

The Analysis Of Three Democracies, Intensity, Effectiveness And Latitude In Alf Ross.

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1. INTRODUCTION: THE DEMOCRACY OF ALF ROSS.

In the present test, the ideal” democracy of Alf Ross would be approached “; for it, the definition of this democracy is used for the analysis of “the real” democracies, since according to the author “a S-state democratic insofar as the political power this in the town” (Of Picó, 1993:52), this degree of influence of the town (to be able politician) is, in the measurement to identify three criteria: First, the intensity understood like “the dimension of the group of people whom they have right to participate in the voting’s and elections, the clearest example is the right to equal and universal vote of all the adults” being the distance of this real type, the denominated one by the author like “moderate democracy, with increasingly oligarchic form” (Ross, 1989:95); the second, the effectiveness, is defined as “the degree in which the town can affirm its opinion” (Ross, 1989:95), the direct democracies in which “the same town solves all the subjects of common interest by means of the referendum (...) effectiveness relativists if the expression of the public opinion takes place by means of representatives, following the effectiveness of the force of the control that the town can exert on its representatives” (Of Picó, 1993:53), the weakening of the control is in which Ross denominates “nominal democracy, where the power, by the way, is had in the name of the town, but, in fact is in increasing degree in hand of the representatives and not of the represented ones” (Ross, 1989:96); finally, the latitude, defined as “the measurement in which the popular influence and control are extended, in the form of more or less including part of the varied ramifications of the government (...) it is greater when the popular power controls not only the legislation, but also the executive authority and judicial. If thus it happens, the democracy is more or less partial” (Ross, 1989:96). In this sense, the political democracy of ideal type, defines it to Ross as: “that

one form of government in which the political functions are exerted by the town with maximum of intensity, effectiveness and latitude in the parliamentary methods. In those three respects the type tends, respectively, to a moderate democracy, nominal and partial” (Ross, 1989:96).

With this conceptual frame, the proposal of the present test will be the analysis of three contemporary democracies (Chile, Spain and Argentina), with the criteria of being able politician (intensity, effectiveness and latitude), for thus, to determine if the Popular Governments, are more or less popular or more or less government or both together ones for which he would be being speaking of democracy in terms of Alf Ross.

2. THREE CONTEMPORARY DEMOCRATIC COUNTRIES, THE CASES OF CHILE, SPAIN AND ARGENTINA.

The election of these countries is not arbitrary, since when developing its argumentation will be from the constitutional point of view, since it is the constitution that it governs the ordering of the sovereign town thus understood “the supreme town by virtue of which the State occurs to an organization and political and legal structure and it considers in front of other States in an equality and independence plane.” (Evans, 2006:9). In case Chilean “power supreme (to be able politician) resides, according to text constitutional, in nation, bony, in set of human beings that lives our territory and that is in favour tie of race, traditions, customs, language and beliefs” (Evans, 2006:9 - 10), difference in cases of Spain (1978) and Argentina (1994), so that it makes be the political power in the town, in the electorate, since it makes notice the lawyer Eugene Evans, in its literary work “the Explained Constitution”, in relation to the previous thing comments “In any case, the nation or the town realises the exercise of the sovereignty, bony of the political power by the will of the electorate the one that is called, either to choose to the members of the state organs that are put under in their formation the election, or by means of the consultation that only does plebiscites, in the cases that the same constitution establishes and, in addition by the authorities ready by the own constitutional text” of this form the representatives dictate legal

laws and of ordering towards communal property, receiving the power as much of the nation, as of the town, electoral, it grants this way legitimacy to him (Evans, 2006:10). This argument has direct relation with the measurement in which the political power is in the town, in this way democratic by definition, according to Ross, since this way, a comparison of the three chosen democracies can be realised.

