

DEMOCRACY AS A FUNDAMENTAL RIGHT FOR THE ACHIEVEMENT OF HUMAN DIGNITY, THE VALUABLE LIFE PROJECT AND SOCIAL HAPPINESS

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Abstract

Democracy is a fundamental right linked to the realization of a person's worthy life project regarding its corresponding fulfillment of Human Rights. Along with the procedures to form political majorities, it is mandatory to incorporate the substantial part as a means and end for the normative content of Human Dignity to be carried out allowing it to: i) freely choose a project of valued life with purpose and autonomy ii) to have material and intangible means to function in society; and iii) to live free from harm and fear in order to achieve human flourishing. The integral democracy is a means and an end to materialize individual happiness and the common good as long as everyone has concrete opportunities to unfold its inherent human dignity capacities within the trademark of the democratic constitutional State. Assuming this, integral democracy is the fundamental right of Fundamental Rights.

Keywords: democracy; fundamental rights; happiness; human dignity; life project.

“If there is no food when you are hungry, if there are no medicines when you are sick, if there is ignorance and people’s basic rights are not respected, democracy is an empty shell, even if citizens vote and have parliament” Nelson Mandela (Ushuaia, Argentina, July 25, 1998).

“Si no hay comida cuando se tiene hambre, si no hay medicamentos cuando se está enfermo, si hay ignorancia y no se respetan los derechos elementales de las personas, la democracia es una cáscara vacía, aunque los ciudadanos voten y tengan parlamento” Nelson Mandela. (Ushuaia, Argentina, 25 de julio de 1998).

Democracy, according to Caldera Ynfante (2017a, 2018a, 2018b, 2018c, 2018d), can be qualified as a fundamental right, it is integrated by a multiplicity of rights, equally fundamental, it gives content to the Integral Democracy that arises from the articulation of the relevant of its electoral procedural facet-formation of majorities-with the substantive facet, of humanistic type, centered in the effective enjoyment of all the fundamental human rights by all the human persons, with the objective that each one, without discriminations, realizes his Project of valuable life, developing capacities according to the opportunities provided to it in order to obtain human flourishing in a constitutional democratic State that minimizes conflict, promotes social harmony and effectively guarantees, protects and promotes the enjoyment of its human rights as a substantial part of democracy aimed at ensuring respect for all persons, that is, guaranteeing their human dignity.

Every human person has the right to democracy, considered as a fundamental right, linked to the achievement of human dignity, understood as the measure of the respect that every human person deserves for the fact of being one. In our opinion, democracy is the fundamental right that allows the realization of other fundamental rights. Democracy, then, is the fundamental right of fundamental rights.

That is why, in this segment of the work, we present our vision of a political community where the fundamental right to democracy is recognized, promoted, guaranteed and respected; where people can count on an Integral Democracy based on a constitutional democratic State, with freedoms and justice, that is not

exhausted in the mere electoral procedure, but is reinforced, in a complementary way, in the substantive part of democracy, as a fundamental right, based on the respect, guarantee and effectiveness of all human rights, all fundamental, of all human persons, as a way and end to guarantee the normative and axiological content of human dignity -respect for the human person- as the essential nucleus or essential core of the fundamental right to democracy. A democracy that, being assumed as a fundamental right, allows each human person to carry out his or her valuable life Project, to deploy to the full his or her talents and capacities, counting on adequate opportunities and goods and services to function effectively in society, to achieve human flourishing and splendor, to have a good and quality life and to be happy, with human security, obtaining, in short, integral human development. The essential nucleus of democracy as a fundamental right is defined by Caldera (2017a, 2018a) as the impassable barrier.

The following reflection is the fruit of the intellectual concerns and factual actions of the author, as protagonist of the recent Venezuelan political life, in support and defense of the constitutional order and the validity of the democratic order in Venezuela, as an expression of the protection of the fundamental right to democracy severely threatened and curtailed in Venezuela these days, where a totalitarian vision (authoritarianism and rampant militarism) of the exercise of political power is in apogee, thus referred to by Caldera (2017b) in the article called "Totalitarianism of the XXI Century in Venezuela. The relationship of identity between Chavism, Nazism and Fascism based on the broadening of the friendly-enemy distinction and the concept of Carl Schmitt's sovereign dictatorship or plebiscite". *Revista Democracia Actual, Registraduría del Estado Civil, N.º 2, August-December, pp. 151-205.*

The right to democracy, for the author, has a binding character, in favor of the peoples of America, in general, and to Venezuelans, in particular, by mandate of the preceptive of the Inter-American Democratic Charter (CDI) and the Democratic Clauses (CD) in force in the Systems of Regional Integration of the Andean Community of Nations (CAN), Southern Common Market (MERCOSUR) and Union of South American Nations (UNASUR), defining the collective examination that corresponds to the States and the implementation of

the so-called collective action in defense of democracy, in full process of application against the Venezuelan regime at present by the OAS (under the knowledge of the General Assembly, via the Permanent Council and other organs and instances of the same), which evaluate the imposition of some of the measures contemplated in the pro-democracy collective action, in response to the very serious violations that the Venezuelan authoritarian regime executes to the detriment of human rights and against the democratic system acting against the principles and rules of the constitutional order that have generated a breakdown of the Venezuelan democratic system, without to date the OAS General Assembly having managed to reach the quorum set forth in Article 20 of the Inter-American Democratic Charter, leaving a situation of defenselessness to Venezuelans, who are beneficiaries of the fundamental right to democracy, due to the bureaucratic impossibility of gathering the votes of the OAS member countries to impose the sanctions provided for in the aforementioned Charter.

