

The Rising of Political Extremism in Democratic Legal Systems: An Approach from the Right to Freedom of Expression.

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ABSTRACT

The notion of freedom is one deeply enshrined in democratic legal systems. It serves as a vital purpose and perhaps the most important value of democracy. One of the key manifestations of this value is freedom of expression, which must be not only recognized but protected by states. However, there have been an important number of risings of political extremism in the past decade. Countries, like the United States, the United Kingdom, Greece and Germany have witnessed the creation of these groups, some of which hold openly anti-democratic values as their flagship. Seeing this delicate situation, which could be an adequate approach to a legislation purporting to regulate these groups' behavior? Different states have taken different approaches. This paper will engage in the analysis of the main positions taken by states and, using elements from all of them, will try to propose an adequate model that serves both the purposes of the guarantee of freedom of expression, and the protection of the democratic state.

Keywords: Freedom of expression, free speech, political extremism, democratic state, political speech.

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Introduction

Modern Western expressions of democracy, based on Liberalism as a philosophical inspiration, have been built upon the notion of freedom –and its many manifestations- as one of the foundational stones of the state. Within those manifestations of such value present in this model, freedom of expression –also referred as freedom of speech- has established itself as one of the core principles enshrined in state liberties, and thus it has been recognised and implemented in multiple constitutions, bill of rights and international instruments¹, although in different ways.²

Nonetheless, recent manifestations of political extremism have shed some doubt upon the full reach that freedom of expression should have in a democratic society. How should a democratic state react when challenged by groups with ideologies which are evidently against the core democratic principles and values? This paper will first give some light upon the relationship between liberal democracies and freedom of expression, especially political speech as the most valued manifestation of this freedom. Then it will turn to the issue of extremism giving some basic parameters and common characteristics in which the problematic is usually developed. After that it, will take considerations regarding three main positions towards extreme speech in a liberal-democratic society which are: giving the widest scope possible to freedom of expression, limitation through prohibition to exercise freedom of expression and limitation based through restrictions less severe than prohibition.

According to all of the above, the purpose of this essay is to show that the preferred way for a democratic state to address the issue of freedom of expression of political extremist groups is by restricting its exercise only under very specific parameters for the engagement on public debate. This is, as it will be shown, the solution most considerate to democratic values taking into account international and domestic law standards.

Liberal Democracies and Freedom of Expression

The promotion of freedom of expression to its status as a principle of modern democratic societies has been supported by many theories, being the first, and also the most well-known, the one proposed by John Stuart Mill in *On Liberty* in 1859. Nowadays most of the theories have brought upon some aspect mentioned by Mill but have given further depth on other aspects, being more in touch with the current situation to which democracy is faced.

The sole idea of recognising freedom of expression as a principle in constitutions and bills of rights entails the need for special protection of it from regulation or suppression³. It has become a fundamental right, so intertwined with the exercise of democracy, that any restriction upon it must satisfy a very specific set of requirements in order not to jeopardize the legitimacy of the state's political system. In order to argue such a degree of interrelationship between democracy and freedom of expression some have proposed that it lays in one of the very basis of the democratic exercise: equality of the people⁴. According to this, all individuals, are born free and equal to each other, and they must all have the right to express their own ideas and opinions and not have a position imposed over them but instead, negotiated through the exercise of free speech. Moreover,

¹ The most relevant one the International Covenant on Civil and Political Rights (1966) on its article 19.

² Ericarendt, *Freedom of Speech* (OUP, Second Edition, 2005) Ch 1, 1-6.

³ Ibid 7

⁴ Ronald Dworkin, 'Foreword' in Ivan Hare and James Weinstein (eds), *Extreme Speech and Democracy* (Oxford University Press 2009)

although most of the decision-making in democracy relies on the concept of majority, not even this majority has the right to impose its will on any minority and must respect and protect possible dissent, criticism and opposition to decisions, coming from them.⁵

Another relevant aspect to the right to freedom of expression is the right to freedom of –peaceful– assembly. Even though it is sometimes recognised as a separate right in legal and international instruments, its relationship with freedom of expression is undeniable. It has been known to serve the same purpose, which is the dissemination of ideas and opinions that encourage the public debate in democratic societies and the boundaries between the two of them often fuse rendering the formal differences impractical⁶.

In line with what has been said until now, and notwithstanding the possibility other types of expression and speech may have to be proclaimed crucial in the development of democracy, it must be recognised that political speech is the form of expression by excellence. Following this idea, this paper turns to give lights over this special manifestation of freedom of expression.

