

## INVESTIGATING THE FUNCTIONING OF CIVIL SOCIETY IN A STATE GOVERNED BY THE RULE OF LAW IN A DELIBERATIVE DEMOCRACY

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This article examines the functioning of civil society in a rule-of-law state in a deliberative democracy. Covering the theoretical aspect, the article analyses the essence of civil society, the rule of law, and deliberative democracy. In particular, the role of NGOs, media, and other public structures in shaping public opinion and contributing to solving critical problems of society is considered. The authors analyse the interaction of civil society with the legal system, in particular, the role of NGOs in promoting the implementation of laws and monitoring their observance. An important aspect of the study is the analysis of deliberative democracy and its impact on the functioning of civil society, in particular, the issue of citizen participation in decision-making and policymaking. The study includes an analysis of the role of civil society in ensuring citizen participation in decision-making, problem-solving, maintaining social stability, and ensuring human rights. Various aspects of civic participation are considered, including public discussions, petitions, and other forms of public mobilization in deliberative democracy. The authors note that the effective functioning of civil society contributes to building a democratic society in which interaction between different social groups is ensured, which helps to achieve consensus and improve citizens' standard of living. The author offers practical recommendations for improving the interaction between civil society and the rule of law to ensure a more effective deliberative democracy.

**Key words:** civil society, deliberative democracy, the rule of law, public participation, participation, public debate, human rights.

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**The Statement of the problem.** In today's conditions, the formation of a modern democratic state governed by the rule of law requires effective interaction between bodies, government structures at all levels, and civil society institutions. Social processes of democratization are based on the initiatives of citizens in coordination with the authorities and lead to the delegation of a range of powers to civil society institutions, which creates the possibility of conflict relations between society and the authorities.

**Objectives:** To analyse and systematize the scientific foundations of conceptual studies of civil society, the state, and deliberative democracy; to reveal the main directions of communication between the state and civil society institutions; to study the functioning of deliberative mechanisms of interaction between civil society and the state.

**The Analysis of recent research and publications.** Civil society is the second most important element of society after the state. It is a source of influence on the authorities and exercises control over their activities, constantly increasing its influence, and acting as an intermediary to strengthen social capital. Civil society actively promotes the processes of political democratization and the acquisition by the state of the features of the rule of law, defending the material and spiritual independence of a person from the state, seeking legal guarantees of such independence, and protecting the private and public interests of

people. At the same time, there should be feedback from state institutions to the public, as the rule of law should respond to the requests and needs of associated citizens, issue relevant legislation, and monitor its implementation.

The deliberative model of democracy, which originates from the communicative philosophy, is the most reasonable universal response to the contradictions that arise in a multicultural democratic community because of social and political transformations. The model of deliberative democracy belongs to the post-classical theories of democracy and explains how the public discourse of the public becomes a meta-instance of the legitimacy of the government and its political decisions.

The relevance of the research topic is reinforced by the need to highlight a qualitatively new way of communication between civil society and the State since society needs to deepen its knowledge of the theoretical and practical features of the functioning of deliberative democracy in modern democratic and rule-of-law states. The analysis of sources on this issue has shown that some aspects of this issue require additional research. In this regard, this article was chosen to complement the theoretical foundations and provide a more complete and detailed analysis of the problematic area of research.

**The Purpose of the article.** To clarify the essence of the functioning of civil society in a state governed by the rule of law in deliberative democracy, and to develop practical recommendations for ensuring a constructive dialogue between them.

**Presentation of the main research material.** In modern political communities, the problem of «global civil society» is increasingly addressed, which is characterized by the coexistence of state and non-state, transnational types of social interaction. Civil society, which is the second most important element of society after the state, acts as a source of pressure on state structures and control over their activities, constantly increasing its influence, and acting as a mediator to strengthen social capital. Global civil society structures, as institutions of civil society, try to position themselves as bearers of their power potential at the national and global levels, gradually becoming significant international actors capable of creating an equal alternative to the conglomerate of state power in the international system.

The effective functioning of civil society institutions directly depends on the ability of citizens to exercise their rights and freedoms, as well as the use of effective mechanisms to influence government, control and adjust its policies to consider the interests and needs of citizens, and the implementation of political functions.