1.THE FUNDAMENTAL HUMAN RIGHT TO DEMOCRACY - INTEGRAL DEMOCRACY - RECOGNIZED IN THE DEMOCRATIC CLAUSES OF THE OEA AND THE CAN TO THE HUMAN PERSON ITS EXERCISE HAS BEEN RELEGATED TO STATES AND GOVERNMENTS

For Caldera (2017a, 2018a, 2018b), democracy can be considered as a fundamental human right, and can be expressed as the fundamental human right to democracy from a double perspective: procedural and substantial. Hence, from this holistic vision of democracy, it is possible and feasible to speak of Integral Democracy - with the category of fundamental right - that recognizes the importance of its instrumental aspects (decision making, formation of the majority principle, selection of governments, formal expression of popular sovereignty, etc.), but which is not exhausted in them, together with their substantial or material marrow - normative content derived from their axiological and dogmatic character - called to be realized as long as every

human person effectively enjoys all his human rights, all fundamental, in the constitutional democratic State managing to concretize his Project of valuable life, free from harm and arbitrariness, counting on opportunities to develop their human capacities to live without fear or fear a freely chosen life that makes sense, with human security, displaying their gifts and talents, with autonomy and fullness, to obtain human flourishing and to be happy in the individual contributing to the common good, that is to say, to social happiness. From our classic vision of the common good, in the Aristotelian Thomistic perspective, man is conceived as a natural member of the community, not just politics, where he is called to function effectively to achieve his human fulfillment, giving meaning to his life, contributing at the same time to the achievement of the common good -every time its human dignity is respected- as a normative category, a category that gives content to the enjoyment of the fundamental rights that certain rational or legal limitations may experience, depending on the former, since these they are not absolute when it comes to achieving human fulfillment, as claimed by a certain individualism related to classical liberalism. It is possible to develop a valuable life plan -free from damage and arbitrariness, with human security-, obtaining happiness at the individual level, while continuing to contribute effectively to social happiness, contributing to the achievement of the common good in the political society regulated by the constitutional democratic State.

To say of Caldera (2018c, 2018d), according to the above, democracy as a fundamental right has a holistic, that is, comprehensive or Integral Democracy, based on the interrelation and interdependence between the guarantee of human rights, the validity of the social state of right and the exercise of democracy as a fundamental human right. Integral Democracy, as a fundamental right, in its essential core, is formed by a list of rights (civil, political, economic, social, cultural environmental, etc.) equally fundamental of which it is an indispensable instrument and purpose for their effective enjoyment, through mutual and reciprocal reinforcements, in the context of the theory of the integrality of human rights, seen under the Human Rights Based Approach (HRBA), that is, an integral democracy, a holistic democracy or democracy based on the human rights approach D+EBDH. Caldera (2019a,

2019b) argues that the Integral Democracy (or comprehensive democracy) is the fundamental right of the fundamental rights of every human person. Comprehensive democracy is the fundamental right that serves as a means and end for the realization of the valuable project of life of every human person, since it allows the effective enjoyment of their fundamental rights in order to promote their realization so that they live with dignity and achieve their individual happiness, contributing, through the enjoyment of a meaningful life, to the common good, to the construction of social happiness, to harmony in the political community and to overcoming destructive conflict and the application of violence. The Integral Democracy is the fundamental right on whose enjoyment the material realization of all the fundamental rights of every human person in the constitutional democratic State depends.

The protection of life, free from harm and arbitrariness, together with the guarantee and respect for human rights that give it meaning, is relevant to the enjoyment of the fundamental right to democracy. Hence, for damage to the project of life, we indicate with Fernández Sessarego (1992) that it is the one that “affects the freedom of the person who, consciously or unconsciously, has chosen a way of living that gives meaning to his life and that responds to his own vocation; It is a radical damage to the health of the person, which prevents him from fulfilling his own existential project and being “himself”; it is a damage that marks the future of the subject and that, although it is not current, does not cease to be true.”

The Inter American Court of HRR (1998) -Loayza Vs. Perú case- has constructed an advanced dogmatic about damage and life project indicating:

“148. The “life project” is associated with the concept of personal fulfillment, which in turn is based on the options that the subject may have to lead his life and reach the destiny he proposes. Strictly speaking, the options are the expression and guarantee of freedom. It would be difficult to say that a person is truly free if he lacks options to direct his existence and bring it to its natural culmination. These options have, in themselves, a high existential value. Therefore, their cancellation or undermining imply the objective reduction of freedom and the loss of a value that cannot be alien to the observation of this Court. For this reason, it is reasonable to affirm that acts that violate rights

seriously impede or obstruct the achievement of the expected result, and therefore substantially alter the development of the individual. In other words, “damage to the Project of life”, understood as a reasonable and accessible expectation in the specific case, implies the loss or serious impairment of opportunities for personal development, in an irreparable way or very difficult to repair. Thus, the existence of a person is altered by factors alien to him, which are imposed on him, which are imposed on him unfairly and arbitrarily, in violation of the rules with force and of the trust he was able to place in public organs obliged to protect him and provide him with security for the exercise of his rights and the satisfaction of his legitimate interests.”

Definitions of the fundamental right to democracy: It is recognized in the doctrine and normativity that regulates the rights to democracy, assumed as fundamental, the link between democracy and the social rule of law, on one side, and its interdependence and interrelation with the enjoyment of human rights, which allows a conceptualization of democracy taking into account the dictates of the Human Rights – Based Approach, accommodating the definition of Integral Democracy, or D+EBDH, which brings together its instrumental and substantial facets, understood in a broadened sense and in an abbreviated sense, as well: Integral democracy in its broadest sense:

It is a fundamental right whose enjoyment is functional to the guarantee, promotion and respect of human dignity through the realization of its normative contents (expansion of opportunities, development of capacities, free choice of valuable life project without damage and equal material and immaterial conditions that allow effective participation in society) conformed, in its essential core, by a bundle of rights, equally fundamental, equal in value and hierarchy, indispensable for their realization or enjoyment, interdependent or interrelated, aimed at the attainment of the dignified (good) life of individuals, respect for others and the common good endowed with legal and institutional mechanisms for their protection within the framework of the social rule of law.

In abbreviate sense Integral democracy:

It is a fundamental right whose enjoyment is functional to the achievement of the normative content of human dignity through the realization of all human rights, by all persons, through the development of a valuable life project without

harm that, in conditions of equality, each one decides freely to choose within the framework of the social rule of law, endowed with legal and institutional mechanisms for its protection.

