ABSENTEEISM IN MODERN LAW: CAUSES AND METHODS OF OVERCOMING IT

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Abstract. The article examines the causes and conditions of the phenomenon of absenteeism, as well as the problems and features that exist today in the field of suffrage. The political, social and psychological factors that influence the level of electoral activity are analyzed and considered. The phenomenon of parliamentary absenteeism through the prism of democracy and legitimacy of parliamentary activity is considered. The relationship between the political and legal culture of the population and the process of forming a clear civic position, civic activism and social responsibility has been studied. As practice shows, the conduct of election campaigns, the process of forming an electoral culture is complex and multifaceted. The formation of political and legal culture, civic activism and responsibility must begin at the level of secondary education. State and public institutions should play an active role in this process, which are designed not only to acquaint citizens with the election legislation, but also to explain its norms. An effective means of overcoming passivity and indifference today is to establish a public dialogue between citizens’ associations and state institutions. The use of transparent electoral technologies is also important. In general, to overcome absenteeism in modern domestic political practice, society and the state need politicians with national thinking and state-building strategy. The elected government must be open and accountable to the citizens who voted for it. Political elites must be responsible for the country’s political choices. In addition, in the age of information technology, the media are of great importance, which can also significantly affect the activity of citizens during elections, giving preference not only to advertising candidates, but also to election debates, comparative analysis of independent scientific institutions, objective and not engaged information coverage.

Keywords: absenteeism, suffrage, democracy, parliamentarism, legitimacy, political and legal culture.

INTRODUCTION

The institution of elections is one of the effective mechanisms of legitimizing the political power in the modern world. Conducting elections and the electoral process within the
framework of the law, plays an extremely important role in the democratic changes of modern countries. Today, elections are the main mechanism of citizens’ participation in the management of state affairs. (Chushenko, 2009, p 345).

According to the theory of constitutional law, it is possible to characterize elections from three positions: essence, content and form. In essence, elections are a manifestation of the real will of the people, which takes place with the help and under the control of the state within the limits of its constitutional powers. In terms of content, elections are an institution of formation of public authorities. In terms of form, elections are a form of direct popular government, carried out through the electoral process. The electoral process is a type of constitutive legal process, the procedure for organizing and holding elections regulated by law, the activity of authorized bodies and citizens of the state, aimed at forming the constitutional composition of representative institutions (Shemshuchenko, 2008, p. 137–138).

The purpose of this article is to reveal the prerequisites, features, and modern problems that cause the phenomenon of absenteeism, to analyze the means and methods of overcoming electoral passivity and voter indifference.

MATERIALS AND METHODS

The methodological basis of the study is related to the application of methods, techniques and approaches in the study of problems and features related to the implementation of suffrage. In particular, comparative legal method, formal legal method, dialectical, epistemological and systemic approaches.

RESULTS AND DISCUSSION

The elections and democracy are close concepts, because elections are the democratic institution and a decision-making process on issues of public political reproduction of a democratic state, redistribution of legislative and governmental functions and powers, the subject of which is society in the form of capable citizens, and the object is the state power. The choice of a political party or candidate by citizens is a manifestation of their own position regarding the prospects for the development of the state and society.

An integral feature of the democracy of the modern state is the observance and guarantee of universally recognized principles of electoral law – the guiding ideas, that laid down as the basis of the regulation of this constitutional and legal institution (Frytskyi, 2002, p. 209), the basis of the real expression of the will of the people, forms of direct people’s rule, embodying international standards of electoral law and ensuring the reproduction and renewal of legitimate state and local power in accordance with the dominant political interests of civil society (Frytskyi, 2002, p. 105).

At the current stage of social and political development, there is a need to analyze the institution of elections not only from the point of view of jurisprudence. It is obvious, that the content of the right to vote is political, since citizens act as ruling subjects (Rabinovych, 2004, p. 15-16). At the same time, psychological factors have a significant impact on the implementation of the right to vote, because the modern institution of elections has today turned from a tool to ensure the rule of the most experienced, respected, professional representatives into a mechanism for effective manipulation of citizens’ consciousness.
Psychological aspects are also important when we analyze the problem of absenteeism, which has become especially acute in recent years due to the decline in electoral activity. In the context of modern realities, we are talking already in the legal field about the legitimacy of the formation of a representative body of power, and in the global plan we are talking about the crisis of modern parliamentarism both in Ukraine and in the world. The tendency to decrease the level of political activity in the world is also present, although its causes and manifestations are different.

