

THE IMPORTANCE OF PUBLIC DEBATE IN DEMOCRATIC REGIMES

Reyhan Sunay

Associate Professor, Department of General Public Law, Faculty of Law, University of Selcuk, Konya, Turkey

Abstract

One of the most important problems facing democracies today is turning people into more active participants by involving them in the decision-making process. Public debate emerges as a significant tool in this process. Public debate is essentially a series of forums where people's opinions, interests and expectations are expressed on an issue that concerns the whole or part of the society. Active participation that will take place through such forums will be able to form a powerful ground for an understanding of efficient citizenship and a functioning democracy (powerful democracy). For, such forums are primarily those that bear the traces of how people wish to be governed in the context of preferences and expectations that have been voiced. Holding public debates on issues that concern society will also help creation of an open (transparent) and accountable administration. The risk of power abuse will be reduced to a minimum in an administration which is constantly supervised and held accountable through public debate. However, to fulfill all of these functions, existence of a society that consists of people that are tolerant and respectful of differences is required besides legal and constitutional guarantees that will enable free public debate.

Keywords: Democracy, public debate, negotiation and communication, transparent and accountable administration.

1. Introduction

Democracy is, in its essence, a method about by whom, how and in what way a state and a society will be governed. The answer that democracy gives to the question by whom the society will be governed is “people”. Indeed, the meaning of the term democracy refers to people’s rule or people’s sovereignty. However, the concept of democracy as people’s rule is a definition that awaits explanation, because ruling means to make and execute basic political decisions. It involves taking decisions and implementing them, i.e. exerting sovereignty. However, today people do not exert sovereignty personally but instead choose those that will exert it. This leads to the emergence of representative democracy or in Sartori’s terms ‘governed democracy’ (SARTORI 1993: 95 and so on).

On the other hand, how and in what way the society will be governed is one of the challenging questions to which answers are being sought today. Various answers have been given to this question from past to present. They can be listed as acting in accordance with the principle of state of law, respecting human rights and fundamental freedoms, observing justice, equality and acquired rights etc. However, the basic question here is how such an administration will be established. What is the function and place of people in an administration that rules through representatives? What should it be?

Until the end of the 20th century, democracy was perceived in the minds of societies to be a set of techniques consisting only of election of administrators. Such a perception meant that individuals were perceived as “passive citizens of democracy” rather than “its real actors”. However, with the 1990s, the crisis of representative democracy began to be one of the most frequently debated issues in politics. In particular, developments following the end of the cold war and the process of globalization made it an issue of the agenda that the current perception about the role and position of the individual was not adequate and hence democracy needed to be deepened.

What is meant by deepening of democracy is how a political system that is democratic in terms of its general framework can be rendered more democratic in terms of functioning. The real question to which an answer is being sought here is the question of “how people can be turned into a component or subject of politics instead of being a mere elector”. For, by virtue of its function, the target that is intended to be achieved through the democratization of a political system is to make democracy people’s administration in the true sense of the expression by rendering people’s sovereignty more functional. To this end, various theories of democracy have been proposed such as direct democracy, radical democracy, participatory democracy, powerful democracy, deliberative

democracy etc. (TØNDER – THOMASSEN 2005, ZITTEL-FUCHS 2007, ELSTER 1998). Their common emphasis is making people more active by involving them in the decision-making processes and thus letting people's will dominate. The discussion or deliberation by people of public issues has been proposed as a vital factor. In this study, the place, importance and limitations of public debate in the democratization of democracies will be the major subject of investigation.

2. The concept of public debate and its general characteristics

Public debate is a series of forums where public opinions, interests and expectations are expressed on an issue that concerns the whole or part of the society. The word “public” here refers to people in general. The adjective “public”, on the other hand, means opposite of being individual and private and being connected with social and state life.

Issues concerning social and state life may be related with matters such as how the justice system will be structured, how a specific freedom needs to be regulated, how long compulsory education must be, whether troops will be sent abroad or not, whether military service should be obligatory or not and whether euthanasia is a human right or not. A communication environment is established where information, views, arguments and counter arguments on relevant issues are expressed and tested mutually through a public debate regarding the stated matters.

First, such a communication environment is significant because it serves to establish individual autonomy. Individual autonomy is concerned with everybody's “making their own laws”. In this sense, each individual enjoys the right to participate in taking decisions that will affect their lives. Decisions that influence individuals' lives do not, without doubt, involve only choices that they have made in their individual or private fields. Political preferences in fields such as justice, education and health and the content and nature of law also affect people's lives in many ways (ERDOGAN 2009).

