

## About the Pros and Cons of Democratic State – Legal Regimes

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### ***Abstract:***

*This scientific article is devoted to the characteristics of the liberal-democratic and proper democratic state-legal regimes, which have both positive and negative properties. Speaking about a proper democratic state-legal regime, it is argued that this is an ideal that any society and state strives to achieve.*

### ***Keywords:***

*state and legal regime; dialectical assessment; positive side; negative side; liberal democratic regime; democratic regime itself*

## I. Introduction

The relevance of this scientific article is due to the fact that the regime is the dominant element of the form of the state, which ultimately determines the activity of the state. However, we define the first one not as a political regime that characterizes the political system of society, not as a state regime that characterizes non-democratic states, but as a state-legal regime that differentiates into liberal-democratic and proper democratic.

## II. Research Methods

When preparing a scientific article, the following methods were used:

1. General philosophical (dialectical-materialistic), which is used in all social sciences;
2. General scientific (analysis and synthesis, logical and historical, comparisons, abstractions, etc.), which are used not only by the theory of state and law, but also by other social sciences;
3. Special methods (philological, cybernetic, psychological, etc.), developed by special sciences and widely used for the knowledge of state and legal phenomena;
4. Private scientific (formal legal, interpretation of law, etc.), which are developed by the theory of state and law.

## III. Discussion

### 3.1 General Characteristics of Democratic State and Legal Regimes

If he speaks about democratic regimes in general, it should be said that such state-legal regimes exist where the public authority coordinates and expresses the interests of the broad masses of the population, seeks to create a reliable legal foundation for the development of society, recognizes and ensures the rights, freedoms and legitimate interests of the individual. Assumes certain responsibilities in the same way as assigns them to others. In modern democracies, the public authority does not make legally significant distinctions between different segments of the population, establishes the same political and legal status for its citizens, protects

the rights and freedoms of each individual on its territory, and in some situations, the rights and freedoms of people even in foreign territories. If they are violated there to such an extent that it acquires negative international legal significance. It is quite natural that a truly democratic regime does not exclude the struggle for the possession of political power, but in this process the role of law is reduced to the creation and strengthening of fair political and state institutions that correspond to the natural rights and freedoms of citizens, provide for non-violent, legal forms of conflict resolution and conduct civilized political discussion [1]. The democratic state and legal regime, as the practice of many countries shows, is associated with the conditions of a free market, and in modern conditions, a socially oriented market economy.

There are two known approaches to the concept of democracy and, consequently, a democratic regime: liberal and Marxist-Leninist. In the first approach, the emphasis is on political democracy (multi-party system, political rights and personal freedoms, the rule of law, etc.); in the second, the demand for social democracy is at the forefront (the power of the working people and the elimination of property inequality, the possibility of restricting the rights of citizens for these purposes, the all-powerful state as the main instrument for creating a new system, etc.). True, in recent decades, not without the influence of Marxism, in many countries (especially with a socially oriented market economy), to some extent, both approaches are combined: political democracy with social elements [2].

It is important to note that today a democratic regime is inherent primarily in countries with socially oriented economies, where there is a strong middle class. The methods of exercising state power are applied taking into account the constitutional provisions on the separation of powers, the system of checks and balances, ideas about a democratic, social, legal, secular state, local self-government, and the rights of political opposition. In a democratic regime, methods of coercion are strictly limited by law, are used to suppress illegal activities, and mass or social violence is excluded. State power is used to develop the political activity of citizens, relies on their support, and uses various methods of direct and feedback connections with the population. Democratic state and legal regimes are focused on pluralism of opinions, on freedom of the media, on protecting citizens from arbitrariness and lawlessness, and on the functioning of a real mechanism of influence of the population on the power structures in the country. Democratic regimes exist in the USA, Great Britain, France, Japan, Canada, Australia and a number of European countries [3]. Agreeing with these provisions, Veniamin Evgenievich Chirkin, speaking about the presence of political opposition, declares that “the latter is theoretically considered not at all as evil, but as a necessary element for improving public administration, although in practice the state power always uses (and due to its position cannot do not use) restrictive measures in relation to the opposition, restricting, but within the framework of the law, its activities. With regard to the methods of exercising state power, the scientist pays attention to the methods of liberalism, concessions, incentives, support, and orientation towards the result desired by the state power [4]. At one time, Lev Ivanovich Spiridonov argued that a political regime of a democratic type has as its socio-economic prerequisite the existence of sovereign individual subjects who are the owners of the economic conditions of their lives and build relationships with each other on the basis of exchange and agreement. According to the author, the political prerequisites for such a regime are: 1) the absence of a single, obligatory for all state official ideology, which unambiguously determines the goal of socio-political development, and sometimes political means of achieving it; 2) the presence of freely formed non-state political parties, reflecting the social differentiation of civil society; 3) limiting the political role of parties by participating in elections in which they come forward with a developed electoral program that reflects the interests of the social group of civil society represented by the party; 4) the

functioning of a political system that presupposes a struggle. Competition of political parties, agreements between them. Formation of coalitions of political forces that strive for a parliamentary majority and gaining a decisive role in public administration; it is assumed that the resulting struggle is a reflection of socio-economic competition within civil society; 5) the existence of a minority that does not determine state policy and therefore does not bear responsibility for it, the function of which includes oppositional political activity, the development of alternative programs of social development. Positive criticism of the state leadership, ideological and personnel training of its replacement; 6) the presence of political freedoms (publicity, freedom of speech, press, street processions, demonstrations, amateur rallies, protests, etc., etc.), with the help of which sovereign civil society actors carry out their initiative in the sphere of political life [5].