The previous concept emphasizes that it is the discipline of juridical knowledge, in embryonic stage or formation, with a proper object of study, functional to the realization of human dignity, translatable in subjective right, on which there exists consensus of constitutional dogmatics by the set of own rules and principles that conform it and regulate centered in the achievement of the valuable life plans of the people, counting material and immaterial goods adapted, for its effective functioning in the society, its human development and the common good, by means of its protagonist participation in the formation, execution and control of political power. Thus, fundamental democracy of D+EBDH, that is, our definition of integral democracy can be understood in line with the conceptual approach to the definition of "holistic" democracy in the terms of the Report of the United Nations High Commissioner for Human Rights (A/HRC/22/29 dated 17 December 2012), based on a human rights approach and the comprehensiveness of fundamental rights. Democracy, assumed as a fundamental human right, from the perspective of the doctrine of the integrality of fundamental rights and under the Human Rights - Based Approach, called integral democracy or D+EBDH, is formed both by the procedural aspect (necessary for the conformation of the principle of majorities) and by the substantial facet (beam of fundamental rights that integrate its complex or assembled essential nucleus) in functional relation to the achievement of the normative content of human dignity, as means and end, so that the person develops his valuable plan of life, without damages, counts on goods and services, material and immaterial, adequate to function effectively in society and to participate in the formation, execution and control of the political power, to achieve a good life and contribute to the common good, in the social and democratic State governed by the rule of law. Integral democracy is understood as a fundamental right, because seen from a holistic point of view, in its instrumental and substantial aspects, it complies with the criteria established by the Colombian Constitutional Court in the relevant ruling T - 428 of 2012, to

qualify fundamental rights, following a taxonomic examination of the normative-dogmatic structure of the same, being able to state that:

(i) It is intrinsically related and functional to the attainment of human dignity (in its threefold conception as a constitutional value, principle and rule because the effective enjoyment of the fundamental right to democracy is an essential prerequisite for the realization of the human person's valuable and harmless life plan and must guarantee the property, material and immaterial, necessary for its effective functioning in society and, in particular, as a way and end to enable it to effectively exercise its participation in the formation, execution and control of political power);

(ii) There is normative and constitutional dogmatic consensus on their recognition and thus fundamental importance and on their essential content or scope of protection. The consensus of constitutional dogmatics and the expression of this criterion that qualifies fundamental rights is demonstrated by the analysis of the preceptive (principles and rules specific to each system) that exists in the different national and supranational legal systems (Covenants, Treaties, Agreements, Charters, Resolutions, Declarations, Decisions, etc.) on the right of peoples and individuals to democracy together with binding rulings of different constitutional Courts or Tribunals for the protection of human rights, at the regional and national levels, which allow us to affirm that there is a consensus on the dogmatic (*iuris consensus* in terms of Cicero and Arendt) on the essential content of the right, the collective actions or measures for its protection and the sanctions against its non-compliance. The existence of the core or essential content of democracy as a fundamental right is confirmed, with its complex or comprehensive scope of protection highlighting in particular the treatment given to it in the precepts of the Inter - American Democratic Charter, the CAPPDH, and the OAS Democratic Clauses, CAN, MERCOSUR and UNASUR, decisions of the Inter - American Court of Human Rights that define the essential elements of democracy for the hemisphere, in harmony with the Resolutions of the UN Human Rights Council, already cited, and judgments of the Colombian Constitutional Court (e.g., judgment C- 141 of 2010), and;

(iii) Can be translated into a subjective right (where there is a juridical relationship where the peoples of the Americas occupy the legal position of

holder, which becomes corporeal in each person; States and their governments are prima facie obligated and the main content of the democratic obligation is to guarantee its complex and multifaceted essential core, enforceable and justiciable, made up of a bundle of fundamental rights of a political, civil and economic nature, realized in interrelated and interdependent way the right to democracy), in favor of persons, recognized in a sequence of special dispositions (Democratic Clauses) in global, continental and local way, in the author's opinion these are the prodemocracy corpus iuris, means, the right to democracy. In other words, as explained in the doctoral thesis (Caldera, 2017a), the right to integral democracy affirms that there exists a regional right to democracy that configures regional prodemocratic law or regional prodemocratic ius cogens. Likewise, there are axiological, normative and dogmatic presuppositions to autonomously configure the concept of the right to democracy, the right from democracy and, due to its relationship with collective actions in defense of democracy, the concept of democratic preprocedural law is constructed at the national level and, in the context of integration spaces, of community democratic procedural law giving content, as a whole, to a nascent corpus iuris prodemocratic community or community prodemocratic ius cogens.

2.DOGMATIC FOUNDATION OF HUMAN RIGHT FUNDAMENTAL TO DEMOCRACY.

The body of constitutional doctrine that determines that human dignity is the first element of qualification of fundamental rights has been developed by the Colombian Constitutional Court in the paradigmatic judgments T-227 of 2003 and T-881 of 2002 (MP Eduardo Montealegre Lynett). In both judgments and, recently, in judgment T-428 of 2012, of the same Judicial Corporation (MP María Victoria Calle Correa) human dignity is recognized as an identification criterion, that is, as an ontological presupposition of fundamental rights. Keep in mind that human dignity has been recognized and understood in its triple dimension as a constitutional value, as a constitutional principle and as a fundamental

right-rule-in accordance with the jurisprudential dogma indicated, among others, of sentence C-336 of 2008, Constitutional Court (MP Clara Inés Vargas H.) who highlighted the duties that correspond to the State of social law for the recognition of human dignity as one of the foundations of fundamental rights. With the recognition of the right to democracy in the Andean Charter for the Promotion and Protection of Human Rights, it is concluded that there is also, in nascendi status, a right to Andean democracy or a democratic right of the Andean community, being such regulation community internal legal standard at the Colombian level.

In other words, as explained in detail in the author's doctoral thesis (Caldera, 2017a) on the right to comprehensive democracy, where it is stated that there is a regional right to democracy that configures regional pro-democratic law or regional pro-democratic *jus cogens*. Similarly, there are axiological, normative and dogmatic presuppositions to autonomously configure the concept of the right to democracy; the right of democracy and, due to its relationship with collective actions in defense of democracy, the concept of democratic procedural law that is constructed at the national level and in the regional space in the member countries of the Organization of American States (OAS). In the context of integration spaces, one can speak of the democratic community procedural law that gives content, as a whole, to a nascent pro-democratic *corpus iuris*, in the gestation phase, which, because it has a relationship with human dignity and is an essential part of the law fundamental to democracy, it can be affirmed that it has a binding force, endowed with the effects of a pro-democratic *jus cogens*, in the process of legal consolidation at the national, regional and supranational levels.