Secondly, such an environment of communication will enable people or the public to gain visibility. In a democracy, people/public needs to gain visibility in order for people's rule to gain functionality. The difference between a democracy where citizens watch rather than being active (weak democracy) and a democracy that operates with an understanding of active and effective citizenship becomes apparent here. It is impossible to be a self-governing community by acting as mere spectators. People's becoming functional can be possible only through active participation (BARBER 1995: 31 and so on).

Active participation in public life does not only mean continuing a struggle for political posts. Taking part in ongoing debates about public problems in writing and words outside of election times is quite significant for active participation. No matter what the level of contribution made is, a healthy democracy is based on continuous and informed participation of large masses. Without such extensive and constant participation, democracy will become one that is only watched and gets weakened in time.

Although “being informed” is one of the important factors for active participation that will take place through public debate, communication processes can also act as processes that convey information. That is to say, no individual alone possesses all the information that concerns everybody and seems important. Moreover, various viewpoints on different issues can not be known or predicted by all individuals. What will reveal them is inter-communication and discussion. In this context, public debate emerges as a tool for obtaining information.

One of the other comments made on the value of public debate besides being a tool for getting information is that it is at the same time a tool for enlightenment. Indeed, stating that inter-communication acts as a means of enlightenment, Kant argues that when people are compared at the level of individuals, it is far more likely and in fact inevitable that public will enlighten itself. According to the author, it is possible to reveal the difference between thinking to oneself and thinking aloud in terms of enlightenment as follows: “If we do not think, in a community, together with people to whom we will convey our ideas and who will convey to us their ideas, to what extent and how accurately can we think?” (CASSIRER : 170, 363, 389, retold by. HABERMAS 1999: 206).

On the basis of these arguments, it is possible to say that democracy appears as a system which finds a ground for survival by the existence of people who talk to one another about social problems and shape up their future. Above all, when emphasis is laid on democracy, this means that the solution of problems is sought in negotiations, politics and interpersonal communication. This indicates that democracy is in fact a process. Democracy is a process about the rules of co-existence. Besides this, it also emerges as a set of methods and processes which indicate that the solution to the problems concerning people and society lies again in people and politics.

It is beyond any doubt that such a model can not be operated by passive agents. It is highly likely that a democracy that is run by passive or inactive subjects will transform into a democracy that operates despite the people. A democracy despite the people, on the other hand, is a product of an elitist political understanding that views people only as objects.

3. Its orientating of state bodies – its influence on the shaping of politics

Public debate is, above all, a series of forums that bears the traces of how people want to be governed in the context of preferences and expectations that are expressed. In this respect, it is a means that may serve to realize the ideal of “administration for people” because an administrative mechanism sensitive to the society will definitely be influenced by this series of forums and make its own way.

The administrative mechanism conducts its operations in accordance with practices as laid down by laws that are passed. The purpose of laws and practices, on the other hand, is determined as “public interest” in a legal and technical sense. Appealing to the public in determining what the public interest is seems to be a logical and necessary consequence of democracy because the essence of democracy lies in the principle that “nobody can be forced to comply with a decision in the making of which they have not participated”. Otherwise, we will be talking about oppression rather than freedom. It should be considered that each adult who is subject to the laws of a state is qualified enough to contribute to the making of these laws. This is the essence and rationale behind democratic legitimacy (DAHL 2000: 35-37).

“Deliberative democracy” makes the most important emphasis on such bases in the relevant literature. According to the proponents of this view, the importance of public debate and “public reasoning” is great in terms of the legitimacy of the administration and its political decisions. Unlike private reasoning, public reasoning states that agreement on general norms of the political order is a result of negotiation and debate. From the point of view of deliberative democracy, democracy should be based on a ground of public negotiation depend on the participation of all citizens (HABERMAS 1999: 43 and so on).

The main reason for this is that only norms agreed by all that will be affected by their consequences can be valid. In this approach, it is accepted that the question of legitimacy of public regulations concerning the relationship between the state and the society and the principles and norms in this regard can be solved, above all, through their incorporation into the process of public debate. Thus, public debate appears as a phenomenon that generates democratic legitimacy (HABERMAS 1999: 50).

On a more concrete level, the process of public debate is dealt with as a matter that will render the concept of people’s sovereignty functional and put it in practice in its true sense. Indeed, according to Habermas, sovereignty “gains validity through public debate which reveals issues that bear

significance for the whole society, interprets them and contributes to the solution of problems” (HABERMAS 1999: 50).

