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Freedom of Access to Restaurants: Between Consumption and Dignity, a Critical Interpretation of the Right to a Table

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This article investigates freedom of access to restaurants as a fundamental constitutional issue, transcending consumer law. Adopting critical hermeneutics in dialogue with Gadamer and Streck, it questions the existence of a fundamental right to non-discriminatory access to restaurants. The comparative analysis (Brazil, France, European Union, and United States) reveals convergence in protection against discrimination in establishments open to the public. The study identifies "neo-segregation"—contemporary forms of exclusion through apparently neutral mechanisms such as algorithms, selective dress codes, and veiled economic barriers. It concludes that access to restaurants constitutes an index of the realisation of human dignity and equality, proposing express recognition of this fundamental right. The restaurant emerges as a democratic microcosm where decisions are made about who belongs to the political community: Without a place at the table, there is no democracy.

Keywords: right of access, discrimination, constitutional hermeneutics, restaurant, neo-segregation

Introduction

The notion of "freedom of access to restaurants" may, at first glance, sound like rhetorical exaggeration or academic whimsy. After all, who would argue that the simple act of sitting at a restaurant table is a matter of human dignity or a constitutional issue? It is precisely in this apparent triviality that the risk of common sense lies: reducing the right to its immediate surface, without realising that small gestures—the invitation to the table, access to the dish, the refusal of the customer—are concrete symbols of inclusion or exclusion in communal life. When a couple is barred under the pretext of a "dress code" that actually hides class filters, or when the excuse of "fully booked" suddenly arises in front of certain faces, what is at stake transcends the mere consumer relationship (Diloy, 2019, pp. 45-47).

The restaurant is, by definition, a paradoxical space: private in ownership, but public in operation. It crystallises the tension between the contractual freedom of the supplier and the duty of non-discrimination imposed by the constitutional state (Bossis, 2005, pp. 112-115). It is not a question of inventing a "right to dine out", but of affirming something more radical: No one can be arbitrarily deprived of access to society's common table. It is at this threshold that constitutional hermeneutics meets everyday life: in the glass of water that is

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denied, in the door that does not open, in the chair that is not offered. We are not alone in this reflection: The emerging field of *droit de la gastronomie*, consolidated in works such as those by Alexandre Quiquerez, demonstrates that the intersection between law and spaces of commensality deserves serious legal treatment (Quiquerez, 2022, pp. 21-23).

This article arises from this provocation. The central question is simple in its formulation and complex in its implications: Is there a fundamental right of access to restaurants? And, if so, what would be its constitutional and international foundations? The answer requires a method that rejects decisionism and arbitrariness, drawing inspiration from critical hermeneutics—which, in dialogue with Gadamer and Streck's critique, rejects the comfort of apparent solutions of "weighting" and demands consistency and integrity in the application of law (Streck, 2020a, pp. 133-140; Gadamer, 1960, pp. 305-312).

The relevance of the issue manifests itself on two fronts. Domestically, it challenges us to rethink the application of consumer law and constitutional principles in situations that are seemingly mundane but laden with symbolism. Internationally, it connects to the debate on human rights and the fight against discrimination in access to goods and services—a discussion that echoes from the "whites only restaurants" combated by the US *Civil Rights Act* to the subtle forms of exclusion present today in the European Union (United States, 1964; European Union, 2000 on equal treatment between persons irrespective of racial or ethnic origin). In both scenarios, the restaurant ceases to be a mere gastronomic setting and becomes a democratic microcosm: Each unfair refusal is equivalent to a micro-violation of the constitution; each guaranteed access is a concrete affirmation of dignity.

To develop this argument, the article will follow four steps. First, it will situate the restaurant in the contemporary legal context, highlighting its hybrid nature and the normative tensions that run through it. Next, it will explore the constitutional and international foundations that underpin freedom of access, beyond consumer rights. The third part will be devoted to critical hermeneutics itself, rejecting the easy solutions of decisionism and proposing a constitutionally appropriate reading of the problem. Finally, paradigmatic cases will illustrate concrete challenges and possible responses. Ultimately, the aim is to demonstrate that freedom of access to restaurants is not a luxury or a whim, but an indicator of the concrete realisation of equality in its most everyday dimension—and, precisely for this reason, its most fundamental.