For Caldera (2018b, 599-601) the Integral Democracy, understood as a right fundamental, seen from a holistic perspective, in its aspects instrumental and substantial, meets the criteria set by the Colombian Constitutional Court in the relevant judgment T-428 of 2012, to qualify it as a fundamental right, following a taxonomic examination of the normative-dogmatic structure thereof, why: I) is intrinsically related and functional to achievement of human dignity (in its triple normative conception as value, principle and constitutional rule) because the effective enjoyment the fundamental right to democracy is a budget essential

that allows the realization of the life project valuable and without harm to the human person, as has already been referred; II) there are normative and dogmatic consensus constitutional about its recognition and importance as fundamental right and its essential content or scope of protection both in the internal prescriptive (principles and rules of each system) as in Pacts, Treaties, Agreements, Agreements, Letters, Resolutions, Declarations, Decisions, etc., which prevail with the same vigor as the Political Charter for mandate of the Constitutional Block. The Charter Inter-American Democratic, CAPPDH, the Clauses Democratic OAS, CAN, MERCOSUR and UNASUR, decisions of the Inter-American Court of Human Rights that define the essential elements of democracy for hemisphere in harmony with the Resolutions of the Council of Human Rights of the UN, already mentioned, and decisions of the Court Colombian constitutional (verbigracia, sentence C-141 of 2010), thus confirm it, and; III) can be translated into a subjective right (establishes a legal relationship with a holder) - the peoples of America - that it becomes corporeal in each person; b) obliged -prima there are states and their governments - and c) an obligation legal (provision or abstention) related to content principle of the democratic obligation or its essential nucleus complex and multifaceted, enforceable and also justiciable, established in favor of people, recognized in a series of special provisions (Democratic Clauses) at the level global, continental and local which, in the author's opinion, make up the corpus iuris prodemocratic, that is, the right of democracy.

The fundamental right to democracy or Integral Democracy, inherent to the achievement of the content of human dignity, belongs to people and must be guaranteed their effective enjoyment (*ius pro homine* o *ius pro personae*), without any detriment, or interpretative concessions in favor of the current ruler, in a concrete State, like the Venezuelan one, incurring in "interpretation *contra proferentem*" also denominated "interpretation *contra stipulatorem*" because, instead of acting in favor of the people who make up a particular people of America, affected in the enjoyment of the essential content of the fundamental right to democracy, applying the *indubio pro operario* or *indubio pro personae*, some spokespersons of the government or State responsible for the denial or violation of the right to request that the competent organs of the

OAS (or MERCOSUR, UNASUR or CAN) refrain from exercising prodemocracy collective action, request that they omit any kind of pronouncement or that they hide their heads or play the game of regional indifference to the attacks launched from power, the Government and the State against the enjoyment of the fundamental right to democracy in Venezuela, making use of the long-standing allegation of respect for national sovereignty and independence and self-determination that they have as a sovereign state, thereby concealing the deprivation, denial and transgression that the State itself and its government execute against the effective enjoyment of the bundle of human rights, likewise, fundamental, that integrate the fundamental right to integral democracy, as a manifest expression of the inalienable popular sovereignty of the people who benefit from it, given that people do not have food, lack medicines, thousands have lost their lives to the hands of the underworld without justice being done in front of those responsible or are subject to state distribution systems under rationing conditions without being guaranteed a minimum of dignified life, depriving them of achieving human flourishing and good life.

As a complement, the author has developed a complete systematic conceptualization about this theme, establishing a definition of the right to democracy or democratic right, in the following terms:

It is a nascent branch of Law whose principles, legal norms and values have as their object the protection of democracy, as a plural or complex fundamental right of peoples, functionally related to the achievement of the dignity of the person so that he may freely choose a valuable life plan without harm and may enjoy material and immaterial good adequate for the development of his capacities and his effective participation, without exclusions, in the formation, execution and control of political power and social life, through the interrelated and interdependent satisfaction of the other fundamental rights that are recognized and form part of its complex essential core within the framework of the social rule of law.

The author defines, taking into account the processes of regional integration, the right to community democracy and regional democratic procedural law, analyzed in the context of the integration systems staged in the CAN, MERCOSUR, UNASUR and OAS within the substantive and adjective set of

norms denominated *Corpus Iuris Prodemocratic Community* making room (based on the previous definition of the right to democracy or democratic right, in the internal sphere) in the context of regional or subregional integration blocks. That makes it possible to provide a definition of a community democracy right or community democratic right that is defined as:

The set of principles, legal norms and binding values approved by the member countries in which they recognize the right of their people to democracy, define their essential content and their interrelation or interdependence with human dignity, the enjoyment of other fundamental rights and the achievement of development and peace, defining collective actions and measures for the preservation of democracy, as a right, the validity of the democratic order and the constitutional order of the social rule of law in the member countries.

Whereas, in the opinion of the author, Community democratic procedural law shall be understood:

The set of principles, legal norms and binding values adopted by member countries in which they recognize the right of their people to democracy, define their essential content and their interrelation or interdependence with human dignity, the enjoyment of the other fundamental rights of their essential core and the achievement of development and peace, which defines the mechanisms and institutional instances through which collective actions and adjective measures are defined and executed for the preservation of democracy, as a right, the validity of the democratic order and the constitutional order in the member countries, defining the organs, instances, procedures and competencies assigned to them in favor of the democratic and constitutional order within the framework of the social rule of law.

This allows to affirm that the conception of constitutional democracy (participative democratic legal framework inherent to the social and democratic rule of law) and the understanding of fundamental democracy (qualified as a fundamental right), make up what we call the American prodemocratic corpus iuris, based on the Inter-American Democratic Charter and the Regional Democratic Clauses (CAN, MERCOSUR) and have the common denominator that gravitate around the realization of the dignity content of the human person (free choice of a concrete “valuable” life project, free from harm, together with

the enjoyment of “decent” material living conditions for the development of human capacity and effective participation, without exclusions, in the formation, execution and control of political power and society) provided with a multitude of principles, values and fundamental rights as content of their complex or comprehensive essential nucleus of plural or diffuse character, with superior normative rank, not being risky to affirm that the fundamental right to democracy is translated into a budget so that the other fundamental rights that converge normatively and integrate its axiological - legal - political plexus of a superior nature, as structuring elements of its normative category of fundamental law (essential nucleus) are effectively concretized, through a multiplicity of current or particular factual expressions, in an interrelated and interdependent way, since democracy, fundamental rights, peace and development (crossed by their functionality to the achievement of human dignity) are materialized through a symbiotic and inessential relationship, of mutual reinforcements, where constitutional democracy would be the genus and the fundamental right to democracy, the specie.

The duty of the State and its organs to respect, protect and guarantee the essential content of the right to democracy, because of its function to achieve human dignity and as a budget for the effective enjoyments of other fundamental rights, is the premise that must prevail in its institutional work as an expression and depository of the exercise of political power.

For that reason, it is stated that the majority rule, of enormous practical utility to settle formal electoral competence, in the hands of those who hold power in the State and its organs, must be circumscribed (limited) to legality as a method to settle dissent (conflict) in those areas where the possibilities of fostering agreements and consensus fail, respecting the human dignity of all persons, the fundamental rights and the factual or legal positions of those who legitimately dispute power, since it cannot be misused by them as a tool of domination or for the conformation of hegemonic visions or for the execution of excluding or arbitrary (political) practices, denying fundamental freedoms and rights, because, in addition to polluting its political work with despotism, it wounds to death the fundamental right to democracy by ignoring and disrespecting its substantial facet, based on the superior rights inherent in the dignity of the

human person, which make up its essential content comprehensive, assembled, composed, that is to say, complex.