Political Speech

According to James Weinstein there are two major arguments for recognising political speech as the most important representation of freedom of expression⁷. The first one is that of popular sovereignty. In a democratic society authority and power reside on the people and therefore, it is only logical that, through that authority, they can exercise free speech as to how the society must rule itself and how it will function. So, this issue will not depend on the government as an autocratic entity but rather on the discussion held by the people who gave legitimacy to that particular government⁸.

The other important argument is the right of citizen participation in a democratic society. As it was said before, individuals –born equal and free– have the right to participate in the decision-making process in their societies, and this participation is always linked to decisions on state matters as important as the legal and political system under which the said society will be ruled.⁹ This has been further recognised by many, including the Human Rights Committee, which has also stated that promotion and protection of freedom of expression is not only binding on every state party to the ICCPR¹⁰ but necessary in order to reach true democratic communication of ideas about public and political issues¹¹. In summary, all individuals dwelling inside a democratic state have the right to take part in the discussion in which public opinion is formed. That includes engaging in the decision-making process by freely expressing their own opinion and voting according to it; which is the most basic manifestation of political action in a democratic society– the right to vote–¹².

Finally, in order to further expand the role of political speech in a democratic society, it should be said that it is not limited to that speech concerning conduct of the government or seeking electorate

⁵ Ibid vii

⁶ Barendt (n 2) Ch VIII, 270-273

⁷ James Weinstein, ‘Extreme Speech, Public Order, and Democracy: Lessons from The Masses’ in Hare and Weinstein (n 4).

⁸ Ibid 26.

⁹ Barendt (n 2) 18-21.

¹⁰ United Nations (UN), Human Rights Committee (HRC), ‘General Comment No. 34’ (2011) UN Doc CCPR/C/GC/34 Pr 9.

¹¹ Ibid, Pr 20.

¹² Weinstein (n6) 27-29.

acceptance, which will certainly diminish its scope substantially. Instead, because of its primary importance in the exercise of democracy, it should refer, as noted by Barendt, to '[]all speech relevant to the development of public opinion'¹³.

Nevertheless, permitting people to freely express their political opinion concerning the most varied of topics in a state will always leave open the possibility for extreme positions to find a way. In the worst case scenario, some of them will go as far as to oppose the idea of democracy itself and would, hypothetically, present a dichotomy to a society compromised to freedom of expression, but also in need of defending the system on which it has been built upon.

Some Notions on Political Extremism and Anti-Liberal-Democratic Speech

1. Defining Political Extremism

When talking about extremism it is easy to see that there is no standard definition for this phenomenon¹⁴; therefore elements coming from different sources must be addressed in order to reach some understanding about it. Some authors have argued that extremism is a relational concept, which means its definition depends on the relationship the purported extremist has with a particular system to which it is compared. According to this, in most of Western contemporary states the analysis of extremism must be done regarding its relationship with liberal-democracies¹⁵. This has been recognised, amongst others, by the Council of Europe's Parliamentary Assembly that has stated that extremism 'is a form of political activity that overtly or covertly rejects the principles of democracy'¹⁶, explicitly attributing a definition of extremist behaviour essentially linked to democratic states.

Having reached a conceptual parameter in which to include extremism it must be said that freedom of assembly gains special importance when thinking of this phenomenon as a possible threat to democratic societies. Individual extremism is easier to deal with because it represents only a minimum percentage of the positions put forward in public discussion; but when extreme ideas are shared by a group and are envisioned as gaining more adepts every time they can become a huge political force able to challenge the establishment¹⁷. This is when extremism really becomes a matter of concern in liberal-democratic societies and when it deserves to be studied.

2. Common Trends in Extremist Groups

As stated above, extremist groups are not fond of democratic values. According to this the Assembly has stated they gain fidelity by taking advantage of social discontent, proposing democracy as the reason for these distress feelings. They also tend to operate as oligarchies¹⁸ exercising leadership outside the democratic principles of equality, participation and freedom of

¹³ Barendt (n 2) Ch 5, 162

¹⁴ The Human Rights Committee has stated the need to define 'extremist activity' to avoid unnecessary or disproportionate interference with freedom of expression. UN HRC (n 9) Pr 46.

¹⁵ Maleiha Malik, 'Extreme Speech and Liberalism' in Hare and Weinstein (n4) 97-99.

¹⁶ Council of Europe (CE), Parliamentary Assembly (PA), 'Resolution 1344' (2001) Pr 3.

