

Democracy and Natural Law

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ABSTRACT: Democracy represents the engine of societal evolution from an economic and legal standpoint but with a profound impact on the psycho-emotional relationships between individuals engaged in the mechanisms of communal life. Inherent to human beings is only natural right, that ensemble of harmoniously related and innate principles to man, a system that finds its origin in the a priori space of ontological nature. The majority of constitutions pertaining to free states affirm democracy as the sole instrument capable of providing citizens with freedom of conscience, expression, opinion, and last but not least, the decency of life as the primary condition for lifelong education and cultural refinement. This article explores the intricate relationship between democracy, natural law, moral consciousness, and individual autonomy, emphasizing their interconnected roles in developing a just and equitable society.

KEYWORDS: democracy, natural law, positive law, society, religion, culture, education

- modus essendi nostrum est dispositio substantiae, quae debet esse ad Deum, nam nulla anima sine habitus infus est -

Introduction

History, political science, and legal studies have provided, doctrinally, a relevant insight into the social mechanisms encapsulated in the notion of a system, which implies internal non-contradiction and coherence. The ideologies that have attempted the establishment and systematization of democracy have historically experienced periods of excellence as well as periods of dramatic decline. Initially, Ancient Greece, the cradle of democracy in human conception, introduced the notion of *demos kratos* in its direct form regarding the participation of the population. The utility of this practice is self-evident, considering that the number of citizens present at the debates in the Agora was substantially smaller than the populations of today's post-modern era, corresponding to Nation-States. Why the term Nation-State instead of just the State? Why is differentiation important?

In the realm of phenomenology concerning democracy, the State represents, as a singular form, only a political institution with its own apparatus of administrative structures more or less dependent on the central core. The State is a true *plenary subject of law*. In relation to the citizen, the State holds a position of power (*in the realm of public law*) and a position of equality (*in the sphere of private law*). Thus, the division of the ideological system into three major branches gathered under the title of: *separation of powers in the state*, was imposed. Such a composition was necessary due to the constitutional legislator's desire to protect the citizens from abuses and political deviations that can slip into authoritarianism or totalitarianism. This was precisely the aim at *the fall of the Bastille*: the reintegration of man into the multidimensional cosmos of his being: the being with self-awareness, the being in connection with the a priori space—host of moral consciousness; this good *counselor* before any deed, insistent and merciful counselor during the deed, also playing the role of discourager, so that in the end, it transforms into the *right of judgment* in the image and likeness of God.

The aforementioned triad: *anterior - simultaneous - subsequent*, crowns the project of democracy by directly affirming to citizens freedom and equality. The feudal, autocratic, hermetic, and dominating order, in its erroneous understanding of divine reason, arrogated to itself the plenary right of life and death over the enslaved population, unaware that it is a precisely divine right that contains the essence of natural law: without freedom there is no

obligation, without morality there is no equality, just as without a legislative system accepted by social ethics there are no crimes or illicit acts: *nullum crimen sine lege, nulla poena sine lege*. After the French Revolution of 1789, more precisely at the beginning of the 19th century, the momentum of the new order stimulates the tandem of *democracy - nation*. The nation being the newborn of the democratic construction. The general will of the people is in power, *a plebiscite every day* (Ernest Renan).

However, when we refer to the fundamental law, we always have in sight its compatibility with positive law of strictly human origin, a creation of the rational and self-aware mind of man (Rotaru 2023, 825-874). History shows us that legal science is indeed far from perfect, its character being only perfectible in the dynamics of time. Thus, we are not mistaken when we say that positive law is a product of the vision of life, of its purposes above the contingency declared in certain philosophical systems, notably *Sartre's existentialism* which proclaims the absurd and the superficial state in which we find ourselves. Ultimately, where is the logical fracture because of which rigid and categorical secularization distances the constitutional phenomenon from the image theoretically considered? The answer is simple: positive law is based on and dictated by political will at a certain point in time. Inherent to human beings is only natural law - *sub specie aeternitatis* - while positive law affirms moral standards occasioned by a certain period of social time, flexible standards, democratically moldable. Democracy that does not limit the freedom to choose culture and education imposes extremely careful risk management without which *collective anxiety* can potentiate and maintain a superficial conception of the political, economic, legal, and transcendental sense.