2.1. CHILE

The case of Chile, when analyzing it from its constitution deserves a pertinent explanation necessarily: Constitution political of Republic of Chile is of year 1980, and to date has it have different modifications (when reviewing the text of Evans (2006) for example, this affirmation under articles explained in the work) has altered that it, but not changed can be successfully obtained in skeleton nor in spirit, since the letter was not generated under a Constituent Assembly in a democratic regime, if no, on the contrary, under a regime (not originated by elections) and de facto dictatorial; also, at present she is even representative to all the nation since it is “by nature (...) the positive norm of greater authority” (Evans, 2006:11); With this explanation I consider that of equal way to realise the analysis of the Chilean democracy from its constitution, it will be carried out, considering this fact.

Chile, is a democratic country, since it are expressed in its constitution, the 1980 constitution, its political regime is democratic, since in the article fourth, of the chapter first “Chile it is a democratic republic” (Evans, 2006:7). Now, to know how the based political power in the town, in relation to the characters of Ross is necessary to analyze point by point the different degrees, to know in instance So democratic what is Chile, it approaches the canons of the ideal democracy, or he is not democratic and their assertions are false? Referred to the Intensity, related to the extension of the population with right to vote, in Chile it is obligatory when register and they only can exert it the Chilean citizens and foreign with expressed right to vote in article ten, chapter two (Evans, 2006:19), article thirteen, chapter referring to the citizenship (Evans, two 2006:23) and article 14, chapter two in relation to “the foreigners - the nonnational ones domiciled in Chile by more than five years,

majority of 18 years, not condemned distressing pain and that will be enrolled in the Electoral Registries can exert the right to suffrage” (Evans, 2006:24- 25), being, the suffrage is universal, personal, singular, secret and obligatory; In 2007 8.035.669 Chileans they were enrolled in the electoral registries, of a total population in age to vote (PEV) that would ascend (according to the estimations of population of the NSI) to 11.751.584 of a total population in the 2008 of 16.763.470. In this way it leaves in evidence that the character of the vote is clearly far from the moderate democracy and of the no democracy, being this last the one that characterizes restricted or censitary electorates.

The character of Effectiveness, the Chilean democracy is of a Representative type, since “the exercise of the sovereignty (to be able politician) has been delegated by the governed ones in chosen authorities periodically and politically responsible” and in the case for the Direct Government “the citizenship creates the right norms by itself and solves the questions of interest common” (Evans, 2006:8) not being applicable in the contemporary political community. Also characteristics of semi direct exist like are it the referendum, plebiscite that are devoted in article 15, in relation to the character of the suffrage, the interjection second “... or by means of the selection of the people who will have the state power or through popular consultations, referendum or plebiscites.” And in article 18 on the electoral system (Evans, 2006:25,28), the President of the Republic is chosen by four years and he cannot be re election, also in temporality of functions the Composition therefore House of Representatives, of Senate lasting eight years in his position and will not renew every fourth years, the previous thing alternatively had by the universal vote the enrolled ones in the electoral registries; also with the previous thing we could speak of a nominal democracy, since sometimes it is possible to be exerted the popular plebiscite, referenda and consultations according to the effective law, the power is exerted in the name of the town and one is in the representatives that are politically responsible, to seem by before argued, also, does not take place a lost one in a control of the political power in the representatives.

In relation to the referendum: in Chile the last referendum, or plebiscite I am realised the 5 of October of 1988, to determine the continuity of the military regime.

The Latitude is conceived as the influence and the control on the part of the town in the divisions of powers, the Chilean case in my opinion is partial, since the control that is exerted to the executive authority is from the parliament and not directly of the town although this he is to him responsible in first instance by his condition of Head of State, in relation to the parliament, this he is responsible before the town so that it gives legitimacy him, but does not exist the capacity, for example to undo the parliament as in the case of the Parliamentary Republics, finally the judicial power, its guarantee is the democracy and article 72, assures the independence established by a constitutional statutory law, its attributions controlled by the Constitution of the Republic being mixed in generation of the power from President of the Republic, following a proposal by the own one to be able judicial and the Senate, although these three powers not necessarily rest in the direct control of the town they do if it in accordance with the state of right and to the legitimacy that grants the elections to him of representatives who choose authorities so that among them, the organs public are controlled.