¹⁷ Malik (n 15) 98

¹⁸ CE, PA (n16) Pr 6

expression¹⁹; and, by ironically defending their right to freedom of expression; they wish to implement such a system in the state to which they belong²⁰.

Some other common aspects found in extremist groups is that they usually tend to engage in discriminatory practices such as xenophobia, racism, religious hate speech, ultra-nationalism and are often based on fanaticism or fundamentalism. Their political stream –far-right or extreme left– changes some of the discourse they employ but, ultimately, they all subscribe to a radical anti-pluralist, homogeneous vision of the national community in which they develop²¹.

Finally, it is to be noted that experience over the past few years, especially in Europe, has shown that many of these extremist groups can turn, relatively easy, violent speech into violent actions having become a major threat to many states. Due to this situation, the Parliamentary Assembly has asked state parties to provide measures in their legal systems as a response to this problematic, but, always keeping in mind the democratic values and principles embodied in them²².

Freedom of Expression and Political Extremism: Approaches in Liberal-Democratic States

According to what has been said, due to the possible threat that political extremism may pose to a liberal-democracy, many states have a growing concern on how to address the problematic. Many solutions have been implemented by different domestic legal systems in the latter years and they have also been evaluated by international organisations and courts as well as by a number of authors. The main possible positions can be separated into two major alternatives –one of them with two distinct approaches– that will be further analysed.

1. Freedom of Expression's Widest Scope: The United States Approach

One of the possible positions a state can take towards political extremism is simply not to interfere with its development, respecting, based on the democratic values, the free speech clause on its constitution. This approach has gained popularity because it has been the one taken by the United States legal system. The right to freedom of expression is enshrined on the First Amendment of the U.S. Constitution that reads the following:

‘Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.’²³

The interpretation of the reach of freedom of expression under this amendment, given in extensive case law by the U.S. Supreme Court, is without a doubt, the widest ever applied to such right. Consequently, the same wide approach has been applied when referring to political extremism rendering the U.S. the most tolerant democratic state of anti-liberal democratic speech, at least in paper²⁴.

¹⁹ Malik (n 14) 99.

²⁰ Kristian Skagen Ekeli, ‘The Political Rights of Anti-Liberal-Democratic Groups’ (2012) 31 Law and Philosophy 269

²¹ William M Downs, *Political Extremism in Democracies: Combating Intolerance* (Palgrave MacMillan, 2012). Ch 1, 15.

²² CE PA (n 15), Pr 9-10.

²³ United States of America Constitution, First Amendment (1791).

²⁴ Ian Cram, ‘Constitutional responses to extremist political associations –ETA, Batasuna and democratic norms’ (2008) Legal Studies Vol 28 No 1 68, 69

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As previously stated in this paper political extremism engages in practices such as hate speech, religious hatred and racism, not recognising pluralism and trying to impose hegemony. These types of behaviour are, of course, politically and morally despised under the current view of democracy and a need to protect possible victims from such attacks has been largely recognised. So, it has been shown in the concerns presented by the Parliamentary Assembly of the Council of Europe²⁵ and the Human Rights Committee²⁶.

Notwithstanding the previous statement, it could be said that the U.S. application of the right to free speech is very particular because it puts a very high threshold to what should actually be considered an attack to people or a threat to the democratic society. Regarding the first one, the simple manifestation of hate, through speech, towards specific groups –racial, religious, social- is not considered a legal offence under this system²⁷, and, in spite of it lack of moral and democratic value –which is socially sanctioned and rejected-, and how offensive it may be for that group in particular, it is protected by the First Amendment:

Speech is powerful. It can stir people to action, move them to tears of both joy and sorrow, and—as it did here—inflict great pain. On the facts before us, we cannot react to that pain by punishing the speaker. As a Nation we have chosen a different course—to protect even hurtful speech on public issues to ensure that we do not stifle public debate.²⁸

In an even more stunning application of its position, the Supreme Court stated its current doctrine for all First Amendment cases in the 1969 case *Brandenburg v Ohio*. In this case a high member of the Ku Klux Klan was convicted under an Ohio statute for advocating the need of unlawful behaviour to reach the political purposes of the infamous white supremacist organisation. The Court then decided to protect the claims made by Brandenburg in his speeches, and overthrow the Ohio's Court decision, because the advocacy in them was not directed to incite or produce 'imminent lawless actions' in his audience²⁹. According to this doctrine, the government must prove not only the content of the extreme speech it is trying to rule, but it must also show that because of that content, violation of the law is, in fact, going to happen³⁰. This definitely sets a very high standard for defining extreme speech not protected by the right to freedom of expression and could pose some serious issues.