In writing this article, the works of researchers of the concept of civil society and deliberative democracy were used, devoted to various aspects of both general theory and specific theoretical principles, which in some way influenced the formation of a holistic picture of the sociopolitical phenomenon of civil society. The normative ideal of civil society and deliberative democracy was studied by: J.-M. Besset, J. Bochman, J.-L. Cohen, D. Thompson, J. Dreisek, J. Fishkin, J. Steiner, S. Benhabib, Y. Habermas, E. Erickson, M. Warren, Jr. Thompson, E. Gutman, V. Kolbanovsky. In particular, domestic researchers V. Barkov, M. Boychuk, V. Tsvykh, O. Zadoyanchuk, O. Kosilova, P. Rzayev, A. Lazorsky, A. Matyichik, V. Medvedskaya, O. Poltorakov, I also dealt with this issue. Tolkachova and others. The analyzed literature does not fully cover all the necessary aspects of the peculiarities of the functioning of the civic, and therefore for a detailed analysis, identified by the problem area of the study, this topic was chosen.

The purpose of the article is to outline and analyze the peculiarities of the functioning of civil society in a state governed by the rule of law in a deliberative democracy.

Realization of the set purpose has caused the necessity of the decision of such tasks: to investigate and systematize scientific bases of conceptual research of civil society and deliberative democracy; identify mechanisms for the functioning of civil society in deliberative democracy; to highlight the essence of deliberative democracy in the process of realizing the power potential of civil society.

The methodological basis of the study is determined by an approach based on the principles of objectivity and integrity, considering a set of general scientific, general philosophical, and special methods that allow ensuring the validity and reliability of the results.

Thanks to the systematic method, the analysis of civil society as a complex and multifaceted phenomenon was made, a theoretical generalization of its functional dimensions as a kind of political and non-political interactions was made, and the methodological principles of deliberative democracy research were analyzed. The comparative method was used in the comparative political analysis of the main models of civil society with their inherent power potential. Using the structural-functional method, key organizational and structural elements of civil society were identified; in addition, political functions were singled out among the functions of civil society. The hermeneutic method was used to analyze and concretize key aspects of the deliberative model of democracy.

Civil society as a sociopolitical phenomenon is a system of non-state social relations and institutions that enables a person to exercise their civil rights and expresses the various needs, interests, and values of members of society. Civil society is not a social space isolated from the state, which opposes it in any form.

On the contrary, civil society and the state are interdependent because the state, performing managerial functions in public life, cannot but face civic values and institutions because the latter through a system of horizontal links in some way covers all social relations.

The need to study the power potential of civil society is justified by the fact that the problem of its implementation is almost not raised separately from the general concept of civil society and remains poorly understood, which is the reason for the uncertainty of specific aspects of civil society.

Civil society at all stages of its formation was part of a complex mechanism of relations between the citizen and the state. The format of these relations was transformed from the dominance of the state in the very process of forming the concept of «civil society» to the parity of relations between the institutions of power and civil society with the acquisition of the latter's self-organizational properties. Researchers, in addition to categorizing the concept, tried to determine the factors influencing the functioning of the political system and evaluate its effectiveness.

The issue of the formation and development of civil society has always been at the center of philosophical and political thought. Thus, Plato and Aristotle, although they identified society with the state, at the same time considered the relationship between man and power in the context of the analysis of various forms of government. At present, the idea of civil society is inextricably linked with the idea of a democratic society, the rule of law, and deliberative democracy, and is increasingly relevant in developed countries.

Modern ideas about civil society have emerged because of a long evolution of views that have shown a change in social relations and political systems. The various definitions of civil society can be reduced to two main approaches. According to the first, civil society is seen as a special sphere of society that exists outside the state and constitutes a system of non-state relations, structures, and institutions. According to the second, it is a certain state of society, which correlates with the state of a certain type, in which all the rights and freedoms of a person are legally secured and protected, which has the basis for the formation of the rule of law (Rzaiev, 2014).

At the present stage, the formation of civil society takes place as a civilized process, where at the same time developing public relations between members of society and society itself, between the state and the individual. The condition for such development is the balance, and equality of rights, freedoms, and responsibilities of all three components of civil society – man, society, and the state. At the level of its institutions and relations, civil society ensures the inseparable connection of a person with the legal status of citizens and the unity of social and legal relations of man with society and the state.