Valentin Yakovlevich Lyubashits, in our opinion, gives the most detailed description of the democratic regime, noting the existence of constitutionally proclaimed and exercised socio-economic and political rights of citizens and their organizations, the existence of a number of political (including opposition) parties, the election and changeability of central and local bodies state power, the official recognition of the principle of legality and constitutionality, the principle of separation of powers, the existence of institutions of representative and direct democracy, the presence of democratic legislation, etc. While granting its citizens broad rights and freedoms, a democratic state is not limited only to their proclamation, i.e. formal equality of legal opportunities, but provides them with a socio-economic basis and strengthens the constitutional guarantees of these rights and freedoms. In a democratic state, the people are the source of power. Representative bodies and officials in a democratic state, as a rule, are elected, but the criteria for election change - political views and professionalism. A democratic society is characterized by the development of associative links at all levels of life. In a democracy, there is institutional and political pluralism: parties, trade unions, popular movements, mass associations, associations, unions, circles, sections, societies, clubs unite people according to different interests and inclinations. Integration processes contribute to the development of statehood and individual freedom. Referendums, plebiscites, popular initiatives, discussions, demonstrations, rallies, meetings are becoming necessary attributes of public life. Citizens associations also participate in the management of state affairs. Along with the local executive branch, a parallel system of direct representation is being created. Public bodies participate in the development of decisions, advice, recommendations, and also exercise control over the executive branch. Thus, people participation in the management of the affairs of society is becoming truly massive and follows two lines: the election of professional managers and direct participation in solving public affairs (self-government, self-regulation), as well as control over the executive branch [6].

We draw attention to the fact that democracy in translation from Greek literally means democracy (demos - people, cratos - power), it is customary to refer to democratic regimes based on democracy, that is, those regimes in which power in the state belongs in one way or another. to the people and directly or indirectly it is exercised, together it is noted that one should not think that under democratic regimes power always and in all cases belongs directly to the people and is directly exercised by them. The point is that democracy can manifest itself in different forms: direct, or direct, and representative. In a direct democracy, the people themselves directly exercise state power, directly resolving issues of state and public life. In a representative democracy, state power is exercised by the people through the representatives they choose. Given this circumstance, Nikolai Andreevich Pyanov noted that usually direct and representative forms of democracy are combined, but, as a rule, one of them is predominant. So, for example, in the ancient states, in particular in the ancient Greek city-states, direct democracy prevailed. State power here belonged to popular assemblies, which consisted of full citizens and decided all

the main issues of state and public life. In modern democratic states, representative democracy prevails, since the people exercise power through their representatives, whom they elect to parliaments and other representative bodies [7].

Vladimir Fedorovich Stepanov, believing that the effectiveness of the functioning of a democratic state and the degree of its openness to the expression of the will of citizens is determined by some basic points opposite to the typical features of totalitarianism (there is no monopoly of one layer (class, party, group) on political activity; not all media are controlled by the state; the dominant ideology does not have the status of the only and indisputable; not all types of economic and professional are subordinate to the state, being a part of it; politicization is excluded, ideologization of not only the state, but also the private life of citizens), concludes that “such attitudes organically follow from the cardinal norms of democracy: legislatively formalized cooperation of branches of government at all levels, as well as legally enshrined rights of citizens, which make it possible to challenge unlawful decisions of the authorities”[8].

### **3.2 Positive Aspects of a Democratic State and Legal Regime**

We believe that it is necessary to assess the democratic state and legal regime dialectically that is, focusing attention on both its positive and negative characteristics. Undoubtedly, the overwhelming majority of scholars in their studies analyze certain positive aspects of a democratic regime. Thus, defining a democratic regime as a regime characterized by observance of constitutional legality, the existence of a real opportunity for all citizens to enjoy their rights and freedoms in their entirety, a multi-party system, a free press, the absence of legalized discrimination, independent justice, etc., Marat Viktorovich Baglai and Boris Nikolaevich Gabrichidze, pay special attention to the priority of individual rights and freedoms over the interests of the state. As noted by scientists, the new Russian statehood is radically changing the relationship between the individual and the state. Not a person was created for the state, but the state for a person - this is now the main principle of their relationship. The priority of a person over the state makes it possible to understand the place of a person in civil society. This place is not determined by the state, it inherently belongs to a person and is realized to the extent of his abilities and initiative. The authors quite reasonably emphasized that civil society differs from a society of a totalitarian type in that it develops on the basis of self-regulation, that is, it does not need total regulation by the state. The state regulates human behavior only to a certain extent, so as not to affect his freedom and ensure public interests. This understanding of the relationship between man, society and the state emphasizes the humanistic essence of the constitutional system [9].