To give further depth on the analysis of what this type of approach towards extremism might bring to a democratic state a few more examples can be brought into discussion. It has already been stated that the content of the speech, no matter how offensive and dangerous seems, is not alone a reason for not protecting it under a free speech clause. This situation has permitted behaviour that in places other than the United States would have been seen as outrageous and diminishing of democratic values. One example is allowing a political party with National-Socialist inspiration, not only to exercise political rights, but to organise assemblies promoting their ideologies, even in Jewish people communities³¹.

²⁵ See: CE, PA, 'Recommendation 1438' (2000)

²⁶ UN HRC (n 10) Pr 28 Restrictions to free speech enshrined on the duty to defend the respect for the rights and reputation of others.

²⁷ Christopher J Newman, 'A Requiem for Protest: Anglo-American Perspectives on Protest Post-9/11' (2013) 46 John Marshall Law Review 455. Analysis must be content-neutral.

²⁸ *Snyder v Phelps et al* 131 S. Ct. 1207 (2011), Court's Opinion 15.

²⁹ *Brandenburg v Ohio* 395 U.S. 444 (1969)

³⁰ Weinstein (n 7) 42.

³¹ See: *National Socialist Party of America v Village of Skokie* 432 U.S. 43 (1978).

The first shadow of doubt regarding such a liberal position was cast by judges of the Supreme Court itself, when in a dissenting opinion to a further decision over the NSPA case³² justices Blackmun and White said that the case could have given the Court the opportunity to:

[C]onsider whether, in the context of the facts that this record appears to present, there is no limit whatsoever to the exercise of free speech. There indeed may be no such limit, but when citizens assert, not casually but with deep conviction, that the proposed demonstration is scheduled at a place and in a manner that is taunting and overwhelmingly offensive to the citizens of that place, that assertion, uncomfortable though it may be for judges, deserves to be examined³³.

As an addition to this, taking the argument beyond American soil also brings some reservations to such a wide application of freedom of expression. Due to a past in which authoritarian regimes of different political streams ruled countries for many years; Europe's History poses a major challenge for this wide application. This is why the Czech Republic, Belgium and many Eastern European states have opted to have a much limited threshold in respect to exercising freedom of speech to justify political extremism³⁴. In this analysis Germany deserves special attention due to its past with Nazism; nowadays it is an exemplary democratic state, respectful of freedom of speech, but its constitution holds very specific provisions in what relates to the creation of groups with extreme ideologies and the possibility these may have to promote their political vision; especially if they have any relation to hate speech, which is outright forbidden and should be eliminated under that legal system's policy³⁵.

This latter part has been exposed in order to conclude that following a doctrine in which free speech, no matter its content, may only be restricted when it is proven that it will develop into 'imminent lawless actions', would be too risky for any other Western democratic state. Having added emphasis on the European case does not limit this conclusion to only that territory because, as History has shown, many of the Countries in the rest of the Western part of the world have also suffered under authoritarian regimes³⁶.

It only seems fair to say that, in touch with the implications within this argument, pressing social or even historical circumstances may be argued to restrict a particular manifestation of free speech in a state and that decision, by no means, would contradict that state's obligations under international and domestic law to protect the democratic values in which it was embodied³⁷.

2. Limitation of rights by Prohibition

To begin with, straight forward prohibition to political extremist groups from exercising their right to freedom of expression or even forbidding the creation of groups sharing extreme ideologies, seems pretty extreme as well. Especially when examined under the principles and values of democratic societies. Not to mention that it could also serve as basis to outright challenge of the system via direct and obscene violations of the legal instruments of a country.

³² Smith v Collin 439 U.S. 916 (1978)

³³ Ibid Mr Justice Blackmun joint by Justice White dissenting.

³⁴ Cram (n 24) 69

³⁵ Winfried Brugger, 'Ban On or Protection of Hate Speech? Some Observations Based on German and American Law' (2002) 17 Tulane European & Civil Law Forum 1

³⁶ Many examples are present in Central and South America and in Africa.