Concluding this section, against the question of so democratic what is Chile, it approaches the canons of the ideal democracy, or he is not democratic and their assertions are false? He is highly democratic within the “reality”, from the popular point of view (in relation to the intensity) and from the point of view government, also the routes towards an ideal democracy cannot be possible since gradation canons exist that are being developed by the civil society like in the promotion of laws like the one of construction of laws on the part of the society that in the last time are approaching still more the Chilean democracy to an ideal democracy, within the canons of being able politician of Ross.

2.2 SPAIN

The Spanish constitution (31 of October of 1978) was ratified by popular referendum, being the first time where majors of 18 years voted Spanish of both sexes (Daranas, 1979:707).

The analysis of the intensity, effectiveness and latitude, proposed by Ross to indicate how popular or government, or both in the case of democracy: popular government (ideal), would be realised with the constitution of the European country and he will

conclude with the obtained results determining the objective of the analysis proposed by the author of the present test.

Intensity: in the Spanish case, it are not expressed literally, the citizenship and also the nationality, its form to accede solely to those titles, since they appear regulated in the Civil Code, on the contrary with the Chilean case where they are expressed in the Chapter Second, articles from the 10 to the 14 (Evans, 2006:25), being the characteristic of nationality in the Spanish case in article 11 and that also touch the subject of the double nationality with Latin American countries (Daranas, 1979:717 - 718), in relation to of legal age the constitution she is explicit in the article the 12 “Spaniards are of legal age to the eighteen years” and according to the article on 13 foreigners being able to vote in municipal elections if “except for which, taking care of reciprocity criteria, it can establish by treaty or law” (Daranas, 1979: 718-719); considering these essential requirements in article 23, of the chapter second, denominated “right and liberties” it are expressed in relation to suffrage “1. The citizens have the right to directly participate in the subjects public or by means of representatives freely chosen in periodic elections by universal suffrage” (Daranas, 1979:726).

The total population of Spain reaches the 46.063.511 inhabitants to the 1 of January of 2008, according to the National Institute of Estadística (INE) reaching a total of apt population to vote of 33.868.470 residents in Spain; abroad 1.198.811 people.

The effectiveness, in relation to the affirmation of the opinion of the town, in the Spanish case, is expressed in article first “1. Spain constitutes itself in a social and democratic State of right (...) 2. The National sovereignty resides in the Spanish town, del that emanates the powers of the state. 3. The political form of the Spanish State is the Parliamentary Monarchy”. (Daranas, 1979:711), being, this way, it is understood that the difference with the Chilean case, ratifies so much that Spain is a parliamentary system of government “is that one in which the Ministers of S-state responsible politically before the Executive authority and the Congress or Parliament, having, consequently, to count on the confidence of the majority of the political Camera” (Evans, 2006:8) in the cases of deciding (the parliament) a “vote censorship, can force to dissolve to the head

of Government or to the government in the heat of and to choose a new government, without mediating popular election (...) In case of breaking the identification between government and parliamentary majority, the government can dissolve the parliament (or one of the Cameras Generally) in order to only summon to new and immediate elections (...) in order that the electorate dissolves between in favour groups that integrate the parliament” (Flat, 1997:114), in this case in particular the Chief of State, the King, is unit symbol, represents the Spanish State internationally and is hereditary, having specific attributions like promulgating laws and to sanction, to dissolve and to summon General Cortes, referendum in the cases anticipated by the constitution, the control of the Armed Forces; Summarized in article 62, of the title second that takes by name “of the crown” (Daranas, 1979:746), in this case an precise case where the citizens with right to suffrage cannot vote by the Chief of State since exists he is a Monarch, indefinite in the time (only until their death or in the cases that the constitution contemplates) and with attributions, these are controlled as well by General Cortes (congress of the deputies and the Senate) being first constituted by a minimum of 300 until a maximum of 400 deputies chosen by universal suffrage by a period of 4 years; the Senate similarly, finishing in the same time or the day of dissolution of the cameras choosing to its respective presidents, the other table members; in relation to the government, this one is made up of the president, the vice-presidents if so, of the ministers, “the King, previous consultation, with the representatives designated by the groups political with parliamentary representation and through President of the Congress, it will propose a candidate to the Presidency of the Government” (Daranas, 1979:764).