In order for the fundamental right to democracy, in its substantial dimension, to be effectively enjoyed by its holders, the contents of human dignity to be achieved, the fundamental rights that fill its essential core to be realized (in an interrelated and interdependent manner) and that constitutional democracy be strengthened, in addition to the above, autonomous, independent and effective institutions are also required, which avoid taking decisions motivated by criteria of ideological, religious, racial, social, sexual, economic or partisan convenience; the inveterate and invariable adherence of the State and its organs and individuals to the Constitution and legality promote a political – democratic culture centred on the respect, guarantee and protection of fundamental rights and the principles and values of democracy (pluralism, tolerance, fraternity, solidarity, respect for the rights of minorities and submission of the majority to the dictates of legality and respect for human dignity) so that the scope of protection of the fundamental right diffuse to democracy, of complex or compound content, is recognized, guaranteed, respected and protected as to its effective enjoyment and thus generate a precursor effect that is a trigger or budget for the guarantee and effective satisfaction, intercrossed or interdependent, of the bundle of fundamental rights (substantial side) that make it up. It should be noted that an author who has treated the right to democracy as a fundamental right, focusing on the importance of the principle of functional separation of the branches of public power and citizen and institutional control over political power, is the Venezuelan author Brewer Carías (2009, 93-112). The Venezuelan writer Asdrúbal Aguiar (2008, 2012, 2014) can also be mentioned, who, like Brewer, has been contributing ideas about a notion of democracy as a human right, his study being on the dogmatics or jurisprudence of the Inter-American Court of Rights Humans (between 1987-2014) on this specific point an academic contribution of great theoretical value. The notion of comprehensive democracy, according to Bunge (2009) is the combination, or if you want the conjunction, of "democracy environmental, biological, economic, cultural, political, legal and global by realizing six key values: livelihoods, equality, solidarity, pursuit of happiness, fitness and good common "that aims to

promote“ equal access to wealth natural, equality of sexes and races, equality of opportunities economic and cultural, and popular participation in the administration of the commons ”as stated by Bunge (2013).

3.DEMOCRACY AS A FUNDAMENTAL RIGHT OR INTEGRAL DEMOCRACY AND ITS ESSENTIAL NUCLEUS, ESSENTIAL CORE OR ESSENTIAL CONTENT

Democracy is so much more than elections or voting. It is the way and end for the person to realize his or her valuable life project, to live without harm, to obtain human flourishing and to be happy in the constitutional democratic state. It is the realization of the bundle of fundamental rights that integrate its scope of protection or essential content related to the enjoyment of the normative content of human dignity so that the person realizes, without interference or harm, his valuable life plan, has sufficient immaterial material goods to function in society, achieve human brilliance and be the protagonist agent of the formation, execution and control of political power for his good and the common good of his equal.

The regulation or international norms (*corpus iuris pro-democratic*) on the right to democracy can be seen, among other regulatory instruments, of the United Nations in: I) Resolutions of the Commission on Human Rights: Resolution 1999/57 on the Promotion of Right to Democracy of April 27, 1999; Resolution 2000/47 on the Promotion and Consolidation of Democracy of April 25, 2000; Resolution 2001/41 on Continuation of the Dialogue on Measures to Promote and Consolidate Democracy of April 23, 2001; Resolution 2002/46 on New Measures to Promote and Consolidate Democracy of April 23, 2002; Resolution 2003/36 on the Interdependence between Democracy and Human Rights of April 23, 2003; Resolution 2004/30, on Increasing the role of regional, subregional, and other organizations and initiatives in promoting and consolidating democracy on April 19, 2004; II) Resolutions of the Human Rights Council: Resolution 2005/32 on democracy, the rule of law and the rule of law of

April 19, 2005; Resolution 18/15 on the incompatibility between democracy and racism of September 29, 2011; Resolution 19/36 on the interdependence between democracy, human rights and the rule of law of March 23, 2012; III) General Assembly Resolutions: Resolution 55/43 on the promotion and consolidation of democracy of November 27, 2000; Resolution 57/221 on strengthening the rule of law of December 18, 2002; Resolution 59/201 on strengthening the role of regional, subregional and other organizations and mechanisms in the promotion and consolidation of democracy of December 20, 2004; Doha Declaration approved by the Sixth International Conference of New or Restored Democracies on November 1, 2006; Resolution 66/102 on the rule of law at the national and international levels of December 9, 2011; Report of the United Nations High Commissioner for Human Rights. A / HRC / 22/29 on democracy, human rights and the rule of law of December 17, 2012.

The core of the fundamental right to democracy is developed, among other applicable norms, in resolution 19/36 of 2012 of the Human Rights Council (UN): On the recognized interdependence, through mutual reinforcements, between democracy, human rights and the State (social and democratic) of Law, the foundation of the nascent definition of democracy from the perspective of integrality and approach based on human rights – D+EBDH defined as integral or holistic democracy that, as an autonomous fundamental right, with its enjoyment results in the condition of possibility, as a way and end, for the effective, interdependent and symbiotic enjoyment of human rights related with functionality to the achievement of the content of human dignity, following the aforementioned resolution 19/36 of the Human Rights Council (UN), we come to the definition *lato sensu* of the complex essential nucleus, comprehensive or continent of integral democracy or D+EBDH as a fundamental right conformed by the faculties to carry out activities, to develop and to observe behaviours, granted to persons in the social rule of law, which cannot be denatured by the actions of the state power, or even of the legislator, because they place in danger of destruction the guarantee of the essential content of the fundamental right to democracy (integrally conceived – D+EBDH).