Here, one may ask the question whether public debate will necessarily end in a common decision or agreement. Naturally, it would not be realistic to think that this will be possible in all circumstances because forums of public debate are mostly mixed forums. Depending on the subjects under discussion, the composition of the public may consist of very different identities and demands. It can not be expected that a certain conclusion or consensus will be reached in this process. In reality, too, issues on which the whole public agrees to be in their interest are quite limited except for the maintenance of public order and prevention of a foreign assault. In fact, even in matters in question, there are differences of opinion about how these goals will be achieved. Therefore the matter at hand can be related to people very differently regarding issues that concern everybody. However, as Habermas pointed out, communication and debate add legitimacy to decisions and have a certain effect on policies. Although demands of different sections of society can not be met at the same time, different viewpoints can have their voices heard through constant communication and dialogue and it is always possible to express what is wrong and change points of view (HABERMAS 1999: 44 and so on).

On the other hand, although such a process can not guarantee that all individuals will live in accordance with laws that they themselves have laid, it raises the opportunities of controlling their destiny to the highest level because the process of public debate allows individuals to express their expectations and views before political decisions take effect (DAHL 2000: 54-55).

In this way, it can be argued that the process of public debate serves as a source for the establishment of a “daily life democracy” thanks to the aforementioned features. On the other hand, when it is considered that social and political stability depends on mutual relationship with the administration, the process of public debate again emerges as one of the mechanisms that ensure the continuity of this relationship. As long as free debate can be held, this relationship will follow a smooth course because when the administration takes decisions in accordance with the suggestions and views offered to them as a result of free debates, people will take a significant opportunity to eliminate public problems and determine basic policies.

Naturally, what kind of a meaning is attributed to politics, laws and rules of law emerges as a determining factor in realizing such an opportunity. When politics is seen as a profession that can be performed only by certain people, it will be only politicians who determine what the basic policies will

be. In contrast, when politics is considered a community-centered phenomenon, it will be admitted that it can not be left to politicians alone. Community-centered politics is an activity that is up-to-date, continuous and dynamic. Such qualities cause it to be considered a matter of practical decisions.

On the other hand, if laws and rules of law in general are viewed as a product of the demands by individuals and social conditions, they can have a democratic function and value. In this process, public debate serves as an important tool that enables us to know people's expectations and needs. In this way, public debate provides legal decision-makers with power of thought and action as a powerful social capital.

4. Its allowing for an open and accountable administration

One of the distinctive qualities of constitutional democracies is the presence of an open (overt/explicit) administration. An open (overt or explicit) administration can be defined as an administration that operates in daylight, whose activities are open to public monitoring and can be held accountable for its actions. In an open administration, it is possible for people to have information about what is done, reach necessary information and documents and supervise what is done. In order to have such an administration, first, it is necessary to be open to different ideas. Moreover, sharing of information and transparency are also important factors. Rejection of infallibility is a prerequisite for an open administration.

By virtue of these qualities, an open administration is one where there is no confidentiality and self-enclosure in administration. Confidentiality in administration is the withholding of information obtained by the administration from citizens. Self-enclosure in administration, on the other hand, is the execution of administrative activities through decision-making processes that are isolated from society and without taking into consideration the society's views, suggestions and expectations. A closed administration is one that is insensitive to stimuli from the society and hides its operations.

In an open administration, on the other hand, public's expectations and suggestions are taken into consideration. To enable this, there is an intimate communication between the administrators and the administrated in an open administration. Presence of communication is an important factor that can remove the question of alienation and legitimacy. For example, an administration may have two different approaches concerning where nuclear waste will be stored, how long compulsory education will be or whether conscientious objection can be regulated positively as a human right. It will determine this either on its own or in conjunction with those involved. The second approach paves the way for an open administration. In this process, public debate is one of the

important means that establishes the communication between the administrators and the governed. Absence of public debate disrupts the communication between the two. This disruption causes the administration to operate independently of the society and in time be cut off from it. An administration cut off from its society becomes a confidential and closed administration.

Holding public debates on matters concerning the society is an indication that information is not a monopoly of the administration. This situation generally prevents the administration's monopolism. Moreover, holding public debates and negotiations helps expose fundamental problems and administrative failures and allows them to be heard by the society. Thus, transparency (publicity) in administration takes place instead of confidentiality and closure. In this respect, public debate allows a bottom-up administration. Proposing views on issues that have been considered taboo until then and have not been talked about and entering into a process of debate helps narrow the gap between the society and the state. Openness and transparency is possible only to the extent of this narrowing.