In the case of this datum point, the parliamentary formulates offers it of control of the town where they choose representatives and these to Prime minister or President. In this case the coalition of Government with greater parliamentary representation being consequent and so the proposal of Ross raises “the idea of the majority is the one that prevails, it only can be verified by voting to the parliamentary way” (Ross, 1989:96); Then if we considered the questioning How it influences the parliamentary in the effectiveness, in terms of Ross, or otherwise, as the town can affirm its opinion in constitutional the Spanish system of monarchies? It is possible to identify the control degree? ; if we

took the previous thing as a theoretical frame and necessarily we had to respond to the questions, I believe that if there exists a control, not of the optimum way but like the direct one (Ross, 1989:96), but of equal parameter the control of the representatives this depends by the faculties that they have among them by the popularity that demands to prime minister the citizenship to him realising when it is necessary new voting's; this somehow controls directly the function of affirmation of the public opinion in the representatives, and how the interests of them (the town) are expressed in the laws and the conformation of the parliament or in this case General Cortes.

In relation to referendums: The regulation of the referendums required by the constitution takes place by means of statutory law 2/1980, of 18 of January, on Regulation of the Different Modalities from Referendum.

To the national scope the last referendum I am realised the 2005, the central subject was: Approve you the Treaty by which a Constitution for Europe settles down? , for the autonomic ones, he exists in decade 2000, two, in first celebrated the 18 of June of 2006 He approves the project of Statute of Autonomy for Catalonia? And the celebrated second the 18 of February of 2007 It approves the project of Statute of Autonomy for Andalusia?

The last element or criterion, the latitude, I create necessary to express it in terms of Ross in the sense that Spain being a constitutional monarchy, the democracy is more or less partial since "where the legislative power rests under aristocratic and partly monarchic influence and the executive under monarchic control (Ross, 1979:96)

Concluding, the Spanish case and generally the constitutional monarchies, at the level of analysis of the proposal of Ross, the serious latitude in these cases is a partial democracy; in relation to the intensity, it would be in a high level since the right to equal and universal vote for all the enrolled adults exists obligatorily, and the effectiveness, the town affirms his opinion, not in the form of direct democracy, if in the case of referendum since it exists constitutionally the instance and the frequencies in the elections are of four years for general Cortes.

2.3. ARGENTINA

The extracted constitution of the Honourable Senate of the Argentina Nation is dated 22 of August of 1994, ratified by the General Congress Constituent, for if its unit like nation. And it adopts the Federal Republican representation

Intensity, in this case is literal, in article 37 it declares “this Constitution guarantees the total exercise of the political rights in accordance with the principle of popular sovereignty and of the laws that are dictated consequently, the suffrage is universal, equal, secret and obligatory” reaching the majority of age to the 21 years after both sexes and without needing register to vote of obligatory form after President of the Republic and if according to integration in some political party for governors and intendants, in the case of the legislative power, two cameras (delegated and senators) for the first popular vote and the seconds according to article 54 exist “(...) chosen of direct form and it combines, corresponding two banks to the political party that obtains the greater number of votes”.

At present the Argentine population reaches 39.745.613 million inhabitants according to the projection of the INDEC, the amount of enrolled people to vote is of 69,919 percent of the total.

Effectiveness, in relation to this, Article 22: “The town does not deliberate nor governs, but by means of its representatives and authorities created by this constitution” the Argentine town has can affirm to its opinion expressed in the article the 39 “citizens must right of initiative to present/display projects of law in the House of Representatives. The Congress will have to give express treatment them (...)” and in addition in relation to the popular consultations to projects of law and in other cases that the law determines, also to the being a republic with representatives, the position for President of the Republic, Vice-president and Deputies is of four years with being able of re-election (adjusting of equal way to which the constitution determines in relation to you rule necessary for that re-election; to review in detail articles 50 and 90, being the first for Deputies and second for President and Vice-president), the one of Senator is of six years re eligible indefinitely (for major I successfully obtain of the affirmation article 56).