Maksim Aleksandrovich Kudryavtsev, discussing the equality of man and citizen, believes that it, as a legal category, implies the provision of equal opportunities for each member of society to participate in the life of society. Implementation and protection of their rights and legitimate interests. It is in this capacity that equality does not deny and does not ignore the actual inequality of individuals that is objectively emerging in society, but at the same time establishes the inadmissibility of any kind of discrimination of one individual in relation to another. The considered legal principle, according to the author, involves the establishment of equal opportunities for all individuals and each of them to participate in the life of society, freely and fully exercise their rights, freedoms and legitimate interests, as well as their protection [10]. Some scholars focus on the separation of powers [11]; others -on the decentralization of power, while emphasizing that “the decentralization regime can be defined as a set of legal norms and methods of division, transfer and implementation of power management powers in the system of governing entities in order to ensure optimal control over life processes and the fullest realization of democratic rights and freedoms of citizens [12].

Viktor Aleksandrovich Zatonky, in our opinion, expressed a number of interesting considerations regarding the democratic regime. So, the author believes that democracy is an organization of power, ensuring its functioning in the interests of society and the people, encouraging, stimulating the involvement of citizens in joint activities with the state. The main task of the state is to turn to the interests of people, to better understand the way of life and thinking of different social groups, to help clarify political and legal consciousness, to contribute to the creation of a mechanism for the timely fixation and correction of errors in political and legal action. The scientist is sure, firstly, that the strengthening of the state can be carried out only within the framework of a democratic regime; only then will it retain its social value; secondly, there should be no talk of any, even “dosed” totalitarianism in a society that has declared itself to be democratic and legal; strengthening of statehood, its modernization are possible only together with the strengthening and modernization of a person as a person, who is distinguished by an interest in everything new, a willingness to change; variety of views; information orientation; serious attitude to time and its measurement; efficiency; planning efficiency and time; personal dignity, particularism and optimism [13].

If not all, then in any case a significant part of traditional, and even more so modern, state-legal theories, trying to emphasize their progressiveness, relevance and social significance, will certainly appeal to democracy - to the “democratic nature” of the phenomena, institutions and institutions in question, to their “democratic” foundations, character, etc. The historical experience of the centuries-old existence and functioning of state and non-state institutions built on democratic principles clearly testifies to the undoubted advantages of democracy as a form of state power and administration, as a means of resolving emerging the legal sphere of political and other conflicts, as a way of reconciling the conflicting interests existing in society, etc. [14].

### 3.3 Disadvantages of the State-Legal Regime

However, while paying tribute to democracy in all its hypostases, manifested in both a legal and a non-legal state, its significance, nevertheless, should not be exaggerated, and democracy itself should not be idealized. As Alexander Dzhangirovich Kerimov notes, one should not become like “many socio-political concepts, as well as public opinion in civilized countries,” which “are characterized by the idealization of democracy, looking at it exclusively through the prism of its inherent merits” [15], because, along with undoubted merits, not, as evidenced by socio-political practice, has a number of equally obvious shortcomings and flaws [14].

So, Dina Mamdukhovna Azmi, believing that the individual lives in a world with which he has lost all genuine connections, in which everything and everyone is instrumentalized; he became part of a machine made by his own hands; As a result, the inner strength of the personality weakens, and, consequently, feelings of unconscious insecurity and powerlessness constantly increase in it, emphasizing that, succumbing to social influence, a person begins to think and act in accordance with the attitudes set in advance by society, while losing his unique individuality, the author concludes that modern democracy has not reached its main goal – the preservation and development of each person of his own I , on the awareness of which the confidence of a truly free person should be based, democracy, with all its achievements, is more conducive to suppression than to the development of the human personality [sixteen]. Vyacheslav Nikolayevich Zhukov generally asserts that ... any state, despotic or liberal, bourgeois or socialist, is necessarily built on the almost complete dependence of the citizen on the state ... [17]. It is interesting to note that Valentin Yakovlevich Lyubashits draws attention to some of the problems of the analyzed regime: “excessive social stratification of society, at times a kind of dictatorship of democracy (authoritarian rule of the majority), and in some historical conditions

this regime leads to a weakening of power, a violation of order, even a slide into anarchy, ochlocracy, sometimes creates conditions for the existence of destructive, extremist, separatist forces” [6].

Roman Zinovievich Livshits believed that today the implementation of the majority is considered the most customary and democratic, but without neglecting the interests of the minority, he believes that it is necessary to search for means of taking into account the interests of the minority, forms of ensuring its rights [18].