There are several resolutions of the UN Human Rights Commission (now the Council) on the right to democracy: Regarding the right to democracy, it has

been the UN Human Rights Commission that has approved a set of resolutions with binding effects (by virtue of coming from a governing body for the protection of human rights on treaties, agreements, protocols or conventions signed and ratified by Colombia), being the following:

(i) The original and paradigmatic Resolution 1999/57 of 27 April 1999 on the Promotion of the Right to Democracy, which was adopted by fifty-one votes in favour, none against and two abstentions at its 55th session, which confers the rank of right to democracy which ratifies the interdependence between the enjoyment of the right to democracy and the realization of human rights and the right to development;

(ii) The 2000/47 of 25 April 2000 on the Promotion and Consolidation of Democracy;

(iii) The 2001/41 of 23 April 2001 on the Continuation of the Dialogue on Measures to Promote and Consolidate Democracy;

(iv) The 2002/46 of 23 April 2002, related to New Measures to Promote and Consolidate Democracy;

(v) The 2003/36 of 23 April 2003 on the Interdependence between Democracy and Human Rights;

(vi) The 2004/30 of 19 April 2004, entitled "Enhancing the role of regional, subregional and other organizations and initiatives in promoting and consolidating democracy";

(vii) The 2005/32 of 19 April 2005 on "Democracy and the Rule of Law" all the UN Commission on Human Rights, and

(viii) Resolution 19/36 of 2002 on the interdependence between democracy, human rights and the rule of law.

The recognition of the importance of democracy for its relationship with human rights and the rule of law has been reiterated by the UN General Assembly in its resolutions No.- 49/30, of 7 December 1994; No.- 50/133, of 20 December 1995; No.- 51/31, of 6 December 1996; No.- 52/18, of 21 November 1997; No.- 53/31, of 23 November 1998; No.- 54/36, of 29 November 1999; No.- 55/43, of 27 November 2000; No.- 56/96, of 14 December 2001; No.- 56/269, of 27 March 2002; No.- 58/13, of 17 November 2003, No.- 58/281, of 9 February 2004, and No.- 60/253, of 2 May 2006. Of relevance is the Doha Declaration adopted by the

Sixth International Conference of New or Restored Democracies (A/61/581, annex).

The 2002/46 of 23 April 2002, related to New Measures to Promote and Consolidate Democracy establishes as essential constituent elements (essential core) of democracy: respect for human rights and fundamental freedoms, freedom of association, freedom of expression, of opinion, Access to an the exercise of power in accordance with the rule of law, holding of periodic free, fair and impartial elections based on universal suffrage and secret ballot as an expression of the will of the people, a pluralist system of political parties and organizations, permanent, ethical and responsible participation by citizens in the political life of their countries, separation and independence of powers, transparency and accountability in public administration, and free, independent and pluralistic media. Its dogmatic value has been recognized and established, for the Andean area, by article 14 of the Andean Charter for the Promotion and Protection of Human Rights - CAPPDH (2002).

Caldera (2017a, 2018a, 2018b, 2018c, 2018d) highlights that the essential core of democracy, assumed as a fundamental human right, comprises the effective enjoyment of rights, also fundamental, established by resolution 2003/36 of the Commission on Rights Human Rights of the United Nations indicating: 1. Declares that the essential elements of democracy include respect for human rights and fundamental freedoms, inter alia, freedom of association and freedom of expression and opinion, and also include access to and the exercise of power in accordance with the rule of law, periodic free and fair elections by universal suffrage and secret ballot as an expression of the will of the people, a pluralistic system of political parties and organizations, separation of powers, interdependence of the judiciary, transparency and accountability in public administration, and free, independent and pluralistic media; 2. Reaffirms its conviction that democracy, development and respect for human rights and fundamental freedoms are interdependent and mutually reinforcing; that democracy is based on the free expression of the will of the people for the determination of their own political, economic, social and cultural instruments and their full participation in all aspects of their lives; 3. Reaffirms also that democracy facilitates the progressive enjoyment of all economic, social and

cultural rights; 4. Recognizes the global nature of democracy as a system of government encompassing procedural and substantive issues, formal institutions and informal processes, majorities and minorities, mechanisms and mentalities, laws and their implementation, government and civil society; 5. Stresses the need for equal opportunities for men and women to participate in political and public life; 6. Recognizes the role of non-governmental organizations and civil society in promoting democracy; 7. Notes that international human rights instruments incorporate many of the principles, rules, norms and values of democracy and can guide the development of national democratic traditions and institutions; 8. Recognizes that democracy is an ever-improving process, which should be judged by the degree to which its principles, rules, norms and values are applied and contribute to the full enjoyment of all human rights; 9. Notes with satisfaction that the progress made in many countries of the world in establishing democratic societies has resulted in fuller enjoyment of civil, political, economic, social and cultural rights in those countries. Its dogmatic value has been recognized and established, for the Andean area, by articles 2, 3, 4 of the CAPPDH (2002). In this case, democracy is not conceived from a reductionist viewpoint from the merely instrumental, it is not simply elections or competition for political power, but, in essence, the respect, guarantee and protection of the effective enjoyment of a bundle of rights, equally fundamental, that form their scope of protection in favour of the human person and the achievement or effective enjoyment of the rights, all fundamental, of which they are holders or beneficiaries.

The essential nucleus of the fundamental right to democracy, complex or comprehensive, under a human rights approach, that is, integral democracy or D+EBDH, as Caldera calls it (2017a, 2018a, 2018b, 2018d) has been established in the very new resolution 19/36 of 2012 on the interdependence between Democracy, Human Rights and the (social) Rule of Law, which must be respected by every State Party of the UN and, therefore, of the OAS, consists of guaranteeing, respecting and protecting the following specific rights:

“16. Urged States to continue their efforts to strengthen the rule of law and promote democracy:

- a) Defending the separation of Powers through the adoption of appropriate constitutional, legislative, judicial and other institutional measures;
- b) Defending the interdependence and integrity of the judiciary;
- c) Ensuring that the law is applied with sufficient legal certainty and predictability to prevent arbitrariness;
- d) Taking active and consistent measures to increase public awareness of their human rights and their ability to seek redress, as provided for by law and international human rights instruments and mechanisms, when their rights are violated;
- e) Collaborating with civil society organizations and institutions and allowing them to participate in public debate on decisions that can help promote and protect human rights and the rule of law and on any other relevant decisions;
- f) Ensuring that people and groups in society have more access to understandable information about the exercise of their rights;
- g) Taking active measures, such as identifying and removing obstacles and barriers to accessibility, to provide equal access to persons with disabilities in order to ensure their full participation in all aspects of democratic processes;
- h) Taking appropriate measures and taking appropriate steps to amend electoral legislation so that the population can vote and participate in elections without unreasonable restrictions;
- i) Establishing or strengthening national human rights institutions in accordance with the Paris Principles;
- j) Ensuring that no person or public or private institution is above the law, by ensuring that:
 - i) The principles of equal protection before the law and before the courts under the law are respected and applied without discrimination to all persons under its jurisdiction;
 - ii) Violations of human rights law and international humanitarian law should not be allowed to go unpunished and should be duly investigated and punished, including by prosecuting perpetrators using national mechanisms or, where appropriate, international mechanisms, in accordance with States' international human rights obligations and commitments;

