

INTERNATIONAL JOURNAL OF LAW
MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

Volume 4 | Issue 6

2021

© 2021 *International Journal of Law Management & Humanities*

Follow this and additional works at: <https://www.ijlmh.com/>

Under the aegis of VidhiAagaz – Inking Your Brain (<https://www.vidhiaagaz.com/>)

This Article is brought to you for “free” and “open access” by the International Journal of Law Management & Humanities at VidhiAagaz. It has been accepted for inclusion in International Journal of Law Management & Humanities after due review.

In case of **any suggestion or complaint**, please contact Gyan@vidhiaagaz.com.

To submit your Manuscript for Publication at **International Journal of Law Management & Humanities**, kindly email your Manuscript at submission@ijlmh.com.

Democracy - Majority Rule or Rule of Law

RACHIT BHALLA¹

ABSTRACT

Democracy, in the simplest of terms refers to the Rule of the People. However, this fails to provide adequate understanding to the reader, considering the lack of conceptual clarity which creates uncertainty. This paper aims at exploring the dimensions of democracy as we know it, as well as how relevant the concept is in today's day and age, as against the ideas of philosophers such as Aristotle, whose objection to the idea of a democratic state was based upon the premise that it happens to subvert and erode the Rule of Law. People, once considered as being sovereign equals in a democratic setup are the ultimate source of sovereignty in a state.

Democracy, being the simplest idea, also poses structural confusions. A set of instruments which aim to involve the population into the positions of power, whether directly or indirectly, may be termed as democracy.

DIMENSIONS OF DEMOCRACY

The task at hand is to fill in what it means to be democratic for a state, whether a form purer than the democracy we see in most states today exists and if yes, is it feasible to hand over the reigns to the electoral majorities? Can the presently implemented models of democracy evolve into something more than what they are today? Do such models fit into the line of thought of philosophers such as Aristotle, who is known to oppose the basic idea of a democratic setup? Who constitutes People? Once this stands answered, the next objective needs to be to understand what it means for the People, in this case, to Rule?

Some believe contestation as well as inclusiveness to be the two key dimensions for the establishment of the basic understanding of the concept at the very least.²

For the most part, Democracy can be viewed through the eyes of two : (a) The One-Dimensional Democrats and, (b) The Multi-Dimensional Democrats.³

The One-Dimensional Democrats are of the opinion that a state can be democratic if and only

¹ Author is a student at SLS Hyderabad, India.

² Coppedge, M., Alvarez, A., & Maldonado, C. (2008). Two Persistent Dimensions of Democracy : Contestation and Inclusiveness. *The Journal of Politics*, 70(3), 632-647. doi: 10.1017/s0022381608080663

³ Huber, E., Rueschemeyer, D., & Stephens, J. (1997). The Paradoxes of Formal Democracy : Formal, Participatory and Social Dimensions. *Comparative Politics*, 29(3), 323-342. doi:10.2307/422124

if it executes the will of the electoral majority. The question they stand to face as a constant is whether or not the electoral base of a state can be trusted with decisions which may affect the state as a whole?

In what may be known as a Pure Democracy, the will of the people is considered paramount and sovereign, regardless of the state. Hence, such a model fades away the second the Rule of Law comes into play. The implementation of the will of the majority is, hence, separated from its implementation by the rule of law, which has been rightfully accepted by what we know as Modern Democracies, considering the fact that the rule of law is a core principle which happens to be at power with the people's representatives.⁴

Fundamentally, hence, our comprehension and interpretation of a true form of modern democracy does not stand to be democratic in the sense that Aristotle believed democracy to be.⁵

The bedrock of a civilised society is the fact that the law prevents the excessive implementation of one's ideas or beliefs regarding an array of issues or a single issue at hand, for that matter.

Unreasonableness, which may be showcased by a large number of people, which also includes the electoral base of a state, may lead to undemocratic practices, and not just unjust decisions, in the case of Pure forms of democracy. Hence, democratic rule cannot simply be reduced to a rule of the majority. A limitation on the power of the population, may in various cases prove to be more democratic than unrestricted power in the hands of the said populations.

Similarly, Socrates, while conversing with Adeimantus, once compared a democracy to a ship, questioning whether one would prefer a skilled individual capable of handling the sail or just the bunch of random people on board. He stood of the opinion that a body of voters must be adequately educated before being trusted with the responsibility to decide who is sovereign in the true sense.

This was described by Plato in Book Six of *The Republic*.⁶

The uncertainty regarding the future of democracy lies in the idea of a vast number of people who believe there exists a need to strive for a purer and uncontaminated form of democracy.

The idea that a democratic set up is perfect when it comes to the promotion of social justice is

⁴ Lintott, A. (1992). Aristotle and Democracy, *The Classical Quarterly*, 42(1), 114-128. Retrieved February 27, 2020, from www.jstor.org/stable/639148

⁵ <https://www.prospectmagazine.co.uk/philosophy/aristotles-thinking-on-democracy-has-more-relevance-than-ever> "Aristotle's thinking on democracy. Last visited on 26/02/2020

⁶ ROSEN, S. (2005). *Plato's Republic: A Study*. New Haven; London: Yale University Press. Retrieved February 28, 2020, from www.jstor.org/stable/j.ctt1np7n2

in itself flawed considering the fact that there isn't a proper understanding of what a democratic setup consists of in its own self.

