

# INNOVATIVE DELIBERATIVE DEMOCRATIC APPROACHES IN TRANSITION: THE CASE OF UKRAINE

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## Abstract

*The article dedicates with the problem of deliberation democracy mechanism formation and development, especially for post-communist countries. Moreover, some opportunities for deliberation development according to intellectual capital of public administration are observing.*

**Keywords:** *deliberative democracy, democracy deficit, intellectual capital of public administration, post-communists countries*

## Introduction

Nowadays under the conditions of socio-economic downturns it seems so, that the democratic triumphalism that took place since the collapse of the Soviet system is almost over. However, we need to underline that examples of Arab uprising are about seeking of and looking for a democracy, so it is still the organizational model that many countries aspire to, but of course, it has its problems and limits. A lot of scholars argue that today we have a “deficit” in developed democracies (M. Warren and H. Pearse, 2008). And we can clarify such “deficit” with a lot of examples but one of the most biggest debates in this sphere was when the EU constitution project encountered opposition, and practices and scientists attributed that to a democratic deficit in EU institutions.

And of course, such question becomes again very actual in times of economic disturbances.

So we need to find a way how to “repair” our democratic institutions and one of the most popular trends in political science now is the model of “deliberative democracy”, which is currently becoming the fastest growing trend in the field.

The concept of deliberation, of course, is not new. We can remember for example, Aristotle, who argued that ordinary citizens debating and deciding together can reach a better decision than experts acting alone (A. Gutmann, D. F. Thompson, 2004).

Moreover, Athenian direct democracy - is practically the only one case in the history when the state was running by not elected representatives, but the majority of citizens.

Of course, Athens was a typical slave state, where the dominant part of the rights, including the right of lawmaking, belonged only to citizens. Direct democracy in a such form was possible primarily because a limited population of the city-polis (even in times of prosperity, the population of such independent cities did not exceed 25 thousands of people)

With such a small population, it was very easy to organize a general assembly, and conduct voting just by show of hands, moreover it was simple calculated.

History of the Athenian democracy shows that direct democracy is possible only where citizens can freely communicate with each other in real time. Technical possibilities did not allow such activities in communities larger than a polis, but in the XXI century, because of new forms of

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communication inventing, it becomes more possible to implement some elements of direct democracy.

But we cannot associate an Athens direct democracy and deliberation democracy, en rapport of all differences of ancient Greek regime.

Historically, for the first time, “deliberation” as a term was used in 1489 to refer a political discussion and further developed mostly in the UK, specially as parliamentary discussions (for instance, Edmund Burke in his “Speech to the electors of Bristol” mentioned that “Parliament is a deliberate assembly” (Payne, 1990)).

In future, the concept of “deliberation” was used by many political scientists, sociologists and philosophy scientists and scholars. But only in 1981 the term “deliberation” was used together with definition of “democracy”. It was in the work of Joseph M. Bessette "Deliberative Democracy: The Majority Principle in Republican Government." (Bessette, 1981)

Hereafter, the number of scientists working with the theory and models of deliberative democracy is tremendous.

**The main goal of this paper** is to analyze examples of the deliberative democracy in the “old” democracies and countries in transition and to develop some proposals for its inoculation in such post-communist state as Ukraine.

In my work, I will adhere to such aggregate definition of deliberative democracy such as:

”Deliberative democracy is a systematical approach where citizens (not just experts or politicians) involved in public decision making and problem-solving, can produce collective decisions by offering reasons to one another for the sake of consensus, or perhaps to illuminate conflicts”. (Fung 2005, Parkinson 2006).

So, how deliberative democracy is used in the “old” democracies and how they fill the democratic deficits? Such deliberative instruments can be: participatory budget; citizens assembly, deliberative polls etc.

For example, in the US, the Minneapolis Neighborhood Revitalization Program (Fagotto and Fung 2006), was an effective instrument (participatory budgeting) to solve local problems, increase cooperation between authorities and citizens (so improve a democracy through improving people participation) and in a result to achieve a real goals of local communities (local development). In the British Columbia citizens assembly example (Warren and Pearse 2008), we can see, how such efficient process as elections, can be under discussion of common citizens. In AmercaSpeaks case, we can observe that even such technical decision as decreasing of country debt deficit proposal can be produced through people participation in deliberation process.