The Restaurant in the Contemporary Legal Context

The restaurant is a multifaceted legal entity that clearly reveals how the classic categories of law—property, contract, freedom—clash with the constitutional principles of equality and dignity. Its nature is ambivalent: Although it is a private enterprise, it operates as a space of public access, since the very essence of the activity presupposes openness to the community. This paradox—private in ownership, public in operation—requires a legal interpretation that goes beyond traditional contractual dogma (Quiquerez, 2022).

Historically, civil law doctrine has described restaurants as consumer relationships: on the one hand, the supplier offering goods and services; on the other, the consumer who accepts the proposed conditions. However, this interpretation proves insufficient when the issue at stake is not only the quality of the food or the setting of prices, but the possibility of refusing access to certain people. Contractual freedom, in this context, cannot be seen as absolute power of choice, as it collides with the intangible core of equality. It is at this point that constitutional

hermeneutics, inspired by Streck's critique of decisionism and Gadamer's lesson that understanding always takes place from historical horizons, imposes itself as a methodological guide: Interpretation must be consistent with the integrity of the legal system and the historicity of fundamental rights.

In Brazil, the Consumer Protection Code (Law No. 8078/1990) established that services placed on the market must comply with standards of safety, quality, and non-discrimination. Brazilian case law has repeatedly recognised the liability of restaurants and nightclubs that, explicitly or covertly, have barred customers on grounds related to skin colour, sexual orientation, or social status. In one case, the Court of Justice of the Federal District and Territories (TJDFT) condemned a restaurant that barred a customer without plausible justification (Court of Justice of the Federal District and Territories, 2015). In another, a pub was ordered to compensate a consumer who was prevented from entering (Court of Justice of the Federal District and Territories, 2021). The Superior Court of Justice (STJ), in turn, established the understanding that moral damages in these cases are presumed, dispensing with the need for proof of actual harm (Superior Court of Justice, 2022). In these cases, moral damages are not mere individual compensation: They are an instrument for affirming human dignity, a fundamental principle of Article 1, III, of the 1988 Constitution. The Federal Supreme Court has reaffirmed on several occasions that the horizontal effectiveness of fundamental rights prevents private individuals, when engaging in activities open to the public, from exercising practices of exclusion that are incompatible with the constitutional order (Supreme Federal Court (Brazil), 2011). The consumer space, here, is understood as an extension of the democratic public space.

France provides another telling example. The *Code de la Consommation* expressly regulates the duty of equality in access to goods and services. Even more incisive is the *Code pénal*, whose Article 225-2 classifies discrimination committed by private individuals in activities offered to the public as a crime. Consolidated case law has condemned restaurants that refused to serve Muslim customers or that used dress codes as a subterfuge to exclude racialised people. French doctrine, in works such as those by Alexandre Quiquerez (*Gastronomie et droit*), emphasises that restaurants, more than places of sociability, are spaces of "constitutional commensality", in which the republican principle of equality is measured in concrete terms (Quiquerez, 2022).

At the European Union level, Directives 2000/43/EC (European Union, 2000) and 2004/113/EC (European Union, 2004) consolidate the duty to ensure non-discriminatory access to goods and services. The former deals with racial equality, while the latter deals with gender equality in access to economic activities. Both oblige Member States to punish discriminatory practices in restaurants, bars, and hotels (Sweden, 2008; European Network of Legal Experts on Non-discrimination Field, 2009, p. 68). The case law of the Court of Justice of the European Union and the European Court of Human Rights (ECHR) has reinforced that the right to consumption cannot be used to legitimise exclusions (European Court of Human Rights, 2016). Cases involving veiled refusals of service show that the European Union requires Member States to take effective measures that go beyond formal prohibition and achieve the prevention of indirect discrimination.