It can be argued that despite the ancient history and various searches for ways to overcome absenteeism, the passive attitude of citizens to their social and political rights remains a problem of modern democracies.

In general, absenteeism (English Absenteeism from Latin “absenti” – absence) means the absence of individuals in a specified city at a specified time and the associated failure to perform relevant social functions. The political dictionary defines absenteeism (lat. absens (absentis) - absence) as one of the forms of conscious boycott of elections by voters, refusal to participate in them; passive protest of the population against the existing form of government, political regime, manifestation of indifference to a person’s exercise of his rights and duties.

Absenteeism from the point of view of politics is perceived as evasion of political participation, political apathy, and the nature of absenteeism is based on personal characteristics and a person’s attitude to the surrounding world.

It is worth saying that the phenomenon of absenteeism can be considered from two positions. In addition to electoral absenteeism (absenteeism of voters) there is parliamentary absenteeism (absenteeism of parliamentarians). Electoral absenteeism under certain circumstances can be considered in the context of the legitimacy of the formation of the parliament. For example, when a high level of absenteeism leads to the election of a body of power (self-government) by a small part of the electoral body, which gives reason to doubt the legitimacy of the body, or may lead to the ineffectiveness of the election process, if the law establishes a mandatory minimum participation in elections.

The phenomenon of parliamentary absenteeism can be the basis for a discussion about the legitimacy of the already formed parliament. In general, the spread of these two phenomena is a kind of evidence of the crisis of parliamentarism.

In our opinion, it is necessary to make corrections regarding the understanding of parliamentary (or government) absenteeism, which is expressed in the absence of parliament or government meetings. As a rule, parliamentary absenteeism is considered to be the passive attitude of deputies to the performance of their duties, which inevitably results in a decrease in the effectiveness of the legislative body. Speaking about electoral absenteeism, it was previously emphasized that we are talking about the political rights of citizens.

The deputy's mandate indicates rather the duty, and not the right of the parliamentarian before the voters, because the activity of deputies is labor activity. Parliamentarians, like any other employees, receive a salary, therefore, in itself, the absence of a parliamentarian at meetings is not a phenomenon of absenteeism and can be successfully regulated by labor legislation.
Something in common with absenteeism in political activity can only be the absence of a parliamentarian at the workplace, which is a reasonable political protest, which can manifest itself in the form of a boycott of meetings with relevant demands or refusal to participate in voting. In the history of the Ukrainian parliament, such phenomena were present from time to time as a peculiar way of political pressure on decision-making, a peaceful form of struggle between party factions.

At the same time, the absenteeism of parliamentarians can be manifested in evasion of voting, transfer of work to committees, commissions, delegation of powers to the executive power. The parliament is the only one legislative body of the state, so such actions can lead to the development of political crises, instability of the functioning of the state mechanism, delays in the adoption of the necessary legislation, irresponsibility of the authorities. The consequence of such behavior is the development of total voter’s mistrust, raising the problem of the legitimacy of the parliament’s activities and the crisis of parliamentarism.

In general, the basis of both electoral and parliamentary absenteeism is the lack of desire for political action and decision-making, the worldview and psychology of conformism, the mentality of indifference.

Undoubtedly, electoral absenteeism is an ancient natural-historical phenomenon and an indispensable attribute of a political system based on the principles of freedom and democracy. This is an obvious phenomenon of the political life of any democratic society and legal state. Because where there is a right, there is always a choice - to use it or not. Eradicating such a phenomenon is completely impossible and unnecessary, because then the very essence of the right to choose and democracy is lost. Therefore, in an effort to increase political activity, it is worth to remember about the essence of democracy.

At the same time, the wide spread of absenteeism, both in the countries of classical democracy and those that have recently embarked on the path of democratic development, can be fully connected with the dysfunctional processes of their political systems. The global trend of spreading the phenomenon of absenteeism shows the growth of distrust to political institutions, social tensions in society, a serious crisis of the political system, norms and values legitimacy. In such conditions, elections cease to be a means of achieving consensus in society, it becomes obvious that the refusal of voters to participate in voting creates serious problems for democracy (Honcharova, 2013).

Trying to overcome this phenomenon, the governments of some countries use legal instruments, in particular, fines. But such measures contradict the principle of free elections and voluntary participation in voting.