The effective functioning of civil society institutions makes it possible to place a person at the center of social and political life, considering his rights and freedoms as the highest social value. The stability of the development of society, the state, and the political system is achieved under the condition that the political institutions of the state will fully reflect the needs of civil society, acting as its direct continuation in the political sphere.

Civil society and the state are interrelated phenomena. In a way, the state acts as an executor of the will of society and to this end is endowed with appropriate tools for managing public affairs. Civil society is located as if above the state, which fulfills its orders and responds to its requests.

Since its inception, the state has constantly influenced society in various forms and manifestations. First, the manifestations of this influence were: various directives, and regulations, implemented thanks to state institutions. Thus, the state prevented the return of society to its natural state, namely chaos, and anarchy, while civil society did not allow the state to interfere excessively in the sphere of free relations in society.

Within this, the functional manifestation of civil society can be considered such activities of its institutions, aimed at affirming and protecting its core values, as well as the introduction and optimization of institutional mechanisms of democracy, as well as political and legal principles of its reproduction and improvement. In the process of social development, its transition from the lowest stage to the highest, the state is transformed, with the improvement of society the state becomes more democratic, democracy is exercised, economic freedom and individual freedom mature, and with the formation of civil society, the state becomes legal.

Extensive opportunities for the implementation of the political functions of civil society exist in the rule of law because it is such a state ensures the proper functioning of civil society institutions and helps to address issues facing its members. The legal field creates the possibility of the formation and development of civil society, which can be implemented by bottom-up initiative, the active and permanent position of active ordinary citizens (Kosilova, 2007).

Civil society is multifaceted – there are as many people and associations as there are interests and ways to present and implement them. The rule of law represents the «backbone» and at the same time an element of the institutional design of society. Without the rule of law, public associations as structural elements of civil society can spend their energy on clarifying relations, endless disputes, and clashes (Kostiuchkov, 2012).

In a stable political democracy and the rule of law, civil society is transformed into public power, the power of society, which constantly relies on the activities of public authorities and uses them to realize the interests of citizens and their associations. The politics of civil society is reflected in such institutions as political parties, sociopolitical organizations, the media, and local governments, through which its direct interaction with the state.

Civil society and the rule of law show the most important characteristics and inseparable aspects of modern democracy. On the one hand, the implementation of the rule of law cannot but be based on relatively autonomous mechanisms of self-regulation of civil society, and on the other – an organic complement to its functioning is formed on its basis state institutions. «The political and legal basis for the separation and independence of civil society from the state is the constitutional consolidation and real provision of human rights and freedoms, which is possible only in a state governed by the rule of law, with which civil society is in organic unity» (Zadoianchuk, 1999).

The functioning of civil society creates the preconditions for the democratic development of society, and its parity with the state recognizes the priority of society in these relations and serves to affirm in the public consciousness the idea that the state exists for society, not vice versa. And the relationship between civil society and the state actualizes the theoretical problem of the relevant concept of civil society, the main question of which is whether the state is part of civil society (Kresina, 2004).

Understanding the specifics of the functioning of civil society requires considering its power potential. However, the interpretation of cratological aspects of civil society differs from the issue of power in terms of the state. The essence of civil society can be revealed through a few of its characteristics, in particular the ability to self-organization (self-government), as well as the fact that in it a person becomes a bearer of power and is fully aware of it. However, it should be borne in mind that when it comes to the characteristics of the power of civil society, it is primarily a non-state power, which is opposed to state power (Tsyvkh, 2015).

There are several stages in the theory of civil society as a subject of power relations. Thus, M. Kalinichenko identifies four stages of development, based on the recognition of the historical nature of human rights and freedoms, which can be considered a very effective criterion for identifying stages in the formation of any civil society.

According to him, the first stage, in particular, is characterized as a period of pre-civil society, when human rights had no basis for their existence, and the power of civil society at this time is characterized by cultivating a type of leadership in which all members of the tribal organization voluntarily perform sufficiently strict syncretic norms of life, up to the power of the head of the family, which has only a moral significance. The tool for exercising power is exclusively the word, in fact, power was exercised by the power of ancestral authority. The only necessary means of coercion, according to F. Engels, was public opinion.