In relation to referendums: it at present exists of constitutional form the citizen initiative, the popular referendum and consultations.

Latitude, the control that exerts the town within the governmental apparatus (Division of Powers), is much more local than national, due to being a Federal Republic, with independent ordering of the provinces. On the other hand the generation of laws contributes so that it offers to major control in the Legislative one, of equal way is indicated on this generation of laws the restrictions of "(...) constitutional reform, international treaties, tributes, budget and penal matter", this I do not complete point determines that the town directly does not control the judicial procedures, of equal way its formation either the popular one, if not that depend on the Legislative one and the Court of Law.

Concluding, the intensity a fight of positions can, since although the vote is universal for all, also the elections of representatives (Governors and Intendants) must be, the citizens, integrating a political party, to be able to do it being that if it were in this way not could vote by those authorities, I recognize a restriction degree not necessarily, but in accordance with the oligarchy since the necessity to integrate party is vital for the affirmed Argentine democracy in article 38. , the effectiveness, the control of the representatives also brings with himself a problem since to the power to be re-elected they can be perpetuated in the power and fix to the disposition of familiar descendants in the positions public, as the present case of the President of the Republic, without being inferior I consider that it approaches in some point which Ross denominates nominal democracy.

Finally the latitude exists the instances of generation of laws on the part of the town, but the restrictions and the control from a local scope, limit the control from the town with the Legislative one, and of an almost Null way in the Judicial one, also the governmental powers are controlled to each other, by the previous thing would determine a partial democracy to it.

3. CONCLUSIONS.

The objective of the test was to determine if the popular governments (democratic), are more or less popular or more or less government or both.

So we will realise a comparative picture, where it is possible to be generalized the conclusions given by each one of the sections previously analyzed in relation to the intensity criteria, effectiveness and latitude, in Chile, Spain and Argentina.

Countries/Criteria	Chile	Spain	Argentina
Intensity	Universal suffrage 11.751.584 of a total population in the 2008 of 16.763.470	Universal suffrage 35.067.281 of a total population in the 2008 of 46.063.51	Universal suffrage 27.289.735 of a total population in the 2008 of 39.745.613
Effectiveness	noun	the town affirms its opinion as in the case of autonomic and national referendum	Between the town it affirms his opinion in the case of the constitutional and nominal popular initiative in the case of the re-election of authorities legitimized by universal vote
Latitude	partisan	partisan	partisan

Conclusive, in the three countries they do not arrive have an optimum one in the relation with the intensity, in relation to the effectiveness, is observed a tripartite tendency, of the ends and a center, and finally in the latitude, a general consensus in relation to the partisan.

In relation to if the Popular Governments, are more or less popular or more or less government or both:

Countries/popular Government	Popular (Intensity)	Government (Effectiveness and latitude).
Chile	If	Not (cases but aya of the plebiscite of 1988 in official sources do not exist).
Spain	If	In certain form (referendums autonomic and national in official sources).
Argentina	If	In certain form (popular initiative in the constitution of the Argentina nation)

In relation to the popular criterion constitutionally a article exists in each one of the analyzed countries that represents the universal suffrage positively, the degrees of participation in relation to the total of the population and the registered one satisfying the requirements that each constitution establishes they are not smaller to the 50 percent.

Final conclusions: I consider that enough it is restricted the parameters of the author to be able to identify how would be being been speaking of an ideal democracy, similarly, within the parliaments that integrated the theoretical frame of the test can be concluded, first, exists a unanimity in the concept of Universal Suffrage of the adult population in the analyzed countries, therefore we could speak of a democracy meant like more or less popular, popular government in terms, second, more or less

government, will depend as before criticizes of the personalisation of the countries in observation since the categorisation is restricted, also one of the countries is not it, and two are to each other and no, and finally thirdly, to stress that although no it is possible to conceive societies where his idealism this basing on the degree of Direct Popular Government and generations of controls and influences necessarily governmental, if it is possible to approach that point but the possible thing, in relation to the criteria in which one can understand the democracy.

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