The scale and forms of absenteeism are determined by the historical conditions of the formation of democratic institutions, the mentality of peoples, and the traditions of society. The phenomenon of absenteeism is becoming the characteristic of Ukrainian society. And this can be explained by a number of reasons, among which we can highlight: personal, mental-cultural, political and socio-economic. Their separation is necessary from the point of view of their characteristics and the measures that can be applied in the fight against them. At the same time, these reasons can be combined with each other. For example, a high level of mistrust in government institutions, as well as a high level of trust in them and citizens’ satisfaction with the state of affairs, is both a personal and a political reason with different motivations.
The political behavior of citizens and the development of absenteeism can be caused by directly opposite reasons. This is either complete distrust or, on the contrary, complete trust in government in the presence of stable functioning of the government. For example, in countries with developed democracies, political and economic stability, citizens do not even know the names of political leaders and state managers, are not interested in elections, despite the fact that civil society institutions in various spheres function at a high level and contribute to the activation of citizens and an increase in their level of competence.

It is necessary to distinguish the apolitical and political prerequisites. In the first case, the voter does not go to the polls because something prevented him (illness, travel, remoteness of the polling station, etc.), or because he is not interested in it. In the second case, the voter uses his non-participation in the elections as a political demonstration, when he is not satisfied with the nominated candidates, their positions, when he believes that the elections cannot be fair.

Among the mental and cultural prerequisites, it is possible to single out the state of alienation from politics as a result of long-term political lack of freedom. Let’s say when there is a total despair of citizens that they can change something in the life of their country, as a result of which political apathy is formed, a peculiar manifestation of which is the mental psychology of conformism. From time to time, such moods and motives are the characteristics of voters in Ukraine.

A favorable environment for the development of demotivation to participate in elections is the unstable socio-economic situation in the country, periodic and protracted crises, dysfunction and state institutions, and the oligarchic nature of the political class.

The phenomenon of absenteeism is, first of all, the deliberate avoidance of voting by voters for political reasons. This concept differs from the concept of “non-participation in voting”. Refusal to participate in elections for political reasons may be due to extremely negative attitude and mistrust of all candidates in the elections. Political apathy can grow into an active form of confrontation. The extreme manifestations of such attitudes among certain segments of the population are political extremism, which can actively spread against the background of social crises and conflicts, the collapse of moral guidelines and values. The main goal of such radical-extremist actions is to change the political situation in the country. The long-term aggravation of the political situation is transformed in political apathy and in favorable conditions may well develop into active behavior of negatively disposed sections of the population. The Orange Revolution and the Revolution of Dignity were the result of such sentiments in Ukraine. It can be stated that the two-way communication between the government and civil society is mega-important for ensuring the stability of the functioning of the state and the development of society in the legal field. The government must be able to “hear” its citizens.

In this context, it is worth paying attention to the focus group discussions held by the Razumkov Center on the eve of the presidential elections on 2019. It was showed that most often citizens express rather general but understandable ideas about the ideal government. Namely, that “such a government should work in the interests of the people and be close to the people, hear and know their needs.” At the same time, in the same sociological study, we see that “focus group participants characterize the ideal government by contrasting it with
the existing government” (Ukraine before the election year, 2018, p. 106). Such trends are negative, because they do not allow for an objective assessment of all the participants in the election process.

The keen interest in the problem of absenteeism, shown by many domestic and foreign scientists, is also connected with the fact that the spread of absenteeism is evidence of the imperfection of the established political system, an indicator of growing distrust of democratic institutions, and growing social tension in society.

It should be noted that various factors influence voter turnout. For example, the type of election (turnout in presidential elections is always higher than in parliamentary or local elections), features of the region and the election campaign, the level of education and political culture that dominates the society, the type of electoral system (voter participation is lower in countries, where a majoritarian or majoritarian-proportional system of vote counting methods is used, and higher in countries with a proportional electoral system).