In general, deliberation and deliberative democracy can significantly increase a level of people political literacy; expand level of participation and credibility between authorities and citizens.

### **Timelines of topic**

But the question of deliberation and deliberative democracy is actual not only for “old” democracies, but also its implementation can be very important for countries where democratic institutions are not so strong and must be improved. Especially, it can be very important for post-communist countries. However, deliberative democracy practices are spreading in non democratic societies, for example China. And even here, according to the deliberative democracy instruments, we can solve a current problems of local communities (for example – see deliberative poll in China, Fishkin, He, Luskin, Siu 2010).

Today, it is clear that the political development of post-communist countries can go in many different directions. Considering the post-communist and post-soviet landscape, we can observe examples of consolidated democracies (mostly successful, for example Poland, Hungary, Czech Republic etc.), some new authoritarian states (Russia, Kazakhstan, Uzbekistan), dictator (Belorussia)

regimes and a number of hybrid regimes (Morlino 2009), "stuck" in the transition process (Ukraine, Kirgizstan, Armenia, Moldova).

In some countries we can observe the final steps of liberal democracy consolidation, in others – democratic institutions are combined with non-democratic, authoritarian, in the third - the formal democratic procedures are used as a facade behind which new varieties of autocratic rule are hidden. By themselves, the political institutions, even if they are designed for optimal democratic scheme do not guarantee the success of democratization (examples of this we can observe in more post-communist countries, in Ukraine for instance). A stable and consolidated democracy is not only an institutional framework, in addition to procedures, it should be based on certain structural foundation for the supporting socio-economic system rooted in society and the norms and values of democratic citizenship, in, special kind of "social capital" (see, for example. Inglehart 1999).

Deliberation could not replace a democracy itself, but can be an effective instrument of its improving.

Analyzing the experience of leading democracies (for example, for the US, we can refer to the long tradition of self governance reflected in the New England town meetings, as documented by Tocqueville) and successfully transformed post-soviet and post-communist countries (for example in Poland), we can underline that one of the most important factors of their development is implementation of deliberative democracy instruments. In Polish case, we can remember that even first Polish post-communist constitution was successfully adopted mostly because of efficient deliberation among citizens were the first role had "Solidarność" and church.

Can an implementation of deliberation mechanisms in such a system be a real driving force which helps these countries into a way of transition to democracy?

Why is it so important to concentrate our attention in deliberative democracy in analyzing post-communist countries in general and in Ukraine particularly? I can provide here some my ideas:

It is a first world example when more than 25 countries together began a transition to democracy (and for most of them such process was successful. Here the main difference from post-colonial African transition, was that this transition mostly failed)

Post-communist countries which were definitely similar before the process of transition to democracy today are very different especially from the level of democracy institution development. Here we can observe such examples as "triple" transition, like in Poland or so even "quadruple" transition, like in Ukraine (Kuzio, 2001);

In many post-communist countries the level of public institution support is very low (especially in Ukraine. According to the last enquiries, the general public support for state government – 22.9%; Parliament – 18.7%; police – 17.4%; courts – 14.3%, for details see <http://www.spa.ukma.kiev.ua/konst/article.php/20110311134938704/print>), so deliberative democracy in such countries (because of wide people cooperation) can justify citizens decisions and improve legislation and accountability.

Implementation of deliberative democracy instruments will significantly improve the level of political education among citizens and create a strong "social network" (Diani & McAdam 2003) in society. The deliberation process probably could not create new democratic values but no doubt, can increase moral satisfaction and agreement among people.

Historically in Ukraine, we can observe a lot of examples of direct and deliberative democracy.

To begin with, establishing of certain democratic traditions were consistent to the nature of European political evolution in Ukraine during the Kievan Russia state (IX - XIII cc.) It was expressed in the form of concluding agreements with the newly elected knyazh (prince) and when he took nationwide oath.

A nation-wide candidate for the knyazh throne "calling", is a practical implementation of the formulated much later, idea of national sovereignty, because the community here is the source of power 24.

Moreover, in the Kievan Russia, as a form of direct democracy, a veche (town's meeting in medieval Russia) was existing. However, slavic tradition of veche is difficult to identify with the ancient tradition of the national assembly not only because of extraordinary role of veche, but also because of poor process handling and the unpredictability of its results and consequences, which sometimes had a radical nature.