The American experience is paradigmatic. The *Civil Rights Act* of 1964, especially in Title II, prohibited segregation in restaurants and hotels, breaking with decades of "whites only restaurants". This consolidated the idea that when private space is opened to the public, it becomes a political locus, subject to the Constitution. Refusing to serve a black customer was not only a breach of contract, but a symbolic denial of their citizenship.

The historical precedent in the United States sheds light on the current debate, as it shows that a restaurant is more than just a business: It is a space for recognition, where equality is decided on a daily basis.[1]

This comparative trajectory, which ranges from the struggle against racial segregation in the United States to the normative sophistication of the European Union, through Brazilian judicial activism and French normativity, demonstrates that the question of the right of access to restaurants is far from trivial. It touches on the core of the relationship between private autonomy and substantive equality. Critical hermeneutics requires us to recognise that a restaurant door is a symbolic frontier of citizenship: those who are admitted share in the public space of democracy; those who are excluded experience, albeit on a micro scale, the everyday face of injustice.

Constitutional and International Foundations of Freedom of Access

Freedom of access to restaurants is not, as common sense might suggest, the positivisation of a supposed "right to dine out". The correct, hermeneutically appropriate formulation is different: It is the right not to be excluded from common life on the basis of arbitrary criteria. This difference is decisive. It is not gastronomic luxury that is claimed as a fundamental right, but rather equal participation in the social spaces that structure community life. At the constitutional level, this reasoning is echoed in the structural clauses of equality and human dignity. In Brazil, Article 1, III, of the 1988 Constitution enshrines dignity as a foundation of the Republic, while Article 5, caput, and item XLI, establishes the state's duty to curb discrimination of any kind. Case law has reinforced that these principles have horizontal effectiveness, binding not only the state, but also private individuals who engage in activities open to the public. In Portugal, the 1976 Constitution, in its Articles 13 (equality) and 26 (personality rights), leads to the same conclusion: The operation of an establishment that is open to the public implies the duty not to practise exclusions based on prejudice, under penalty of denying the very logic of the democratic rule of law.

The Portuguese Constitutional Court, in Judgment No. 359/91, reaffirmed the binding nature of fundamental rights on private individuals, highlighting the need to prevent discriminatory practices in private relations (Portugal, 1991). Within the European Union, the Charter of Fundamental Rights (Articles 1, 20, and 21) makes it clear that dignity and equality are not programmatic principles, but subjective rights that are directly enforceable (Portugal, 1991).

At the international level, Article 26 of the International Covenant on Civil and Political Rights (ICCPR) establishes that "all persons are equal before the law and are entitled without any discrimination to the equal protection of the law" (UN, 1966). It is not just a matter of prohibiting legislative inequalities, but of affirming a positive duty to protect against discrimination by private actors. Similarly, the International Convention on the Elimination of All Forms of Racial Discrimination obliges states to ensure that establishments open to the public, including restaurants, do not refuse service on the basis of race or ethnic origin (UN, 1965). The Convention on the Rights of Persons With Disabilities, by requiring "reasonable accommodation", broadens the debate: Denying access to someone because there is no menu in Braille, or because minimum conditions of physical accessibility are not ensured, is as discriminatory as refusing service because of skin colour (UN, 2006). Similarly, the ECHR, in the case of *Çam v. Turkey*, recognised that the absence of reasonable adjustments in a public institution

[1] Case in which the Supreme Court upheld the constitutionality of Title II of the *Civil Rights Act*, requiring hotels and restaurants to accept customers regardless of race.

constituted discrimination on the grounds of disability, reinforcing that accessibility is an essential dimension of equality (European Court of Human Rights, 2016).

In addition to binding treaties, international soft law also illuminates this path. UNESCO documents and UN recommendations on cultural and social access highlight that full participation in communal spaces—ranging from theatres and museums to bars and restaurants—is part of the right to culture and community life. The UNESCO Universal Declaration on Cultural Diversity (2001), in particular, recognises that "cultural diversity is as necessary for humankind as biological diversity is for living organisms" and that its preservation requires ensuring access for all to spaces where this diversity is manifested and celebrated—including spaces for dining, where cultures meet at the table (UNESCO, 2001). General Comment No. 21 of the UN Committee on Economic, Social and Cultural Rights, in interpreting the right to participate in cultural life, makes it clear that this includes non-discriminatory access to places where culture is expressed and shared (UN, 2009).