The Nation-State

Elevated to the rank of religion, the new religion aimed to be complementary in relation to God. On the one hand: *"And this commandment we have from Him: that he who loves God must love his brother also"* (1 John 4:21); on the other hand: *"And every spirit that does not confess that Jesus Christ has come in the flesh is not of God. And this is the spirit of the Antichrist, which you have heard was coming, and is now already in the world"* (1 John 4:3). The intentional content of the revolutionary spirit is hard to imagine as antichristic, for this reason, it must be clarified that *the nation is envisaged as an evidently complex community, but simplified and homogenized in the imagination, invested with a high degree of coherence and marked by a specific destiny, traits that individualize it in relation to other similar communities* (Boia 2007). In this way, the idea of the Nation of spiritual nature has been outlined, consequently organizing and guiding on the sanctity of natural law norms. Its transcendental, concrete, and certain nature automatically implies the existence of its earthly aspect: the State. Respect and obedience are granted to this plenary legal entity in a *rigid, general, and impersonal* manner. The concept of the State invokes in citizens an attitude of subordination precisely due to its coercive power; the entitlement to apply coercive force when necessary is accepted without explanations and interpretations beyond the provisions of positive law. Regarding the Constitution, things are substantially different.

Article 54, paragraph (1), (*Romanian Constitution*) which stipulates that *fidelity to the country is sacred*, assures us of the institution's belongingness to political and administrative commands divine, which is easily understood since the legislator, in his light, chose to appeal to *sacredness*. The noun *fidelity* and the adjective (which answers the question: what kind of fidelity?) *sacred*, undoubtedly convey the desire, determination, and quasi-secularization flexibility of the state. However, the objective and universal character of this *jus naturale*, its divine origin instilled in man due to his belongingness to humanity, to God's supreme creation (Rotaru 2005, 295-324), *"In the beginning was the Word, and the Word was with God, and the Word was God. He was with God in the beginning. Through him all things were made; without him nothing was made that has been made"* (John 1:1-3), is that *quod erat*

demonstrandum which attests the Nation as the spiritualizing effect of the State through democracy.

Direct Democracy

As mentioned earlier, direct democracy is the result of the vectors of freedom (Rotaru 2015, 595-608), equality, rights, obligations, and responsibility, all specific to the ancient Athenian Agora. The basic characteristic lies in the quality of the people being the *sovereign of the nation*. This form of democracy is considered the pure solution, untainted by hidden personal interests of politically appointed representatives. All political, economic, and legislative decisions, whether they are rules of conduct or management and administration, fall under the deliberation of the free market. Civic gatherings in the market (agora) of Athens are free, unhindered, and governed by the principle of equality in expressing opinions. There are two known forms of direct democracy: *participatory and deliberative*.

Participatory democracy involves the active role of citizens in the decision-making process; fundamental aspects include public debates and petitioning. This form of democratic expression engages and enhances the principle of popular sovereignty over state representatives in a real manner: implementing participatory systems through referendums, civic advisory councils, and participatory budgets increases the level of transparency and accountability.

Deliberative democracy involves critical thinking and argumentative reasoning, two high cognitive traits that can counterbalance individual preferences and implicitly the tyranny of the majority.

The principles of participatory democracy aim to restore the necessary equality for democracy (Pateman 2012). As frequently asserted in the history of democratic doctrines, the politics pursued in this direction involves the engagement and imposition of ideas compatible with social justice. Ultimately, *participation is essentially a manifestation of power* (Fung 2006). Similarly, *deliberative democracy is not a State but a process, not a matter of status but of direction* (Habermas 1997). Thus, we achieve the complete consecration of the ideology of freedom because *deliberative democracy is democracy in its most complete form - citizens themselves confront public choices* (Fishkin 2009).

Biblical teachings

Some verses of the Bible can be interpreted as supporting principles such as responsibility in leadership, respect for equality, and free expression of opinion regarding social progress and interpersonal relationships. Without a correct and concrete relationship with the precepts dictated by moral conscience, we will not be able to achieve a political system oriented towards human well-being on both of its defining pillars: material and spiritual. Thus, equality before God must undoubtedly descend into the secular, profane environment. Sacralization isolated in academic discourses, far from the consciousness and presence of the citizen, will be lost in a dangerous obsolescence. *"But select capable men from all the people—men who fear God, trustworthy men who hate dishonest gain—and appoint them as officials over thousands, hundreds, fifties and tens" (Exodus 18:21)* (Rotaru 2014, 23-44). Jesus called them together and said, *"You know that the rulers of the Gentiles lord it over them, and their high officials exercise authority over them. Not so with you. Instead, whoever wants to become great among you must be your servant, and whoever wants to be first must be your slave—just as the Son of Man did not come to be served, but to serve, and to give his life as a ransom for many"* (Matthew 20:25-28).

Representative Democracy

In its modern sense, representative democracy is a contemporary political and social construct. Demographically, viewed quantitatively, it would not allow for participation and deliberation as it

did in antiquity. It would be nearly impossible for every proposed bill to register the opinion of every citizen. However, a digitized future might offer this possibility. But until that moment, to support respect for human dignity (Rotaru 2016, 29-43), equality, and freedom, rights and obligations, public order, good faith, good morals, and overall the satisfaction of the common interest, this representative manner is applied through which each member of society can contribute to the well-being of the community. In contrast to direct, participatory, and deliberative democracy, the method of representing the people by the elected has instituted, for clarification purposes, two other denominations: *electoral democracy or indirect democracy*.