Among the reasons for the spread of absenteeism, low political and legal culture can also be singled out as the personal reasons that generates indifference to the political process and alienation from it. In addition, modern realities show that voters with a low level of political education, competence, lack of elementary ability for critical thinking and adequate analysis, being in the conditions of prevailing informational populism and manipulation of public opinion in mass media, are not able to adequately analyze the situation. Therefore, during voting, this part of voters prefers populist promises rather than the level of competence of the candidate, and also does not focus on the main characteristics of the candidate, which are important for holding an elected position, such as special education, professional experience, literacy, ability to adequately respond to modern challenges, honesty, etc. Instead, such voters pay attention, first of all, to external attractiveness, the ability to express themselves by manipulating public opinion, the candidate’s empty promises that are not supported by facts, etc. Such category of citizens believes in another “messiah” that will immediately improve all spheres of social, political and economic life of a person and the whole country. Instead, even a candidate for this role they choose based on false personal characteristics. After all, the behavior of the persons of political life depends on their perception of social and political realities, developed patterns of political behavior and, in fact, on their political consciousness and culture. Therefore, undoubtedly, in the field of increasing the electoral activity of citizens, an important aspect remains the improvement of the legal culture of voters in general. As an example, we can cite research conducted by the Razumkov Center on political culture and awareness of citizens conducted in 2017, which show that the majority, notably 57% of citizens, have never read the programs of political parties, and 44% who read them do not see any differences between them (Political culture of Ukrainian citizens, 2017, p. 4).

As practice shows, conducting election campaigns, the process of forming electoral culture is complex and multifaceted. This also applies to education, since, for example, the foundations are laid in school’s civic education and civic activism. Yes, favorable conditions for understanding the meaning of politics and one’s own political participation is the presence of school self-governance and the election of the school president, which is essentially a micro-model of democratic governance that takes place at the level state.
Accordingly, the presence of such positive practices in schools contributes to the emergence of active citizenship and civic education, and hypothetically able to lower the level of absenteeism among a certain category of citizens, to form a responsible attitude to participation and making political decisions, etc. (Folomieiev & Kryzhanivska, 2020).

The formation of political and legal culture, civic activity and responsibility should begin at the level of secondary education. An active role in this process should be played by state and public institutions, which are called not only to acquaint citizens with the election legislation, but also to clarify its norms. And in this context, it is worth noting that the problem of absenteeism has its own specifics. A successful fight against this phenomenon on the basis of massively low level of political culture and social irresponsibility of citizens can “play a bad joke” and lead to more negative consequences. In this case, the threat of overcoming absenteeism will be many times more destructive. And that is why political education of the youth is urgently needed. We are talking about the implementation of the system of teaching “fundamentals of political literacy” and “media literacy”, legal culture, social science, logic, electoral law. The culture of the society includes the culture of the electoral behavior of citizens and certainly implies an increase in the quality of the choice of political forces or individual candidates.

CONCLUSIONS

Considering the problem of absenteeism from the perspective of culture and education, it is obvious that the responsibility for electoral indifference and legal nihilism can be placed not only on the state and state institutions, but also on whole society, scientists, politicians, educators, public figures in general. This is especially important in the modern age of information technologies, when information is continuously received in large volumes and from various information sources. Therefore, in modern conditions, it is extremely important to be a media-savvy citizen who is able to distinguish the so-called “fake”, populism, manipulation from objectively presented information.

Today, the effective means of overcoming passivity and indifference are the establishment of a public dialogue between citizen associations and state institutions, the formation of stable political beliefs in the subjects of the election process (Terletskyi, 2010, p. 240).

In addition, using of transparent election technologies is a great importance today. A system of social relations of an organizational nature, which arise in the process of influencing the subjects of the election process on the object in order to achieve a given political result.

In this context, one of the ways to overcome absenteeism can be the introduction of electronic voting via the Internet or a special electronic terminal at the polling station (polling station or other place designated for the implementation of the will). After presenting (filling in) passport data or, alternatively, an identification code and awarding a one-time special password, a citizen is allowed to vote. The proposed method makes it possible to attract young people and persons who do not have the opportunity to come to the polling station on the day of the elections, which does not involve the cancellation of the classic procedure for holding elections.

In general, it can be unequivocally stated that to overcome absenteeism in modern domestic political practice, society and the state need politicians with a national mindset and a state-
building strategy. The elected government must be open and accountable to the citizens who voted for it. Political elites should be responsible for the country’s political choices.

Moreover, in the era of information technologies, the activity of mass media is of great importance, because it significantly affects the activity of citizens during elections. There is a need to give priority not only to advertising of candidates, but also to debates and also comparative analysis of independent scientific institutions, coverage of information objectively.

REFERENCES


Ukraine before the election year: the demands of society, the positions of political actors, the contours of the new government. (2018). Kyiv: Rasumkov center.