iii) All public officials, regardless of their position, are fully and promptly held accountable, in accordance with applicable domestic law and international obligations, for any violations committed by them;

iv) There is no discrimination in the administration of justice;

v) Comprehensive anti-corruption strategies and measures are properly developed and implemented to preserve the Independence and impartiality of the judiciary, and the moral integrity and accountability of members of the judiciary, legislature and executive are guaranteed;

vi) The army is accountable to the relevant national civilian authorities;

vii) Military or special courts are independent, competent and impartial, respect due process of law and ensure a fair trial in accordance with domestic law, international human rights obligations and international humanitarian law;

k) Respecting equal protection before the law:

i) Guaranteeing the right to life and the right to liberty and security of the person without any discrimination, ensuring that the right of everyone to be recognized as such before the law is fully respected;

ii) Ensuring equal access to information on rights for all, as well as equal access to the courts, including through non-judicial means;

iii) Taking active measures to improve access to justice for all persons, including minorities, who are impeded in the full exercise of their human rights by, inter alia, lack of information or resources, or by discriminatory or arbitrary measures;

iv) Incorporating the principle of equality of men and women before the law;

v) Guaranteeing the rights to a fair trial and due process without discrimination of any kind, including the rights to be presumed innocent until proved guilty according to law, and the right of any person who has been convicted of an offence to have his conviction and sentence reviewed by a higher tribunal in accordance with the law;

vi) Constantly promoting the independence, impartiality and integrity of the judiciary;

vii) Guaranteeing victims of human rights violations, the right to an effective remedy, including reparation, as determined by the competent authorities and in accordance with international obligations;

viii) Encouraging continuous training of public officials, military personnel, parliamentary experts, lawyers, judges at all levels and judicial personnel, in accordance with their field of competence, on international human rights obligations and commitments, in particular with regard to legal aspects and procedures relating to equality before the law;

ix) Supporting the adoption of inclusive and democratic approaches in the elaboration and revision of fundamental laws and regulations underpinning democracy and the rule of law, human rights and fundamental freedoms;

17. Urges Member States to increase social cohesion and solidarity, as important elements of democracy through:

a) The development and strengthening of institutional and educational capacities, at local, regional and national levels, to mediate conflicts, resolve disputes peacefully and prevent and suppress the use of violence to address social tensions and disagreements;

b) Improving social protection systems, including appropriate and necessary social services;

c) The promotion of social dialogue and tripartite collaboration with respect to labour relations between government, trade unions and employers' organizations;

d) Promoting women's political and economic empowerment, including by increasing their representation in parliaments, Governments and the labour force, thus reflecting gender equality."

For further insight you can analyze resolution 19/36 of the Human Rights Council (UN) of March 23, 2012, on Human Rights, Democracy and the Rule of Law adopted by the United Nations General Assembly. The defining elements of the complex scope of protection are integral or holistic democracy which, as an autonomous right, with its enjoyment becomes a condition of possibility, as a way and end, for the effective, interdependent and symbiotic enjoyment of fundamental rights in relation to the achievement of the content of human dignity, based also on the "conviction that democracy, development and respect

for human rights and fundamental freedoms are interdependent and mutually reinforcing; that democracy is based on the free expression of the will of the people for the determination of their own political, economic, social and cultural instruments and their full participation in all aspects of their lives” in line with the normative guideline in paragraph 2 of UN Commission on Human Rights Resolution 2003/36 on “The interdependence between democracy and human rights” and other dogmatic norms and principles already cited in the context of the autonomous right to democracy from a human rights perspective (D+EBDH).

The right of the peoples of the Americas to democracy, as well as the essential core of the Americas to democracy, as well as the essential core of the fundamental right to democracy, complex or all-encompassing which is enshrined in the Inter-American Democratic Charter and serves as the basis for pro-democracy collective action, is compatible with the human rights-based approach (D+EBDH-integral democracy), and is contained in the following normative provisions of the Charter:

Article 1. The peoples of the Americas have the right to democracy and their governments have the obligation to promote and defend it.

Democracy is essential for the social, political, and economic development of the peoples of the Americas.

Article 2. The effective exercise of representative democracy is the basis of the rule of law and the constitutional regimes of the Member States of the Organization of American States. Representative democracy is strengthened and deepened by the permanent, ethical, and responsible participation of citizens within a framework of legality in accordance with the respective constitutional order.

Article 3. Essential elements of representative democracy include respect for human rights and fundamental freedoms; access to and the exercise of power subject to the rule of law; the holding of periodic, free, and fair elections based on universal and secret suffrage as an expression of the sovereignty of the people; the pluralistic system of political parties and organizations; and the separation and independence of public powers.

Article 4. The transparency of government activities, probity, the responsibility of governments in public management, respect for social rights and freedom of speech and of the press are fundamental components of the exercise of democracy.

The constitutional subordination of all State institutions to the legally constituted civil authority and respect for the rule of law of all entities and sectors of society are equally fundamental to democracy. It should be noted that the Venezuelan public law teacher, Brewer Carías (2009, 104), in his article *Sobre las nuevas tendencias del derecho constitucional: del reconocimiento del Derecho a la Constitución y del Derecho a la Democracia*, has expressed:

“In the contemporary world, therefore, one can also speak today of other political rights that derive from the democratic regime, such as the aforementioned citizen right to democracy or to a political regime in which its essential elements are guaranteed, as enumerated by the Inter-American Democratic Charter of the Organization of American States (OAS) of 2001, and which are as follows: 1) respect for human rights and fundamental freedoms; 2) access to and exercise of power subject to the rule of law; 3) the holding of periodic, free, and fair elections based on universal suffrage and secrecy as an expression of the sovereignty of the people; 4) the pluralistic system of political parties and organizations; and 5) the separation and independence of public powers (art. 3°). In a democracy, the citizen undoubtedly has the right to exercise public functions, the rights to suffrage or the right of association in political parties. However, taken as a whole, and in particular the separation of powers, can be configured globally as integrating a right to democracy that is intended to guarantee effective control of the exercise of power by and through the rulers of the State. This right to democracy, clearly, can only be configured in democratic States of law, being inconceivable in States with authoritarian regimes where precisely the aforementioned essential elements cannot be guaranteed by the absence of controls over the exercise of power, even though they may be States in which, in fraud against the Constitution and democracy itself, the governments may have had their origin in some electoral exercise.” Brewer himself (2009, 105), in this article, expresses that democracy is a

fundamental right itself, that possibilities the citizen control under the power exercise, pointing:

“Like some of the above-mentioned essential elements of democracy, many of these fundamental components have also been configured in constitutions as individualized citizens’ rights, such as the set of social rights and freedom of expression of thought. However, also considered as a whole, together with the essential elements, these fundamental components of democracy make it possible to reaffirm the existence of the citizen’s right to it, as a fundamental right in itself, which implies above all the citizen’s possibility of controlling the exercise of power.”