The second stage, according to the author, comes from the emergence of political society and, accordingly, the state, which researchers refer to as the era of feudalism. It is here that the most important institutions of human life, such as property, family, labor organization, and so on, in the form of feudal land ownership, estates, and corporations, acquired the status of elements of state life.

The third stage has its sources in bourgeois society, the specificity of which lies in the division of political and social spheres, and political and social functions. Here, the legal status of the individual is separated from his socio-economic role in civil society, which makes him both an individual and a citizen of society. The sphere of private interests hired labor and private rights is freed from political control. Within this stage, civil society acquires the characteristics of an institution that should provide the «common good» for members of the family. In such circumstances, the power of civil society must ensure this «common good» through organizational means and appropriate incentives.

The last, fourth stage in the formation of the power of civil society, M. Kalinichenko connects with the end of the XX century – the beginning of the XXI century when human rights not only came to the fore but also began to differentiate by distinguishing, for example, constitutional, civil, labor, administrative, social human rights. The differentiation of human rights has significantly expanded the power of civil society at this stage because: first, new organizations have emerged in its structure, endowed with power; secondly, its subjects have the right to control the activities of the member states of United Europe; thirdly, globalization has significantly expanded the power of civil society, not only in quantitative but also in qualitative terms (Kalinichenko, 2006).

The essence of the power of civil society, according to the researcher, is the subordination of one subject of civil society to another or one subject to another on the principle of «subject-subject» relations.

Civil society actors in today's world can and must provide the sustainable dynamism that the world desperately needs, as the power and influence of civil society grow, and they need to be used to build/maintain trust and ensure effectiveness in various areas. The changes taking place in civil society suggest that it should no longer be seen as a «third sector»: instead, civil society should be positioned as an integrator linking public and private activities to strengthen the common good (Tsyvkh, 2017).

Modern political scientists and political sociologists are of the opinion that to reduce social tensions in modern society, «like air, it is necessary to institutionalize the mechanisms of a permanent dialogue between government agencies and civil society». The institutionalization of the dialogue between the state and civil society will not only «set the rules of the game» but will also form elements of a social system capable of making a significant impact on existing values, collective identity, trust, and solidarity. In other words, the legal aspect «is one of the aspects of institutionalization». But in addition to the legislative consolidation of dialogue procedures, mechanisms, and norms, a social aspect is also needed, which makes it possible to institutionalize dialogue in the context of specific political practices of participatory democracy or deliberative democracy.

According to A. Zaitsev, among the common mechanisms by which deliberation is carried out, are public councils at public authorities, relevant public consultations, certain public examinations, specific mechanisms of public control, parliamentary and extra-parliamentary debates, and public discussion in the media (Zaitsev, 2013).

Deliberative mechanisms should be distinguished by the following features:

1. Mechanisms of deliberation are carried out in the formal political sphere. These include electronic consultations, parliamentary debates; public consultations (public opinion polls, public hearings), deliberation in local governments; public councils; open meetings of state bodies.

2. Mechanisms of deliberation are carried out in the informal political sphere. These include informal, which can move to a formal political sphere (public expertise, as well as public control); those that are considered purely informal (public discussion in the media, public forums, advocacy campaigns).

The mechanisms of public discussion of policy cover the first two groups. The mechanisms of the first group include institutionalized processes, the systematic implementation of which is ensured by current law and the relevant activities of public authorities and local governments. The mechanisms of a purely informal political sphere include public discussion in the media, and in public forums. These advisory mechanisms also have a significant impact on the development of civil society.

Most often, they are more an indicator of the development of civil society than a means of development. After all, a prerequisite for their effectiveness is the development of civil society institutions.

Parliamentary debate is a form of activity carried out by parliament, the essence of which is to discuss the issue submitted to the representative body. Such debates serve as a kind of mechanism that most closely follows the principles of deliberation. This mechanism ensures the development of political parties, which are one of the institutions of civil society, as well as ensures the professional development of debate participants.

Local self-government – appears as a state-guaranteed opportunity for the territorial community, villagers, or voluntary association of residents of several villages, towns, and cities into a rural community – opportunities to independently consider and resolve issues of local importance within the current legislation.

Significant in the development of deliberative democracy is public councils – permanent collegial elected bodies, within the competence of which is the implementation of advisory functions in the executive branch, as well as ensuring public control over their activities.