Andrey Yuryevich Lykov believes that there are so-called barriers that need to be overcome by democracy in order to achieve the desired goal: 1) often the costs of gaining political influence through an opposition political movement are several times less than through adherence to the ruling political elite, which is due to the initially low level of political pluralism and strong suppression of opposition; 2) any policy requires economic resources that are in the hands of the economically dominant class (elite), not inclined to change anything, which inevitably ultimately leads to the conservation of any political reforms; 3) there are no societies in which all groups with common interests would be equally well organized and thus achieve optimal outcomes based on comprehensive negotiations and comprehensive agreements; 4) in order for the population to start supporting the opposition political group, the standard of living and the level of self-realization of members of society must fall below the permissible minimum; if it is simply low, then the ruling party will be able to retain power by such usual standard black methods as rigging election results, lobbying and sponsoring oppositions, using administrative resources; 5) lies in the contradictory influence of global information processes on the liberalization of politics: on the one hand, a person has everything necessary to be aware of world news every minute; on the other hand, in any case, this information is carried out indirectly, through the media, which can equally be both independent and represent the interests of a particular social (political) group [19].

Contrary to the claims that democracy is a form of government in which the popular rule of the majority of the population is carried out in the interests of the majority and with the help of the majority [20], that its first characteristic is the power of the majority [21], the position of scientists takes place, who believe that democracy, understood and perceived by many researchers, politicians and statesmen in this way, turns out to be nothing more than a fetish, or at best a utopia, to which one should nevertheless strive for some kind of ideal. Alexander Dzhangirovich Kerimov categorically declares that the above understanding of democracy is not only erroneous, but also dangerous: it is fraught with the threat of establishing a regime of unlimited absolute power, a tough despotic dictatorship of a narrow group of persons or even one ruler acting on behalf of the majority or the entire people ... In fact, democracy is a certain technology of gaining and exercising state power by a minority with the help of the majority, relying on the majority, but not always in the interests and for the benefit of the majority [15]. In another work, this scientist emphasizes that the modern world is ruled by a minority, including in those spheres of public life, “where there is the illusion of majority rule,” and that “the rule of the few, the minority, carried out in one form or another in the interests of the majority, or contrary to them, it is immanently inherent in all social organizations and is one of the fundamental laws of their functioning” [22]. The literature states that “... representative democracy is not the rule of the people. This is the limited participation of the people, the power of the politician” [23].

Viktor Alekseevich Cherepanov, drawing attention to the creation of a party political system from above, notes that ... the existing parties are not able to adequately express the will of

the people, and the party of power, when merged with the state apparatus, has been turned into a mechanism that ensures the implementation of the decisions of the country leadership in public authorities” [24]. The author notes that in those elections where an exclusively proportional electoral system is used, political parties are the only subjects that can nominate their representatives to the relevant public authorities, and the citizens of the Russian Federation are deprived of the constitutional opportunity to directly express their will by nominating candidates. Paying attention to the fact that the elections themselves, conducted by the state apparatus, merged with the party of power, has been turned into a democratic screen behind which violations of the electoral rights of citizens are hidden; on the lack of legal responsibility of the people representatives for their actions in the exercise of power, Viktor Alekseevich Cherepanov concludes that “... .. As a result, the constitutional model of democracy as a normative ideal, for granted, refracted through the prism of adopted laws and other normative acts, turned into a “being” incomparable with the proper one, causing a negative assessment in the mass consciousness and prompting broad popular demonstrations ”[24]. Mikhail Nikolaevich Marchenko wrote in this regard that the rule of the majority, as well as pure democracy - democracy for all and for all, is a kind of ideal, one of the most perfect principles, the implementation of which, according to the prevailing concept of democracy, is invariably associated with progressive development of society and the improvement of its state organization, not excluding, including civil society and the rule of law [14].

The dramatic nature of the situation and, perhaps, the main flaw of democracy, is that it does not guarantee that the reins of government will certainly fall into the hands of the most worthy representatives of the nation. In the nineteenth century. Alexis de Tocqueville wrote the following about this: “Democracy always lacks the ability to choose worthy people, it lacks the desire and inclination to do so. The nature of democracy is such that it forces the masses to keep outstanding people out of power, and these latter, driven by an equally strong natural feeling, run away from political careers where it is difficult to remain oneself and go through life without being defiled “[25]. The same position is adhered to by Vladimir Ivanovich Oseichuk, who emphasizes that “in theory, the choice of the people during election campaigns should fall on the most reasonable and capable, but in reality it falls on the one who is pushed by the minority” [26]. Addressing the shortcomings of democracy, Alexander Dzhangirovich Kerimov notes that at certain periods in the life of society, democracy as a form of organization and functioning of state power turns out to be completely unacceptable. So, from the position of the author, it reveals its extreme ineffectiveness and even harmfulness, when long and unhurried discussions and negotiations aimed at harmonizing various interests and positions and ultimately reaching a consensus are impossible in principle, because the socio-political and economic situation inexorably dictates other rules of the game, imposes a different algorithm of actions. It is also possible that the situation in the country (wars, mass unrest, deep and all-embracing systemic crises, natural disasters, man-made disasters, epidemics, etc.) requires the fastest consolidation, centralization and concentration of all available power resources on the most important moment directions, immediate adoption of unambiguous tough management decisions and their implementation in practice as soon as possible in the name of saving the whole, that is, the people and the state. In such conditions, democratic methods and methods are forced to give way to authoritarian ones [15].