In fact, Aristotle's understanding and reading into the true meaning, essence as well as extent needed of a democratic setup is more relevant in today's day and age than it was ever before.

This above statement can be understood by going back a page and understanding as to how Aristotle explained the fact that the moment pure, unchallenged rights in a democratic setup are given in the hands of a private being, the system starts to erode and takes away drowning with it, the system consisting of the Rule of Law.

And how could one expect social justice in a society which fails to recognize the Rule of the Law as supreme.

Hence, the question to be answered before getting to the question of as to how to use democracy and the tools provided in a democratic setup to the best of their use in order to bring about a change in society to an extent where justice is served, we need to answer the question of as to what we really understand as the meaning of a true democracy in the modern world.

Democracy has a natural form, in the tiny and virtuous city state.⁷

Periodic legislative assemblies form it in which all the citizen, all the people participate.

Debates are bound to be inclusive as well as even respectful in a case wherein the city state truly happens to be virtuous. The citizens, hence, vote, after giving everybody a chance to speak. The popular choice of the electoral majority shall prevail but, because the citizens respect one another, the judgement of the majority will be informed by the views as well as the interest of the minority, in such a case. No actual polity could live up to these high standards,' but this form of democracy nevertheless, does happen to constitute an ideal that stands tall to be recognized. Political theorists refer to it as "faceto-face democracy."⁸ This certain face to face type of a democratic setup happens to not have any counterparts in the larger nation states. In a polity the size of the United States (or, for that matter, the size of Rhode Island, or even the city of Providence), the citizens are too numerous to assemble, deliberate, and decide as a whole.⁹ Therefore, it is more than difficult to make sense of democracy in modern nation states.

⁷ Arceneaux, Kevin. "Direct Democracy and the Link between Public Opinion and State Abortion Policy." *State Politics & Policy Quarterly* 2, no. 4 (2002): 372-87. Accessed July 2, 2020. www.jstor.org/stable/40421471.

⁸ Fishkin, supra note 8, at 4-5.

⁹ Christopher L. Eisgruber, *Dimensions of Democracy*, 71 *Fordham L. Rev.* 1723 (2003). Available at: <https://ir.lawnet.fordham.edu/flr/vol71/iss5/2>

Forms of government in which the many rule over themselves, were described as *Polities*, by Aristotle, rather than a democracy. What we refer to modern democracies have come to terms with the need of the rule of the law to put a foot down between the popular will of the people of the land and the implementation of the same. In the contemporary west, the same rule of law stand by the government elected by the electoral majorities.

Hence, from the view point of Aristotle, the ‘democracies’ we often cherish are nothing but *polities* and not democracies in the true sense.

If one were to take a general and over all understanding of the texts of Aristotle, they would gather that there exist three forms of citizen :

First being the ones who are the ruler in a true sense.

Aristotle states that a citizen is one who participates in the governance and judicature (Aristotle 1988, 1275b19-20).¹⁰

Also stated by him were the forms of governments, running into three : the monarchy, the aristocracy and the polity, while maintaining the stance of sovereignty being a minority across the board. However, the polity happens to scatter more of the otherwise centralized power to the peoples, on the condition of them having to be the warriors, since only those who qualify as warriors “ have arms” which is a requirement of gaining a piece of the political power. (Aristotle 1984, 1268a18-26).

The second form of citizen is somewhat similar to what Aristotle refers to as the legitimate members of the state, the major mass of whom are restricted from taking part in governing the state.

The third type of citizen is what we may today refer to as the people of a state, while referring to a democratic setup in the modern world. Here, all such members of the city state under said definition may participate in the governance. This type has probably only been in existence in one set up of governance, that being the democracy, which Aristotle referred to as one which has formed off of *polity*, as discussed above.

Since democracy has had many forms as well as interpretations over centuries , the one which Aristotle refers to in his texts has been set apart considering his understanding of the concept of democracy through the lens of the observation of quality and it’s principles in a rigid manner, as understood through the text quoted as under :

¹⁰ “He who has the power to take part in the deliberative or judicial administration of any state is said by us to be a citizen of that state.”

"In such democracy, the law says that it is just for the poor to have no more advantage than the rich; and that neither should be masters, but both equal..."¹¹(Aristotle 1984, 1281b30)¹².

¹¹ BARNES, J. (Ed.). (2016). Aristotle's Politics: Writings from the Complete Works: Politics, Economics, Constitution of Athens. Princeton; Oxford: Princeton University Press. doi:10.2307/j.ctv8pzd7

¹² "As I was saying before, men agree that justice in the abstract is proportion, but they differ in that some think that if they are equal in any respect they are equal absolutely, others that if they are unequal in any respect they should be unequal in all..."