During the Cossack Ukraine (XVI - XVIII century.), the general government was a military council - "meeting of all troops." It convened to address critical issues, elections of Hetman, General Government, etc. In this way direct military democracy was working. In general, this mechanism of direct meeting of all troops was working fairly effectively.

Moreover, we need to underline that all officials that time were elected and accounted for their activities to voters.

By the way, in this time, the most European states were absolute monarchies and often have very limited self-government even at the level of local communities.

So in the days, when Ukraine was the sovereign state (IX - XIII century, XVI - XVIII century), it tended to establish a democratic system and often the level of democracy was ahead the most European states.

Ukraine was among the first countries where a constitution was adopted and the absolute monarch sovereignty was rejected. This was realized by the P. Orlyk Constitution (1710), so it was for 73 years earlier than the adoption of the American Constitution. Unfortunately, its provisions were never implemented in practice.

In current independent period (post-soviet), deliberation democracy system did not become a permanent effective system of country political live development.

However, deliberation mechanism in Ukraine was considered as very necessary, especially after "Orange revolution" (2004). For instance, in the White Book (official document about the democratization of decision-making process, prepared and published by the Secretariat of the Ukraine Cabinet of Ministers in 2006), one of the main problems and obstacles in transition to democracy was recognized as the absence of a citizen involving mechanism in the management of public systemic issues through consultation. And after this conclusion some elements of deliberation democracy were implemented. Here I can mention such examples as creation of civil boards at all ministries. With their assistance, a big part of legislation were modernized and transformed according to EU practice (for instance: "The law on the police", "Law on the Prosecution" etc.) Moreover, at more local level, were create a lot of citizens boards with voting privilege. But with new president (Yanukovich), mostly of those boards were disbanded. Why? The civil society in Ukraine is rather fragmented; ties between its separate elements are not wide enough and not intensive enough. This may be a reason why civil society is not ready for constant dialogue, furthermore - for equal partnership cooperation with the government. And for today the position of civil society in Ukraine cannot be clearly defined. From one side, civil society exists and functions in the tideway of democratic developments of last decades. From the other side – it is still too weak to fulfill its functions to the utmost, to guarantee real involvement of citizens to formation of national policy.

Furthermore, in Ukraine (like in mainly of post-communists countries) there is a lack of theoretical and methodological deliberation framework, taking into account national peculiarities of local conditions and fast changes. This together with inadequate regulatory framework is one of the main problems of deliberative democracy development.

Differences appear sometimes even in very similar practical cases, for example, in Poland according to Euro-2012 preparation, deliberation polls were conducted (For example, deliberative Polling in Poznań consulted the public about the future of the stadium, a major investment connected to the city's preparation for the EURO 2012 tournament. Therefore, a decision was made to subject the long-term strategy of managing and financing the facility to public consultation<sup>2</sup>) and in Ukraine, which will host the same championship too, such activities were ignored absolutely.

In fact, even in nowadays deliberation is not new for post-communists countries, but this process can be fundamentally different not only from stable democracies examples but even from post-communist countries realities. Moreover, we can observe many examples of deliberation but not deliberative democracy. For instance, previous Kyrgyz President Kurmanbek Bakiyev announced in 2010 a shift from a democratic form of government based on elections and human rights to «national deliberative democracy». As Bakiyev said: "in our kurultai, which is enriched by people's views and opinions, I see a pattern to deliberative democracy....elections are nothing more than a "marathon-for- oligarchs"...the ideology of human rights gives rise to individualism and selfishness, which leads to a decline of public morality..." (Artemjev, 2010). According to his idea, the main legislative body of such system should be kurultai (regularly meetings of patriarchs).

But such decision brought to dissatisfaction of local political elites, so experiment broke down and was one of the reasons for further revolution <sup>1</sup>.

### Conclusions and proposals

The experience of leading democracies showed that deliberation democracy mechanism can help the public administration institutes and private sector to launch an effective and long-lasting cooperation system and improve credibility and legislation.

However, during the transition to the "knowledge based economy", we need to use new methods for deliberation too.