³⁷ This conclusion, is fair to say, is drawn by an application of the circumstances under which Barendt recognized hate speech may be prohibited, extending them to all exercise of free speech. Barendt (n 2) Ch 5 185

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There has never been a full-scale prohibition on all political extremism either on domestic regulations or in international instruments. This, mainly, because in light of the regime in a democratic society such an approach would be openly against the purpose on which the legal system was built upon.³⁸ Prohibition has been then directed towards specific forms of political extremism –e.g. hate speech as seen in Germany’s case–³⁹

In spite of this, the general justification for prohibition is based upon the conflict that extremism has with democratic values and the right to self-protection that democratic states have⁴⁰. According to this view, democratic states have the right to react intolerably towards those who are opposed to their general principles, therefore banning their participation in the public debate.

A relevant example to this situation regarding international instruments is the prohibition of advocacy of religious hatred that can be found in the ICCPR⁴¹ and how this, in theory would let states ban such conduct. However some discussion regarding the scope of such prohibition has risen mainly because states have many different concepts on what advocacy to religious hatred would mean. Some authors have then put forward the evident need for further conceptualisation of this term in order not to justify violations of freedom of expression under this article⁴².

This issue has gained vital importance in the field of politics especially since 9/11, specifically concerning the treatment of Muslim people in countries of no Muslim tradition⁴³. Following the prohibition enshrined in the ICCPR some democratic states as the United Kingdom created legislation directed, among other things, to punish advocacy to religious hatred⁴⁴. Some famous cases involving political movements’ members being convicted for supposedly inciting religious hatred generated further discussion. One of the most renowned was *Norwood v DPP* in which a regional organiser of the British National Party⁴⁵ was convicted and fined for exposing posters against Islam in the window of his own flat. The Divisional Court dismissed his appeal arguing that he had deliberately engaged in an insulting conduct that was likely to generate alarm, harassment or distress in some people seeing it.⁴⁶ This case has generated criticism from authors that have stated that the scope of the Public Order Act is too ample and thus produces violations on freedom of expression⁴⁷.

The other example relevant for this analysis is that of the European Convention on Human Rights which in its article 10 (2) stated the requirements under which freedom of expression may be limited⁴⁸. This article has been sometimes interpreted as being a prohibition of some manifestations of extreme speech, such as hate speech, and received some development from the European Court as if it was in some of its cases. This has, nonetheless, led to criticism for extracting from the

³⁸ Weinstein (n 7) 33

³⁹ See: For Hate speech Brugger, (n 35) and For Incitement to terrorism Yaël Ronen, ‘Incitement to Terrorist Acts and International Law’ (2010) 23 *Leiden Journal of International Law* 645.

⁴⁰ Cram (n 24) The author calls this the Procedural View of proscription within liberal-democratic tradition.

⁴¹ ICCPR (n 1) Art 20

⁴² Jeroen Temperman, ‘Freedom of Expression and Religious Sensitivities in Pluralist Societies: Facing the Challenge of Extreme Speech’ (2011) 729 *Brigham Young University Law Review* 729, 747-756.

⁴³ Dieter Grimm, ‘Freedom of Speech in a Globalized World’ in Ivan Hare and James Weinstein (eds), *Extreme Speech and Democracy* (Oxford University Press 2009). 17-19.

⁴⁴ Public Order Act (1986) Section 5 and Crime and Disorder Act (1998) Sections 28 and 31.

⁴⁵ Referred to as an extreme political group by many authors. See: Downs (n 21) Ch 1

⁴⁶ *Norwood v DPP* [2003] EWHC 1564; Times, July 30, 2003 (QBD (Admin)).

⁴⁷ Beinstein (n 7) 47

⁴⁸ Must be prescribed by law, have a legitimate aim and be necessary in a democratic society.

Convention notions that are not really present in its text and should not be therefore used as criteria on its decisions⁴⁹.

A much higher threshold for this article has been requested by authors. One in which not a prohibition but only a restriction is taken from the text. Restriction that should be based not in the possibility to insult or distress a hypothetical casual spectator by exercising the right to freedom of expression, but instead on that of deeply disturbing- with the intention to do so- a particular audience so that they may feel threatened that actual physical violence is going to be brought upon them⁵⁰. Fortunately, some of the latest cases of the Court have redirected its efforts towards this position, arguing in favour of not banning expressions *per se* but only under specific circumstances related to them directly generating violence and further public disturbance; and after a detailed study of facts and implications of the said expression⁵¹. The approach towards restriction will be next studied.

3. Limitation of right by restriction

Following the idea of restricting the right to freedom of expression rather than forbidding its exercise, an important issue rises and it is that of the legal measures that democratic states should take in order to achieve a fair approach to the problematic. In the past, what was called Militant Democracy was raised as an answer by governments to the uprising of opposing political extremist groups.