In this context, critical hermeneutics proves indispensable. It would be a mistake to view the problem as a mere "whim" of consumers who wish to eat out, reducing it to a simple contractual dispute. The issue is ontologically deeper: Those who are barred from entering a restaurant are symbolically excluded from the banquet of citizenship. Proper understanding requires reading equality and dignity as concrete categories, not as abstractions. As Streck (2019, pp. 47-50) reminds us, there is no room for decisionism or for the old temptation of weighing up issues without criteria: Constitutional integrity demands consistency, and this points to the inadmissibility of any arbitrary exclusion from common life.

It is precisely this requirement of integrity and consistency that leads us to the next step in this study. If constitutional and international foundations establish the normative horizon of freedom of access, the hermeneutic challenge itself remains to be addressed: How to apply these principles without falling into the traps of decisionism or the arbitrariness of empty deliberation? How can we ensure that the restaurant door is read not as a mere private matter, but as a constitutional boundary? This is the challenge that critical hermeneutics sets out to address.

Critical Hermeneutics of Access to the Restaurant

Critical hermeneutics of access to the restaurant is not an abstract theoretical exercise, but an urgent practical necessity. Faced with a concrete case—the couple barred from entering, the group relegated to the "back table", the family that suddenly discovers there are no more seats—the interpreter of the law faces a crossroads: either recognise the constitutional dimension of the problem, or take refuge in the dogmatic comfort of "contractual freedom". It is precisely here that decisionism reveals its most perverse face.

Judicial decisionism, by transforming the decision into an act of the judge's will, opens the door for social prejudices to be disguised as legal technique. When a magistrate invokes "private autonomy" to legitimise a restaurant's refusal to serve a particular customer, they are not applying the law, but choosing a side in the tension between freedom and equality. Worse still, they are choosing without admitting that they are choosing, hiding behind a supposed technical neutrality. As Streck warns, decisionism is the antithesis of constitutional integrity, as it replaces principled consistency with arbitrariness disguised as prudence (2021, pp. 101-108).

Streck's criticism of arbitrary weighing finds a paradigmatic case in the restaurant. Not infrequently, judicial decisions invoke the "weighing" of fundamental rights—on the one hand, the equality of the customer; on the

other, the freedom of the entrepreneur—as if both were on the same level of value. But this symmetry is false. When it comes to discrimination in access to public spaces, there is no room for weighing: Arbitrary exclusion is always unconstitutional. Weighing, in this context, becomes an alibi for arbitrariness, allowing the judge to project their own conceptions of what would be "reasonable" to exclude. Streck is right to denounce that, under the cloak of weighing, the discretion that the Constitution sought to eliminate is often hidden (2020a, pp. 213-220).

This is where Hans-Georg Gadamer's philosophical hermeneutics offers a fruitful alternative. The notion of fusion of horizons (Horizontverschmelzung) sheds light on the problem: Understanding the right of access to the restaurant requires the interpreter to engage with the constitutional tradition of equality, but also with the present historical horizon, marked by subtle forms of exclusion (Gadamer, 2015, pp. 305-312).

The restaurant is not just a commercial establishment—it is a space where the tension between the private and the public, between hospitality and hostility, is actualised. Hospitality, a hermeneutic category inspired here by Gadamer, emerges as an interpretative principle: The act of welcoming the other to the table is a fundamental gesture of recognition (Gadamer, 2015, pp. 472-478; 2013, pp. 242-247).[2] To deny this gesture is to deny the very possibility of dialogue, the foundation of democratic life.

The application of this critical hermeneutics to the specific case requires rigour. First, one must resist the temptation to treat each exclusion as an "isolated case" to be considered in its particular circumstances. The integrity of the law demands recognition of a general principle: Establishments open to the public cannot discriminate.