And one more circumstance that should be paid attention to: the objective possibility and reality of the transformation of democratic regimes into pseudo- democratic ones, masking their anti-democratic essence. Formally, they recognize the most significant institutions of democracy (democracy, elections, citizens rights and freedoms, etc.) and enshrine them in constitutions and other legislative acts, but real democracy does not exist under such regimes. The people are used

as a screen covering the real power of certain social groups (for example, the party nomenklatura in the former socialist countries), and formally recognized democratic institutions are not implemented in practice [7]. Although it is assumed, as scientists rightly state, that in a democracy, those in power must certainly act in the interests of the majority. But at the same time, they note that “this is not always the case”, because “a minority that came to power by democratic means, especially if it is represented by immoral people, are much more willing to act in their own interests, which do not necessarily coincide with public interests” [15]. Elena Anatolyevna Lukyanova and Ilya Georgievich Shablinsky came to the conclusion that over the past quarter of a century since the adoption of the current Constitution, it has moved far from the principles and meanings laid down in it, which in some cases not only stopped working due to distorted law enforcement, but, in fact, they turned into their opposite with the help of subconstitutional regulation. The authors note that the long-term systemic transformation of the constitutional and accompanying legislation has led to serious distortions: outwardly one, but the content of the other; these changes are so obvious that it has become simply impossible to call such a democratic one. Initially complaining about the difficulty of coming up with a name for such a regime, in which, from a formal-institutional point of view, there is a multi-party system, parliamentarism, political competition, and relative freedom of speech, and many other external and institutional features that are considered to be integral features of democratic regimes, the authors in the end, they were called hybrid or imitation, in which there is one obligatory feature - the decorativeness of democratic institutions: in such regimes elections are held, but the power does not change; there are several TV channels, but they say the same thing; there is an opposition that does not oppose anyone [27].

### **3.4 Liberal-Democratic State-Legal Regime**

Considering the varieties of a democratic state-legal regime, a liberal-democratic regime and a democratic one proper, we note that the first exists in many countries. In the theory of the state, liberal are those political methods and methods of exercising power that are based on a system of the most democratic and humanistic principles. These principles, first of all, characterize the economic sphere of relations between the individual and the state: a person has property, rights and freedoms, is economically independent and on this basis becomes politically independent. In the relationship between the individual and the state, priority remains with the interests, rights and freedoms of the individual. The liberal regime defends the value of individualism, opposing it to the collectivist principles in the organization of political and economic life, which ultimately lead to totalitarian forms of government. This regime is primarily determined by the needs of the commodity-money, market organization of the economy, and the market requires equal, free, independent partners. The liberal state also proclaims the formal equality of all citizens. A liberal society proclaims freedom of speech, opinions, forms of ownership, and gives scope for private initiative. Individual rights and freedoms are not only enshrined in the constitution, but also become implemented in practice. Under conditions of liberalism, the state frees producers from its tutelage and does not interfere in the economic life of people, but only establishes the general framework of free competition between producers, the conditions of economic life. It also acts as an arbiter in resolving disputes between them. At the later stages of liberalism, legitimate government intervention in economic and social processes acquires a public orientation character, which is conditioned by many factors: the need for rational distribution of economic resources, environmental problems, participation in the world division of labor, prevention of international conflicts, etc.

Liberal-democratic regime admits the existence of opposition; moreover, under conditions of liberalism, the state takes all measures to ensure the existence of an opposition representing the interests of a minority, takes these interests into account, and creates special

procedures for taking these interests into account. Pluralism and, above all, a multiparty system are necessary attributes of a liberal society. In addition, under this regime, there are many associations, corporations, public organizations, sections, clubs that unite people of the same interests. Organizations are emerging that allow citizens to express their political, professional, religious, social, domestic, local, national interests and needs [28].

Anatoly Borisovich Vengerov noted that under liberalism, state power is formed by elections, the outcome of which depends not only on the opinion of the people, but also on the financial capabilities of certain parties necessary for conducting election campaigns. State administration is carried out on the basis of the principle of separation of powers. The system of checks and balances helps to reduce the opportunities for abuse of power. State decisions are usually made in writing. Decentralization is used in public administration, the central government takes upon itself the solution of only those issues that the local government cannot solve. Assessing the liberal democratic regime, Anatoly Borisovich Vengerov once emphasized that one should not apologize for it, since it has its own problems, the main ones being the social protection of certain categories of citizens, the stratification of society, and the actual inequality of starting opportunities. The use of this regime becomes most effective only in a society characterized by a high level of economic and social development. The population should have a sufficiently high political, intellectual and moral consciousness, legal culture. At the same time, the scientist noted that liberalism today is the most attractive and desired political regime for many states, which grows out of a democratic regime itself [28].

