

BOOKS OF DEMOCRACY

If there is contact with the earth civilization from outer space, what device, what ideas, what pieces of the Earth's history can be proudly shown? There is only one-way to find out the height of democracy in a country and from a look to two key books: The Constitution of this country and its Code of Procedure.

In the first -the political constitution- there are architectural plans of that State; engineering democratic institutions, the superlative (or deficit) dialectical relationship among powers, their weight, their balances. The Constitution also contains a catalog of rights of men of that nation. It refers, of course, to the width of its freedom, its scope, coverage, their confines. The time to look into it the article refers to "due process" and read special caution must be taken; dissecting their legal morphology.

In this sense, a Constitution, filled with individual rights and with an institutional map with borders and boundaries clear to power, give a good idea of what democracy in the country you are visiting. Therefore, this would be enough, but Democrats know that the tyrannies often decorate very well situations and things that are actually shown. Reading the second book called Code of Procedure, this is, therefore, necessary. In this text, is the development of that article was previously read into the Constitution "due process" that relates to the independence of jurisdiction, the judge's impartiality, guaranteeing the right of defense, the principle of legality, *res judicata*, the event, immediacy, good faith, procedural fairness, the second hearing, the challenge and as many more. If there is no hint of such institutions, or if they happen to be restricted or inane, you can be sure that you are not in a democratic country. Because democracy is not the race, not half plus one and this must be understood at the end. Democracy, understood in its substance, it is the historical struggle of human beings to limit -through the right- power, or as taught by the teacher Luigi Ferrajoli: the law of the weakest.

The state is the concentration of power, hence the logical necessity of limiting and it is effectively limited: first, granting individuals a (the widest) leeway; Second, empowering the effective exercise of their fundamental rights; and third, guaranteeing due process, genuine and guarantor. Almost one might say that the power of due process is the best limit to power.

This becomes more apparent (perhaps more dramatic!) In the field of criminal law, when a person commits a crime is clear that in this criminal equation, the stronger is the offender and the victim is the weak.

However, this must be understood from a democratic point of view. From the moment that the criminal prosecution of offenders, the strong, the mighty, is the state. The state through its police force, its investigation unit, and once put on trial facing a society that demands offended, outraged, for justice; the weaker here is the offender and how weak it is, we must also protect it.

Then it is not a matter, of course, to absolve him or not. There is a matter of keep the promise to do justice to the victim. It is to guarantee a due process whatsoever; even though there is evidence against him. If so, the defendant has rights: the right to be heard, the right to appeal decisions against them, the right to be judged by an independent and impartial judge (ie limited in their powers judge); and most importantly perhaps, the prosecutor has the right to be presumed innocent until proven not guilty in both instances beyond reasonable doubt.

This is his protection, due process and rides the hope of democracy. That is his bet. Truth and justice is given to the victim after this process, and rights are given to the offender, even though he is guilty as charged. That is real democratic justice: a justice that begins and ends in court every day.

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