We propose to undertake research in the area of deliberation process, especially on the basis of the intellectual capital system creation and development in public administration. Even if we are used to mentioning intellectual capital theory from the economics point of view, it can be very important in the sphere of public administration development, especially at the process of cooperation between private and public institutions. We can formulate such definition:

Intellectual capital of public administration - the sum of all the knowledge, information and experience of a public body, workforce that can create new knowledge, wealth or provide competitive, efficient and new services (or its modernization). Such new knowledge, which includes both tacit and explicit knowledge, grows with the learning process that takes place within the organization and as a result of the shared interactions between the company and its customers, partners and suppliers. It is an aggregate value and consists of three main elements: human capital, organizational capital, capital of relation.

For public non-profit organizations, this effort has special potential for increased productivity. This is so for several reasons. These sectors are human capital intensive. Human capital is the primary source for organizational innovation and renewal. Finally, we are acquiring a better capacity through ongoing brain research to tap this potential resource.

There are a lot of differences in such mechanism creation and implementation, according to national specifics.

For Ukraine such mechanism (and elements of it), in particular, can be:

At the level of villages and towns (micro level):

- election of the district police officer (sheriff) in rural areas (U.S. experience) as well as some other positions on local and district level, for example such as: district surveyor, medical superintendent, and a heads of others public utilities (equivalent experience of zemstvo (district council in Russia in 1864 - 1918) in the Russian Empire);

- electivity of local judges (U.S. experience);

- reducing the number of village and town councils deputies, together with recall and the mayor "direct impeachment" mechanisms implementation (domestic experience of military democracy *XVII ct.*).

- the abolition of district councils in rural areas and their replacement by voluntary cooperation of local communities (Czech experience);

- development and introduction of regular public discussion about important projects decisions at the local level through modern processing facilities and transfer of information (the experience of Italy and the UK);

- introducing the practice of mandatory accountability of local elected official (the experience of many European countries).

At the city level:

- strategic decisions for regional development must be based only on local referendum;
- creation of the municipal police and a electivity for city level officials implementation (for example, chief architect, chief of public enterprises etc.);
- introduction of regular reporting of elected officials.

At the regional level (except the Autonomous Republic of Crimea):

- "governors" electivity (experience of U.S., Russian Federation etc.);
- rejection of the proportional election system for regional councils.

At the national level:

- improve the mechanisms of national and local referendums, in particular - working out the mechanisms of constitutional referendum and deliberate (national and local) referendum (experience of Switzerland, Italy, Great Britain);

- recognition of the referendum as prescription of direct action, that does not require any implementation (experience of many democratic countries);

- introduction of a new mechanism of judges and courts officials election for all levels (judges of first instance courts can be selected by local residents (according to the jurisdiction of these courts). Heads of courts and judges of higher courts can be chose by judges);

- significant expansion of ombudsman rights for the abolition of regulations and judicial decisions which violate human rights;

- introduction the position of locally elected ombudsman;

- reducing the number of parliament members (MPs);

- reducing the term of Parliament, local councils and elected officials (except the President of Ukraine) to 2 - 3 years;

- development and implementation of electronic voting and other activities aimed at reducing the cost of citizens voting, and in parallel - decreasing the probability of technical fraud;

- establishing a system of voters' evaluation for activities of executive authorities and their officials (civil servants) who are appointed (experience of the EU);

Moreover, for more effective implementation of deliberative democracy elements in Ukrainian realities, we need to provide some activities in the economic sphere too. It can be, for instance:

- promotion of the "middle class" position by giving priority for small business and self-employment developing and supporting by the state (EU experience);

- transition to the socially oriented proportional income tax system (specially for enterprises, on the principle: greater profitability - bigger tax rate (experience of Scandinavian countries);

- strengthening of governmental control over big business and monopolies on the domestic market an in parallel – to increase state support for Ukrainian business on foreign markets;

- implementing a real estate tax, increasing of land tax (rent).

### **Notes**

Here I mean a “Second Kirgiz revolution” in the 7-th of April, 2010 after which president Kurmanbek Bakiyev escaped to Belorussia.

The first deliberation pool was conducted in Poznan (Poland), where local inhabitants discussed the possible uses of a stadium and infrastructure at the conclusion of Euro 2012

("Poznaniacy decydują o przyszłości stadionu" - [http://poznan.gazeta.pl/poznan/1,36037,7281267,Poznaniacy\\_decyduja\\_o\\_przyszlosci\\_stadionu.html](http://poznan.gazeta.pl/poznan/1,36037,7281267,Poznaniacy_decyduja_o_przyszlosci_stadionu.html), the date of last access – 10/12/2011 );

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