Vladimir Ivanovich Chervonyuk, in our opinion, rightly specifies that such a regime is more in line with the interests of the predominantly wealthy strata of the population. But the state indifference to those groups and strata of the population that are in economic and social need (most of society) did not contribute to their real use of the real use of their granted rights and freedoms, including political ones. Such rights were of a formal (not realizable) nature [29]. In principle, agreeing with the position of Anatoly Borisovich Vengerov and other authors expressing a similar position [6], Nikolai Andreevich Pyanov was inclined to believe that the liberal regime is a semi-democratic regime, a regime that is transitional to a democratic one that arises as a result of the elimination of totalitarian and authoritarian regimes, administrative-command and bureaucratic regimes and characterized by incompleteness. At its core, it is a democratic regime, which is based on the achievements of modern democracy, recognizing and legislating all its fundamental ideas: democracy, separation of powers, natural human rights, political and ideological pluralism, etc. However, at the same time it is emphasized that this is still an undeveloped democracy, which is combined with elements of authoritarianism: the activity of representative bodies and courts has been belittled; the system of checks and balances has not been worked out, as a result of which the principle of interaction between the authorities has been violated; a genuine multi-party system did not take shape; the activities of the opposition are not always assessed positively; the protection of human and civil rights and freedoms is insufficiently carried out; in the methods of exercising state power, there are manifestations of the administrative-command system of management [7].

Vitaly Vasilyevich Oksamytny, identifying the liberal regime with the transitional one, believes that it ... is typical for countries that have ended the anti-democratic rule of autocracy, are carrying out liberal reforms in the economy, in the political system of society, in the methods and ways of exercising state power. At the same time, attention is drawn to the following circumstances: 1) given that the processes of democratization in the respective countries are carried out by the state authorities themselves, this already presupposes the preservation of elements of the order, authoritarianism; 2) taking into account that the ongoing reforms are not

always consistent, are often accompanied by rollbacks, tightening the screws, a return to the previous methods and techniques of management, instability in the implementation of democratic transformations, which makes it possible for various authors to highlight the state and political state of such countries, as a semi-democratic, intermediate, liberal, authoritarian-democratic or transitional regime. [30]. However, there are other options for the designation of a transitional regime: “authoritarian democracy” [31], “hybrid regime” [32], etc. So, Nikolai Aleksandrovich Vlasenko mentions transitional and emergency regimes, which, having an authoritarian or democratic orientation, as a rule, they are temporary [33]. Andrei Pavlovich Kotelnikov and Rozalina Vasilevna Shagieva, in addition to the authoritarian and democratic, also analyze the transitional (liberal) regime [34]. Anastasia Nikolaevna Golovistikova and Yuri Albertovich Dmitriev, analyzing the modern Russian statehood of the transition period, write that it is characterized by the presence of elements of the totalitarian past and at the same time a number of democratic institutions, for example, a multiparty system, glasnost, the division of a single state power into three branches, the institution of a referendum [35]. It seems very interesting judgments of authors who assess the state regime of modern Russia dialectically, noting that the Constitution of the Russian Federation has largely opened up the possibility of establishing a democratic regime in the country, but Russia has once again found itself at a fork in the road, one of which leads to a truly democratic regime, the other to ordinary, but no less sophisticated authoritarianism, cleverly combined with corruption, rampant crime and the defenselessness of the overwhelming majority of the population. Thus, it is argued that the social-democratic regime of the Scandinavian model is very promising in our country, for which broad political democracy, democratic and legal methods of exercising power, moderate reforms and an evolutionary path of development of society are characteristic; in the socio-economic plan, it is a mixed economy, encouragement of small and medium-sized businesses, progressive taxation that prevents a sharp social stratification, very attractive social programs, and a socially oriented market. Mixed regimes may arise on the basis of the interaction of social democratic and national patriotic movements, but the establishment of the worst option, a tough dictatorship of mafia-criminal capital, is not ruled out [3].

According to Maksim Vladimirovich Mikhailov, “the political and legal regime of the Russian state as a criterion for the real correlation of society and the state is characterized by complete subordination of all social processes to the state, the inability of the public to resist totalitarian methods of government, as well as the almost complete absence of civic consciousness among the majority of the population. The political and legal regime of Russia is characterized by the sterilization of the political activity of society by the state, the merger of public and state structures into a single whole, subordinate to the power of the party and nomenklatura elite ... The proclamation of a course towards democratization of society and the state does not mean a complete victory of democracy over totalitarianism, but speaks of imminent changes in society and the state and on the understanding by these structures of such reform” [36]. It is not difficult to understand that in this case we are talking about the transformation of state and legal regimes [37]. As the scientists note, “the modern paradigm of research into the forms, methods and techniques of exercising political power in the state, in their totality traditionally called the “political regime”, is based on the statement of the fact of the potential variability of the political regime. Throughout the twentieth century. in most states, there was a change in the political regime, while often it was accompanied by the collapse of the state, the collapse of the economy, the growth of crime, etc. [38]. In this regard, Vyacheslav Semenovitch Stepin rightly notes that “the use of a number of methods in the process of breaking the existing regime and the creation of a fundamentally new system of methods, methods, means of exercising state power can lead both to the normalization of the social, political, economic situation in this state, and to the emergence of serious problems that cast