Another feature of democratic administrations besides openness or publicity is that they can be held accountable. The obligation to accountability, which lies in the heart of the phenomenon of administration, is a fairly natural phenomenon for democracies. The foundation for democratic legitimacy is that administration should depend on people and administrators should be accountable to people. The society's demanding information from the administrators who act in their name and call them to account is a right that constitutes the essence of a democratic regime. Besides, in democratic systems, holding administrators accountable is not an issue that is left to election periods only. Administrators may be called to account in various ways outside of election times. Public debate is an important means in this process. Indeed, an administration that turns problems that are subject of public debate into certain political decisions will have to explain why it has made such a regulation or why it has refused other alternatives. The main reason for this is that in constitutional democracies, administrators are elected to serve the public, not to use infinite authority. Those who are elected are not positioned above the electors; instead, they are deputies who are always accountable to them.

5. Reducing the risk of abuse of power

The risk of abuse of power will be reduced to a minimum in an administration that is constantly supervised through public debate and held accountable.

A subject that can be encountered in all periods of history is that the state may emerge as an institution that tends to abuse power that it possesses despite its stated goal of providing and maintaining security. Abuse of power may occur in structures where power is centralized and not shared with others. Montesquieu, based on the political conditions of the period he lived in, pointed out that centralization of executive, legislative and judicial powers will lead to degeneration of power and may do damage to rights and freedoms. He stated that because of this, powers should be in different hands. Different mechanisms have been developed to prevent abuse of each of these powers such as constitutionalism, constitutional judiciary, administrative jurisdiction etc. Naturally, judicial supervision consisting of such mechanisms is of great significance. However, in cases where these mechanisms do not exist, operate slowly or do not operate impartially, supervision conducted through public debate may be as effective as or more effective than them.

Conducting a rigorous public debate regarding basic policies and political decisions serves as a barrier in the way of the tendencies of decision-makers to act in an elitist manner or independently of the society. Rights and interests may take a more concrete form and be expressed more concretely through public debates.

Governments are sensitive to the demands and pressures from the public in democratic regimes. Sometimes, they may have to yield to pressures that have intensified. Indeed, Mill points out that a right or interest is not faced with a risk of being neglected if the individual is able and willing to defend it. According to the author, people may be safe from others' vices only if they possess the power to survive and protect themselves. Likewise, the author says that 'You may protect your rights and interests from the abuse of governments and those that control them only if you participate in the government. Therefore, 'all should be included in the absolute power of the state.' (MILL 1861: 43,55, retold by. DAHL 2000: 52-53). It is in this process that public debate appears as a mechanism that allows being included in the absolute power of the state. In constitutional democracies, the fact that legislative, executive and judicial bodies are influenced by the process of public debate imposes serious limitations on their power. For example, not acting against the mutual agreement that appears as a result of public debate in the process of legislation is a factor that prevents the abuse of legislative power. Likewise, a public debate that concentrates on the deeds of the administration may, for example, significantly reduce the possibility of occurrence of corruption in public administration. Thus, public debate serves as a means that makes it possible that those in power will remain accountable to the public from whom they have obtained authorization.

6. Prerequisites and limitations of public debate

The final outcome that is obtained from a public debate that fulfils the aforementioned functions is that individuals cease to be passive subjects and become real actors of the system. However, to ensure this, legal and constitutional guarantees that will render free public debate possible are needed. Above all, the right to obtain information, and freedom of thought and expression should be guaranteed. In particular, it should be acknowledged that freedom of expression involves being free to oppose.

The freedom to oppose is the freedom of thinking differently. To ensure this, it is important that the understanding of impartial (neutral) state should be adopted. The understanding of impartial state involves not being in favor of or against any ideology or world view because conducting a public debate in equal, fair and free conditions is possible only when no idea is granted privilege or no restrictions are imposed on the expression of ideas. Otherwise, while some ideas are sanctified and therefore cannot be questioned, there may be efforts to silence some other ideas. But, as Mill put it, one can never be sure that the ideas that are intended to be silenced are wrong. Even if there is certainty about this, silencing them would be the greatest vice committed against both the current generation and the coming ones (MILL 1988: 31).