The concept of Militant Democracy is that of a state in which, in order to preserve the much cherished democratic values, some constricting or even upright undemocratic practices are taken. Legal measures taken by the government include prohibition of the exercise of freedom of expression with severe limitations as criminalisation of entire content-based expressions. Other responses generally comprise more dubious practices under international standards such as surveillance, proscription and public order controls⁵².

The current political situation in many of the states in which extremism has found its way back to the public sphere would not keep supporting legislation negating the access to the democratic discussion. That is why, nowadays, the idea of Militant Democracy is out of question.

As the militant version of democracy has fallen in misuse, new ways of dealing with extreme speech- utilising proper democratic tools- should be given the opportunity to address the problem. This has been called by Cram the Immunised Route which is very respectful of the constitutional limits that are, as well, in tone with the international obligations that states must respect⁵³. Under this view, severe restraining legislation directed towards criminalisation and plain prohibitions of free expression of political ideas are set aside. Under this approach, the legal exercise done by states would have to be open to accept the incursion of extremist groups in the public debate and must be then limited to restricting the scope of their participation in such task. Therefore the legal instruments should be used more as a mechanism for establishing the ethics under which the public discussion will be held, and to which the extremist groups must adhere, if they wish to enter this process⁵⁴.

⁴⁹ Temperman (n 43) 739

⁵⁰ Ibid 757.

⁵¹ See: Öllinger v Austria (2008) 46 EHRR 38 and Vajnai v Hungary (2010) 50 EhRR 44

⁵² Cram (n 24) 78

⁵³ Ibid 79

⁵⁴ Malik (n 14) Identified here as the 'Discourse Ethics'. 111-13

According to what has been analysed here, this ‘ethic’ restrictions of the discourse should be directed to practical aspects – in opposition to content-based ones- of the extremist speech such as the proscription of advocacy of violent means for achieving purposes, including the incitement to lawless actions and disturbance of public order; and the recognition of the right to freedom of expression that all groups engaging in the public debate have⁵⁵. These criteria would be universally applied disregarding specific characteristics of each particular group. This would help to counteract any allegation on restriction of expression, as it would be applied to all groups whether they engage in political extremism, or not.⁵⁶ The consequence of not adhering to this restriction would be the political ostracizing for not being able to follow the procedural rules to take part on the public debate and should be enforced by non-criminal legislation such as restrictions on the political rights of those groups to public manifestation or the withdrawal of public funding⁵⁷. The benefit of this, is that groups would be handed the initiative to choose if they decide to behave under a given set of rules for all parties involved, and if, for some reason, they choose not to; the consequences and further restrictions would only be attributable to their lack of consideration towards the public debate rules⁵⁸.

Finally, and in consonance with the previously stated it seems necessary to state that, after having established the ethical framework, via legislation, under which the public debate will be held, in order for extreme political groups to be accepted, the consequences for not adhering to them would, of course, be justifiable restrictions on the right to freedom of expression under international law criteria. Having these limitations only as a consequence of not adhering to democratic standards given the opportunity to do so, would fulfil the duty of states to guarantee the possibility of all people to exercise their fundamental right to freedom of expression⁵⁹.

⁵⁵ Some specific parameters may also be included depending on the state in light of what has been said here concerning pressing social and historical circumstances.

⁵⁶ CE, PA (n 16) Pr 13

⁵⁷ Malik (n14) 117-18

⁵⁸ Ibidem.

⁵⁹ Temperman (n 42) 756

Conclusion

This paper's intention has been to make a critical evaluation on the challenge that ever-growing political extremist groups pose to a liberal-democratic state. As it has been said there have been quite a few approaches taken by different states throughout the years but each of them has had questioning from both the academic and the legal sphere.

The approach here proposed tries to give an interpretation of the democratic values that best address the current dilemma that extremism poses to democracy. Prohibition on the right to freedom of expression of groups raises antipathy under international standards but a very wide interpretation of the right, such as the one taken by the U.S., also threatens to destabilize the state by not fulfilling its duty to protect people from violent actions held by extremists and by jeopardizing the very survival of democracy opening gates to non-democratic expressions. This is when a model under which restrictions on freedom of expression are based upon that duty of protection and maintenance of the public order rises as legitimate; moreover when it also includes the democratic duty to respect dissent and to allow all people within the state to engage in the discussion under which public opinion is established.

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