doubt on the very fact of the continued existence of this country and threaten the survival of the population of this state”[39]. It seems that these arguments once again determine the position according to which ... a transitional society is an unstable, nonlinear system, which has in its structure various stationary states corresponding to various laws of the behavior of this system [40]. In such a system, alternatives to development, critical states of instability, constantly arise. Therefore, the management of a transitional society makes special demands on the administration and the elite [41]. Vladimir Alekseevich Rybakov also discusses the presence of a mixed regime in the country [42].

Veniamin Evgenievich Chirkin argued that in many post-socialist countries, including Russia, the state regime has acquired a semi-democratic form, in which the methods of exercising state power are characterized by a combination of the prevailing features of democracy and some elements of authoritarianism. The methods of liberalism are of fundamental importance, coercion is limited, and the methods of demands and prohibitions are primarily aimed at preserving and protecting democratic institutions. At the same time, the activity of representative bodies, including the parliament, is somewhat belittled at all levels, and the executive branch, especially the president, comes to the fore. The system of checks and balances has not been worked out, the principle of power interaction has been violated. Scientists note that the constitutional rights of citizens comply with international standards, but their protection by state bodies as a result of the activities of mafia structures, rampant organized crime, corruption in state bodies, belittling the role of the court (including for reasons of poor material support of the courts) is carried out insufficiently ... Measures of suppression are not used against the political opposition, but the state authorities assess it only negatively and in a veiled way constrains its activities. The political activity of citizens is not developed, including due to the difficulties of the financial situation, which limits their political participation. In addition, the feedback of citizens and state bodies is insufficient, a significant part of citizens do not see any favorable consequences for themselves in the activities of state bodies [4].

Natalia Vladimirovna Varlamova argues that the political regime of modern Russia is very peculiar: the Constitution of the Russian Federation in a number of articles proclaims a democratic regime, but in fact it contains everything (except, perhaps, totalitarianism left in the past). This is an authoritarian regime, if we consider the practice of exercising public authority and take into account the violation of the principle of separation of powers and the actual dominance of the President of the Russian Federation in the political process, the predominance of arbitrary-ordered regulation over legal ones. This is a police regime, given the numerous legislative restrictions on individual activity (entrepreneurial activity, the creation and functioning of the media, political parties, public associations, holding meetings and demonstrations, etc.). This is a regime of social democracy, if we proceed from the existing system of taxation, the volume, social tasks assumed by the state, the size of the population, which, in accordance with the legislation, can claim social assistance and support. Finally, this is a super-liberal regime, given that the state does not fulfill not only its declared functions, but even the role of a night watchman, does not provide judicial and political protection of freedom, security and property of citizens, the constitutional foundations of democracy, legal statehood [43].

Vitaly Viktorovich Sorokin believes that the specificity of the transitional state regime is determined by a number of factors, including the peculiarities of the ratio of the main methods of exercising state power, actions from above and from below, peaceful and non-peaceful ways of the emergence and functioning of the state, and finally, authoritarian and democratic tendencies development of the state during the transition period [44]. Explaining, the scientist believes that the transformations of the transition period can be initiated from above or caused

by the urgent needs of the broadest social forces. At different stages of the transition process, the direct participation of the population, their creative activity either increases or decreases. Naturally, the other-state power acquires the features of authoritarianism, and the importance of official power in the regulation of social processes increases. From the point of view of V.V. Sorokin, this state of the transition period is explained by a number of reasons: authoritarian power makes it possible to dismantle the old social system in a relatively short time; violent measures seem to be preferable for radical forces in overcoming the resistance of the so-called reactionary part of society [44]. Attention is drawn to the position according to which “during the transition period, one can state the presence of persistent manifestations of an authoritarian tendency; the establishment of an authoritarian regime is the result of the absolutization of organized violence as a means of managing society, atypical for a civilized model of transformations” [44]. And finally, one more statement: “While the state regime of the transitional period is characterized by a combination of the foundations of the old that have not yet been overcome and only emerging elements of the new, transitional processes contain a dialectical connection between the authoritarian and democratic tendencies of development” [44].