The Venezuelan *ius publicist* Aguiar (2014, 78-83), in an authoritative opinion cited at length, because of its singular dogmatic significance, based on binding rulings of the Inter-American Court of Human Rights, explains its conclusion on the elements that make up representative democracy and the essential elements for its enjoyment (core or scope of protection of the fundamental right to democracy) from the jurisprudence of the Inter-American Court of Human Rights and the Inter-American Democratic Charter, stressing that there are basically “twelve elements of representative democracy” and the “essential components of its exercise”. In general terms, Aguiar (2014, 78-83) describes the essential elements of the right to democracy as follows: “a. Respect for human rights and fundamental freedoms; b. Access to and exercise of power subject to the rule of law; c. Holding of periodic, free, fair and secret elections based on universal and secret suffrage as an expression of the sovereignty of the people; d. Plural regime of political parties and organizations; e. Separation and independence of public authorities. It indicated the following as “Fundamental components of the exercise of democracy: “a. Transparency of governmental activities; b. Probity of governments; c. Responsibility of governors in public management; d. Respect for social rights; e. Freedom of speech and of the press; f. Constitutional subordination of all State institutions to the legally constituted civil authority; g. The right to freedom of speech and of the press. Respect for the rule of law of all entities and sectors of society.”

On the other hand, the thesis of democracy as a fundamental right is related, in theory, in part, to Nussbaum's approach to capabilities that emerges "as a

philosophical basis for a theory of the basic rights of human beings that must be respected and applied by the governments of all countries, as a minimum requirement of respect for human dignity" (Nussbaum 2007, 83). The Integral Democracy is functional for the achievement of the normative content of human dignity that is connected with the realization of the valuable life project that each person freely chooses to carry out in the political community and this, in turn, is connected with theory of the human capacities defined by Sen (1985, 1993, 2010) and Nussbaum (1993, 2002, 2007). Thus, capacity is "what people are effectively capable of doing and being, according to an intuitive idea of what a life of human dignity is" (Nussbaum 2007, 83), being, in turn, the human dignity, the presupposition of the basic rights that serve to conceive a threshold for a partial declaration of social justice. The fundamental right to democracy, established in its essential core for a diverse beam of human rights, all fundamental, is related to the statement "social assets primary" of Rawls (1971, 1979). In his theory of justice, the basic structure is made up of "the main institutions political, social and economic, as well as the way in which they they function as a unified system of social cooperation " (Rawls 1993, 11), all of which leads to what Villalobos (2018) reconstructs as the internal link between the rule of law and democracy, it is exactly what it is about: the idea of justice determined by the democratic principle, all of which is exposed in this scientific article to encourage academic discussion and political deliberation that contributes to the promotion of education for democratic citizenship and constitutional culture with an emphasis on the defense, protection and guarantee of human fulfillment, respect for their human dignity and social happiness in the constitutional democratic state.

In summary, it can be said that the Integral Democracy, as a fundamental right, at its core essential, it is made up of a list of rights (civil, political, economic, social, cultural, environmental, etc.) likewise fundamental of which is irreplaceable means and end for your effective enjoyment, interdependent and interrelated, through mutual and reciprocal reinforcements, in the context of the theory of comprehensiveness of human rights, seen under the Rights Based Approach Human (abbreviated D + EBDH) to say the Ávila et. al. (2018d).

4. CONCLUSIONS

Democracy is normatively classified as a fundamental right, related to human dignity (life project, conditions to function in society and life without harm); in the form of a subjective right (owner, obligated and essential nucleus) and a consensus of constitutional dogmatics on its relevance, made up of procedural elements -majority formation- together with the substantial facet -enjoyment of the fundamental human rights in its field of protection- as means and end for the achievement of human flourishing and the happiness of the human person in the constitutional democratic State. It is considered the fundamental right of fundamental rights aimed at individual happiness, focused on the protection of life and human dignity of every person. It is feasible, for the author, to consider democracy as a fundamental right from the perspective based on Human Rights, related to the achievement of the normative content of human dignity (as a means and end for the free choice and realization of a valuable life project, material and immaterial conditions for a decent existence, to live a life with meaning and happiness, to live without fear and without harm counting on opportunities for the splendour of human capacities and human flourishing) and with the dogmatic conformation of an essential nucleus of democracy, as a fundamental, comprehensive and holistic right, made up of a procedural facet (elections) and another substantial or material facet (achievement of the dogmatic content of human dignity referred to above) within the framework of the constitutional democratic state of which both the Inter-American Democratic Charter (IDC) and the various Democratic Clauses (CD) and norms that enshrine democracy as a human right are the normative expression. Recognize democracy as a fundamental right and provide it with more effective protection mechanisms. The Integral Democracy is the fundamental right of the fundamental rights of every human person, whose effective enjoyment is a means and an end to the realization of their valuable life project, without arbitrariness or harm, in search of obtaining their human happiness in the community politics, respecting their human dignity. Especially, as in the Venezuelan case, where there is a process of destruction of the constitutional order that threatens the democratic system and the republican model of

government, with a dictatorial regime, with totalitarian pretensions, headed by Nicolás Maduro Moros but directed by the hierarchs of Cuban tyranny, against which Venezuela finds itself in a situation of consensual foreign domination, which merits an energetic academic and scientific position committed to the defence of the human person and his dignity, supporting the constitutional order and the validity of the democratic system in Venezuela, as an expression of the protection of the fundamental right to democracy severely threatened and curtailed in Venezuela during these days of totalitarianism, authoritarianism and rampant militarism, without it having been possible to activate collective action in defense of democracy by the bureaucratic instances of the OAS despite the Pan American Democratic Charter, subscribed without reservations by Venezuela, article 20 contemplates the conventional figure, no less strict, with an open and indeterminate texture, of the alteration of the constitutional order, as an analogous term, although less rigid, than the concept of rupture of the democratic order over which the collective duty to protect democracy and its essential content should be protected. Thus understood, democracy must provide opportunities for every person to fully develop their capacities, reach full human fulfillment and live happily.

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