liber, 2010.
- Hansen, Mogens Herman. *Demokracja ateńska w okresie Demostenesa. Struktura, zasady i ideologia*. Transl. Ryszard Kulesza. Warszawa: DiG, 1999.
- Hansen, Mogens Herman. *The Tradition of Ancient Greek Democracy and its Importance for Modern Democracy*. Copenhagen: Det Kongelige Danske Videnskabernes Selskab, 2005.
- Hornblower, Simon. "Creation and Development of Democratic Institutions in Ancient Greece". In *Democracy: The Unfinished Journey 508 B.C. to AD 1993*, ed. John Dunn, 1–16. Oxford: Oxford University Press, 1992.
- Jamróz, Adam. *Demokracja*. Białystok: Temida 2, 1995.
- Jaroszyński, Piotr. "Demokracja – politeja czy ochlokracja?". *Chrześcijanin w Świecie* 2–3 (197–8) (1994): 134–44.
- Jaroszyński, Piotr. "Zachodnia demokracja: szanse i zagrożenia". *Człowiek w Kulturze* 20 (2008): 5–16.
- Kelsen, Hans. *O istocie i wartości demokracji*. Transl. Felicja Turynowa. Warszawa: Księgarnia Powszechna, 1936.
- Kiereś, Henryk. "Jaka demokracja". *Człowiek w Kulturze* 20 (2008): 17–32.
- Król, Marcin. *Słownik demokracji*. Kraków: „Znak”, 1989.
- Kulesza, Ryszard. "Demokracje antyczne i współczesne". In „*Rodzinna Europa*". *Europejska myśl polityczno-prawna u progu XXI wieku*, eds. Paweł Fiktus, Henryk Malewski and Maciej Marszał, 17–28. Wrocław: E-Wydawnictwo. Prawnicza i Ekonomiczna Biblioteka Cyfrowa. Wydział Prawa, Administracji i Ekonomii Uniwersytetu Wrocławskiego, 2015.
- Lengauer, Włodzimierz. "Isonomia". *Przegląd Historyczny* 72, no. 4 (1981): 609–35.
- Levitsky, Steven and Ziblatt, Daniel. *How Democracies Die*. New York: Crown, 2019.
- Malmon, Monika. "Arystotelesa poszukiwania idealnego ustroju państwowego". *Kultura i Wartości* 2, no. 6 (2013): 9–19.
- Mounk, Yascha. *The People vs. Democracy: Why Our Freedom Is in Danger and How to Save It*. Cambridge: Harvard University Press, 2019.
- Müller, Jan-Werner. *What Is Populism?* Philadelphia: University of Pennsylvania Press, 2016.
- Popper, Karl. *Spółczesność otwarte i jego wrogowie*. Vol. 1: *Urok Platona*. Transl. Halina Kraheńska; Vol. 2: *Wysoka fala prorocत्व. Hegel, Marks i następstwa*. Transl. Halina Kraheńska, Witold Jedlicki. Warszawa: Wydawnictwo Naukowe PWN, 2006.

- Rachwał, Marcin. "Władza ludu czy elit politycznych? Próba zdefiniowania współczesnej demokracji". *Przegląd Politologiczny* 1 (2013): 69–82.
- Sandel, Michael J. *The Tyranny of Merit: What's Become of the Common Good?* New York: Farrar, Straus and Giroux, 2020.
- Sartori, Giovanni. *Teoria demokracji*. Transl. Piotr Amsterdamski, Daniel Grinberg. Warszawa: Wydawnictwo Naukowe PWN, 1998.
- Schumpeter, Joseph. *Kapitalizm, socjalizm, demokracja*. Transl. Michał Rusiński. Warszawa: Wydawnictwo Naukowe PWN, 1995.
- Szacki, Jerzy. *Historia myśli socjologicznej*. Warszawa: Wydawnictwo Naukowe PWN, 2002.
- Świeca, Jerzy. „Współczesne demokracje. Analiza instytucjonalna”. *De Doctrina Europea. Roczniki Instytutu Europeistyki* 5 (2008): 125–47.
- Uziębło, Piotr. *Cenzusy wyborcze XXI w. – potrzeba nowego podejścia*. Toruń: Centrum Studiów Wyborczych, Wydział Prawa i Administracji Uniwersytetu Mikołaja Kopernika; Towarzystwo Naukowe Organizacji i Kierowania "Dom Organizatora", 2014.
- Wiązek, Paweł. "Ustrojowo-prawna pozycja legislatury w monokameralnych systemach konstytucyjnych XVIII-wiecznej Francji". In *Zgromadzenia stanowe i organy przedstawicielskie w dziejach. Księga jubileuszowa dedykowana Profesorowi Marianowi Józefowi Ptakowi*, eds. Józef Koredczuk and Paweł Wiązek, 419–32. Wrocław: E-Wydawnictwo. Prawnicza i Ekonomiczna Biblioteka Cyfrowa. Wydział Prawa, Administracji i Ekonomii Uniwersytetu Wrocławskiego, 2020.
- Zacher, Lech. "Demokracja jako rozczarowanie i nadzieja – uwagi i refleksje wprowadzające". In *Transformacje demokracji. Doświadczenia, trendy, turbulencje, perspektywy*, ed. Lech Zacher. Warszawa: Difin, 2011.
- Zajadło, Jerzy. "Graecum est, non legitur?" *Czas Kultury* 4 (2020): 7–12.
- Żyromski, Marek. *Gaetano Mosca. Twórca socjologicznej teorii elity*. Poznań: Wydawnictwo Naukowe UAM, 1996.

Internet sources

- <https://winstonchurchill.org/resources/quotes/the-worst-form-of-government/> (accessed: 19.05.2021).
- <https://www.projet-voltaire.fr/culture-generale/voltaire-citation-apocryphe-je-ne-suis-pas-d-accord-avec-vous/> (accessed: 12.04.2022).
- <https://www.youtube.com/watch?v=E7ckU8y3DXM> (accessed: 12.04.2022).
- <https://epodreczniki.pl/a/demokracja---zalety-i-slabosci/Doyq2BIJf> (accessed: 12.04.2022).