Viktor Dzambolatovich Dzodziev in relation to the Russian conditions of transition uses the term “authoritarian regime” [45]. Vladimir Vyacheslavovich Kozlovsky comes to the categorical conclusion that “based on the history and traditions of Russia, we can conclude that a different transition from a totalitarian society to a modern than through etatism, does not exist” [46]. Veniamin Evgenievich Chirkin, focusing on the intermediate nature of this state regime, emphasized that “the transitional regimes cannot be called democratic, they are “semi-democratic” [47]. Veronika Aleksandrovna Sheremetyeva, recognizing the transitional nature of the political regime of modern Russia, notes that “possessing the signs of democracy, it is not yet democratic. In the political system of Russia, there are contradictions between formal legal democratic foundations and reality” [48]. Natalia Vladimirovna Varlamova believes that the political regime of post-totalitarianism can be called an emerging democracy [49]. Yuri Alekseevich Vedeneev, speaking about the transitional processes in the development of Russian statehood, notes that the inability of various socio-political forces to agree on the obvious and develop acceptable rules of behavior significantly limits the democratic potential of political and economic development. It is emphasized that “as a result, the socio-economic, political and sociocultural components of democratic reform as a whole are narrowed, which is a real prerequisite and condition for further bureaucratization of public administration, since all alternative factors and restrictions are either destroyed or are in a state of depression. Instead of a system of political democracy mediating the relationship between society and the state ... there is a real possibility of regenerating bureaucratic statehood or getting its post-totalitarian modification, a corporate state” [50].

Alexander Vladimirovich Butakov, noting that the past 20 years of post-Soviet existence have demonstrated the presence in society of the so-called worldview polyphony, the presence of which does not at all contribute to the consolidation of social forces for the implementation of a democratic project in Russia, emphasizes that the difference in worldviews as a kind of fragments of the destroyed Soviet norm naturally reflects the existence in the public consciousness of the imperial, sovereign-democratic and proper democratic ideas about the formation of a possible social combination of the future life of the state and society. Finally, it is summarized that “such a social assortment of worldviews, when one socio-political system is actually completely destroyed, and the other is only at the stage of formation, allows the ruling state bureaucracy, in essence, to structurally form its monopoly on power uncontrollably, motivating this desire before society the need to ensure its functioning in a state of stability” [51].

Russian society also lacks a unified assessment of the political regime in Russia. According to a survey conducted by the Institute for Comprehensive Social Research of the Russian Academy of Sciences, 55% of respondents aged 30 to 60 years old, 43% aged 20 to 30 years old consider Russia an undemocratic state [52].

In any case, from the point of view of Vitaly Vasilyevich Oksamytny, such a regime is characterized by some positive aspects: it legislatively enshrines fundamental democratic institutions, human and civil rights and freedoms; liberalizes economic relations; asserts a multi-party system and ideological pluralism in general; conducts alternative elections of supreme, regional and local authorities; practically implements the principle of separation of powers with the creation of a system of checks and balances. At the same time, noting the weaknesses of this regime due to the half-heartedness, instability of changes to democratic rule, which are manifested: in the preservation of the former nomenklatura in its essence with its corruption and with a desire to retain influence in society; in the combination in the management of state affairs of the features of authoritarianism and democracy; the ineffectiveness of the formed mechanism for the protection of human rights; in the low efficiency of legislation; in the spiritual insecurity of transformations by the appropriate level of legal and political culture of society [30].

### **3.5 Properly Democratic State and Legal Regime**

Attention is drawn to the fact that some authors distinguish the so-called proper democratic regime, which proceeds from the recognition of the equality and freedom of all people. It is argued that the state of a truly democratic orientation not only enshrines broad rights and freedoms of people at the constitutional level, but also realistically guarantees them. Bearing in mind a number of other features of this type of democratic regime, namely: the maximum use of democratic institutions in political life: plebiscites, demonstrations, processions, meetings, rallies, petitions; making state decisions at the will of the majority, but taking into account the views and interests of the minority; strict delineation of powers between central and local authorities, encouragement of local initiative; the establishment of the rule of law, the rule of law, the high culture of society, officials and individuals, Svetlana Vladimirovna Boshno declares that a democratic regime itself is an ideal that any society and state strive to achieve. However, this ideal has not yet been achieved by any state [53]. A somewhat different position is taken by scientists who analyze a proper democratic regime that asserts freedom of the individual and guarantees and protects human rights, property, and civil society institutions as a given. For example, the Finnish researcher Tatu Vanhanen believes that 64% is the share of democratic regimes in the world, deriving it from a kind of index of openness of government, calculated from competition, that is, the presence of a strong opposition, and participation, determined by the percentage of voters who accepted participation in elections from the entire population of the country [54]. American political scientist Robert Alan Dahl claims that there are 58-65 countries in which the features of the basic institutions of democracy are manifested - free and fair elections, freedom of expression, alternative and independent sources of information and autonomy of associations [55]. Vitaly Vasilyevich Oksamytny believes that ... there are much fewer democratic regimes with solid state and political foundations in practice, since it is important to take into account in such calculations how stable the transformations that began in the transition to democratic rule are considered [30].

## **IV. Conclusion**

In conclusion, it is necessary to conclude that the democratic state-legal regime in its varieties has both positive and negative characteristics that must be taken into account in state-legal construction.

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