Most Western countries practice this form of democracy. Essentially, the people legitimize, through a *social contract*, a certain number of representatives to represent their sovereignty. The great achievement of this political system is the separation of powers in the state: *the legislative, executive, and judicial powers*. Multipartyism, without which political freedom would be unimaginable, brings with it a major downside: the possibility of forming political coalitions without considering the ideological differences between certain parties. We won't go into details now, but any mixture significantly dilutes the core essences. The people elect established ideologies (*left-wing, right-wing*), but not party businesses. When the left and right become a *single pole*, any "*cartesian space*" useful for orientations is reduced to an ambiguous, vague point, with maximum potential for national wandering.

The moral conscience and the self-awareness

The perennial nature of natural law (*lex naturalis*), originating from the divine and being the guarantor of human dignity and intrinsic value, facilitates the relationship and bringing into the world of that *tangible a priori analytic* independent of any current political order. We are certainly in the presence of *moral consciousness and its quality as a guide and judge, co-author or abstainer*. *Self-awareness*, as a measure of the capacity to be aware of one's own identity, thoughts, emotions, and actions, constantly alerts to the autonomy of being, its individuality in relation to the external environment and other fellow beings. *It is a real unity in time*. The person lives time, it is not time that consumes the person. Actions, as human deeds, are at the end of the deterministic axis *word - will - deed*.

Self-awareness, alongside the necessary and sufficient moral conscience, gives rise to the unique person in two aspects. It is an inherent blend of identity. Human capacity to realize their own existence, to recognize and interpret their own identity, places us in the position of witnesses, researchers, and inhabitants of our own ontology. *Self-awareness translates into awareness of one's own ontology*. Without the social ethical code and without the moral code assimilated through spiritual transcendence, the human being exposes only the irrationality stemming from the rupture of the *ultimate principles* of all things. The notion of identity inevitably contains the attribute: autonomy. Autonomy functions as a receptor of the spectral moral consciousness that continuously penetrates matter, soul, and the fabric of space-time. A person's autonomy is the means through which they transpersonalize into another human being. *Autonomy is both the means and the end in itself*. The multitude of identities is equally the bundle of reflections of identities mirrored in each other. If we were to express qualities in the form of a matrix as follows: *[word will deed] [information energy action] [1 1 1]*, the determinant would be equal to zero. Why? Because *jus naturale* ensures the preservation of things, principles, and values as they were *Pronounced by the Proniator*. The mixture of political interests will function naturally. *Singular* positivism risks pettiness, *uprooting - disintegration - war*. From here it clearly results that: (1) *The realization of the word requires impulse*; (2) *Impulse applied to information from the noematic space*; (3) *The existential sense of the noema comes from the intentional content of consciousness*.

The stakes of social risk management are enormous. The limited understanding and explanation of human existence and nature in terms of physical and chemical reactions, anatomy, and organic physiology would adopt and definitively affirm a mechanistic system of

life manifestation, which is incompatible with the pillars of democracy, pillars of human existence as relationship, diametrically opposed trait to *the individual or individualist entity*. *Solipsism* is not auspicious in a constitutional republic with representative democracy. Solipsism would bring to the forefront the *rational being, but not necessarily the human being*. Without moral consciousness, man remains only a rational being, admittedly successful; the healthy axis of the *socius* is denied: *man - society - cosmos – God*.

Conclusions

We observe a profound connection between the concepts of democracy, natural law, moral consciousness, and individual autonomy. These concepts are interdependent and complement each other in shaping and functioning of a just and equitable society. Democracy presents itself as an essential political system for the evolution of society and the protection of individual liberties, such as freedom of conscience and expression (Rotaru 2016, 30-37). Democracy cannot exist separately from *natural law of divine origin, the foundation of human dignity and worth* (Rotaru 2019, 214-215). Moral consciousness and self-awareness represent immutable aspects of human identity and its relationship with the surrounding environment, serving as true guides for *both individual and collective actions and decisions*, contributing to the formation of personality and *social* inter-human relationships. Moreover, we must underline the importance of individual autonomy in the system proposed by democracy, as well as the necessity of responsible management of social risks to maintain balance and harmony in the *communal agora*. Thus, the article highlights the necessity of a *holistic and interconnected* approach to democracy, natural law, and *human* moral consciousness to ensure fair governance oriented towards the supreme respect of human rights and freedoms (Rotaru 2017, 545-550).

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