In the development of civil society, special attention should be paid to holding open meetings of state bodies, where a certain category of persons is given the opportunity (albeit to some extent limited) to represent the interests of civil society. Certain forms of deliberation, on the one hand, provide only a fragmentary influence of civil society institutions on public authorities (Zaitsev, 2013).

However, on the other hand, they provide a certain representation of the interests of civil society and increase the opportunities for public control in non-state authorities.

Opportunity to hold open meetings, ensures the implementation of certain conditions of trust in management, in particular:

1. Appropriate openness and transparency.
2. Presence of feedback.
3. Certain prospects and long duration of the relationship.
4. Appropriate rationality, expediency, and profitability of relations.
5. Some emotional connection.

Public consultations are important. The latter is usually held by the executive bodies on those issues that are related to the socio-economic development of states, the implementation and protection of the rights and freedoms of citizens, the satisfaction of their political, economic, social, and other interests. Consultations come in two forms:

- direct – public consultations.
- indirect – public opinion polls.

The public discussion involves the organization and conduct of:

- 1) conferences, forums, public hearings, round tables, meetings, and public meetings.
- 2) TV and radio debates, Internet conferences, and electronic consultations.

The significant impact of public consultations on the development of civil society is determined by the fact that they allow involving representatives of numerous groups whose interests relate to each specific issue, as well as the fact that the results of public consultations become public (Medvedska, 2019).

**Research findings and prospects for further research in this scientific area.** Civil society is a very complex and multifaceted phenomenon, due to the diversity of its interpretations in sociopolitical life. This is due not only to the origin of the concept of «civil society», but also to the variability of its use in different cultural centers of the world. The result of modern theoretical and methodological research can be considered the recognition of civil society as a political phenomenon, which is concretized, in some way, through the purposeful political activity of its subjects and institutions and is reflected in the adjustment of public policy and participation in the allocation of power resources. Focus on the establishment and protection of key priorities, values, and democracy. Social action in the context of participatory democracy, which leads to the emergence of new political institutions, is new democratic practices, joint collective action, and social movements that can create the necessary effects in terms of institutionalizing the consultation and dialogue process. Thus, the model of deliberative democracy serves as a basis for the introduction of an effective system of strategic communications. It makes changes and additions to the sphere of public administration, the humanitarian and social component, forms a new approach to the analysis of good governance, which is not only effective, but also provides openness, accessibility, accountability, and control, and shows some empathy mainly for all the requirements of citizens, as well as their basic needs and needs.

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**Ковалевська Д., Карашук М. Дослідження функціонування громадянського суспільства в правовій державі в умовах деліберативної демократії**

у даній статті досліджується питання функціонування громадянського суспільства в правовій державі в умовах деліберативної демократії. Висвітлюючи теоретичний аспект, аналізується сутність громадянського суспільства, правової держави та деліберативної демократії. Зокрема, розглядається роль громадських організацій, медіа та інших громадських структур у формуванні громадської думки та сприянні розв'язанню ключових проблем суспільства. Автори аналізують взаємодію громадянського суспільства з правовою системою, зокрема, роль громадських організацій у сприянні впровадженню законів та контролі за їх дотриманням. Важливим аспектом дослідження є аналіз деліберативної демократії та її впливу на функціонування громадянського суспільства, зокрема, розглядається питання участі громадян у процесі прийняття рішень та формуванні політики. Дослідження включає аналіз ролі громадянського суспільства в забезпеченні партисипації громадян у прийнятті рішень, розв'язанні проблем, збереженні соціальної стабільності та забезпеченні прав людини. Розглянуті різні аспекти громадської участі, включаючи громадські обговорення, петиції та інші форми мобілізації громадськості в умовах деліберативної демократії. Автори відзначають, що ефективне функціонування громадянського суспільства сприяє побудові демократичного суспільства, в якому забезпечується взаємодія між різними суспільними групами, що сприяє досягненню консенсусу, покращенню рівня життя громадян. Запропоновані практичні рекомендації щодо поліпшення взаємодії між громадянським суспільством та правовою державою для забезпечення більш ефективної деліберативної демократії.

**Ключові слова:** громадянське суспільство, деліберативна демократія, правова держава, громадська участь, партисипація, громадські обговорення, права людини.

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