The greatest harm that silencing an idea does is the upsetting of social peace. A consequence of this that affects public debate is its prevention of pluralism because formalizing an ideological choice and bringing it under protection comes to mean a desire to stereotype individuals' cultural, political and all other activities. In such an environment where pluralism is rejected, individuals' free thinking abilities will be endangered and it will be impossible to hold a free public debate.

A free public debate, by virtue of its nature, is based on individual and group autonomy. In a public debate that is conducted independently of individual and group interests and with a view to general harmony of the society, it is not possible to debate all issues freely and citizens can not take part in such a debate as free and equal participants because the idea of general harmony of the society involves an understanding of abstract interest independently of personal interests. Punishing dissident views as potential threats in accordance with the understanding of abstract interest, on the other hand, will prevent public debate from being a freely conducted one and turn it into a controlled one.

Presence of a society consisting of individuals who are tolerant and respectful for differences is important for a free public debate besides the aforementioned factors. Individuals who are respectful

for differences possess an understanding of culture that involves openness to dialogue, the ability and the desire to go beyond taboos and not being self-enclosed. Fallibility and taking others into consideration lie at the heart of such an understanding. No idea, belief or life style is accepted as the single and absolute truth in this approach. An attitude of this kind exhibited during the discussion of a subject is as important as normative factors in guaranteeing free debate.

7. Conclusion

Making democracy a people's administration in its true sense by rendering people's sovereignty more functional requires attaching more importance to participation and communication. A public debate in which citizens will have a say about matters concerning their common lives is an important means for enabling participation and communication. It will be possible to participate in decision-making mechanisms through public debate. In this way, which will add functionality to people's administration, the attribute of sovereign given to people will no longer be a thing "in words only" and perhaps democracy will find way out of certain crises.

Besides its very many other features, democracy can also be described as a set of techniques that brings the state closer to civil society and tries to remove the distinction of civil society and state. Bringing the state closer to civil society is ensured above all when the public becomes the source of authority used by the state. The use of such representations of administrative power or authority emanating from people as legislation, execution and jurisdiction against people or seeing them independently of the people is in conflict with the concept of democracy. If it is the people who are dominant in a democracy, then taking people's general demands and expectations into consideration and putting them into effect is a major duty of representative institutions.

A public debate conducted in a free environment is an effective method of learning what the people's general demands and expectations are. This process of learning will have a formative effect in policy-making in terms of democracies that are sensitive to people and also allow an open and accountable administration. Here, it must be pointed out that it is not possible to measure conclusively the effect of ideas and suggestions expressed through public debate on political decision-makers. On the other hand, despite this fact, presence and validity of this effect is beyond discussion. Decisions that are insensitive to opinions and demands voiced in a public debate conducted in an intensive and persistent manner are bound to remain weak within society in terms of effectiveness and durability.

References:

- BARBER, Benjamin R.(1995), Güçlü Demokrasi Yeni Bir Çağ İçin Katılımcı Siyaset (Powerful Democracy:Participatory Politics for A New Age), Translated by: Mehmet Beşikçi, Editors: Tuncay Birkan- Abdullah Yılmaz, Ayrıntı Publications, İstanbul.
- DAHL, Robert A. (2000), On Democracy, Yale University Press, London.
- ELSTER, Jon (1998), (Ed.), Deliberative Democracy, Cambridge University Press, Cambridge UK.
- ERDOGAN, Mustafa (2009), ‘Cahil Olmayanlara Bir Demokrasi Dersi’ (A Lesson of Democracy for the Non-Illiterate), Star Daily, 09. 05. 2009.
- HABERMAS, Jurgen (1999), Kamusallığın Yapısal Dönüşümü (Structural Transformation of Publicity), Translated by: Tanıl Bora- Mithat Sancar, 2nd ed., İletişim Publications, İstanbul.
- MILL, John Stuart (1988), Hürriyet (Freedom), Translated by: Mehmet Osman Dostel, Milli Eğitim Publications, İstanbul.
- SARTORI, Giovanni (1993), Demokrasi Teorisine Geri Dönüş (Return to the Theory of Democracy), Translated by: Tuncer Karamustafaoğlu-Mehmet Turhan, Yetkin Publications, Ankara.
- TONDER, Lars - THOMASSEN, Lasse (2005), (Ed.), Radical Democracy: Politics Between Abundance and Lack, Manchester University Press, Manchester UK.
- ZITTEL, Thomas-FUCHS, Dieter (2007), (Ed.), Participatory Democracy and Political Participation:Can Participatory Engineering Bring Citizens Back In?, Routledge, Abingdon Oxfordshire UK.