Second, the justifications presented—*dress code*, "establishment profile", "private reservation"—must be read for what they often are: subterfuges for exclusions that dare not speak their name.

Third, the court decision must explain its constitutional grounds, and not take refuge in abstractions about "reasonableness" or "proportionality".

The restaurant thus emerges as a privileged constitutional metaphor. It is a microcosm where the dramas of democracy are played out on a daily basis. The shared table symbolises mutual recognition; the denied table, exclusion from the political community. Every time someone is prevented from sitting where others sit, the violence of segregation is repeated on an intimate scale. It is no coincidence that the great moments of democratic rupture—from the civil rights movement in the United States to the struggle against apartheid—had restaurants as their symbolic stages (Supreme Court of the United States, 1964).

The critical hermeneutics of access to restaurants therefore rejects both the decisionism that legitimises exclusion and the deliberation that relativises rights. In its place, it proposes a constitutionally sound interpretation: The right of access to spaces of common coexistence is a necessary corollary of dignity and equality. There is no room for discretion when the very possibility of participating in collective life is at stake. The restaurant, read hermeneutically, reveals itself as a space where the Constitution is realised or denied in the most prosaic of gestures: the invitation to the table or the door that closes. Here, the link with the previous chapter is confirmed: If constitutional and international foundations establish the normative horizon, it is through critical hermeneutics that this horizon is converted into concrete practice.

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[2] The reflection on hospitality is inspired by Gadamer's discussion of hermeneutic openness to the other and the dialogical structure of understanding, especially when Gadamer treats conversation as a model of hermeneutic experience and the need to "let the other be" in their otherness. Cf: Gadamer, 2015. pp. 472-478; and Gadamer, 2013, pp. 242-247, where he discusses the "I-Thou" structure and mutual recognition as a condition for authentic dialogue.

Paradigmatic Cases and Contemporary Challenges

Critical hermeneutics is not proven in abstractions, but in confrontation with reality. Each case of exclusion in restaurants reveals how the law is made or broken in everyday life. These are not isolated episodes or mere consumer issues, but constitutional micro-dramas where equality and dignity are put to the test in the most concrete way: the door that opens or closes, the table that is offered or denied. It is in this concrete terrain that theory finds its most demanding test.

The most eloquent historical paradigm remains the civil rights movement in the United States. The *Civil Rights Act of 1964*, especially Title II on public accommodations, was born largely out of the struggle against segregation in restaurants and diners (United States, 1964). The Greensboro sit-ins, which began in 1960 when four black students sat at the "whites only" counter at Woolworth's lunch counter, became a symbol of peaceful resistance to segregation. The case *Heart of Atlanta Motel v. United States* (1964) legally established that establishments open to the public cannot discriminate on the basis of race, setting a precedent that resonates to this day (Supreme Court of the United States, 1964).

In contemporary France, the issue of the Islamic veil has generated tensions in public spaces, including restaurants. Although the case *of S.A.S. v. France* (2014) dealt specifically with the ban on full veils in public spaces (European Court of Human Rights, 2014), discriminatory logic often spills over into private establishments. Alexandre Quiquerez, in his work *Gastronomie et droit*, analyses how restaurants become the stage for these tensions, constituting a space of "constitutional conviviality" where republican principles are tested in practice (Quiquerez, 2022, pp. 187-192). The debate reveals how seemingly neutral concepts—"hygiene", "safety", "family environment"—can mask discriminatory practices.

In Brazil, although there is no systematic mapping of cases involving restaurants in particular, case law has established robust parameters against discriminatory practices in commercial establishments open to the public. In matters of consumption and equality, the Consumer Protection Code (CDC), combined with the constitutional principles of dignity and equality, provides a solid framework for protection against arbitrary exclusion.

As in Brazil, the problem of veiled exclusion has also been addressed in the European Union. The *Feryn* case (2008), judged by the Court of Justice of the European Union, set an important precedent by recognising that discriminatory public statements constitute a direct violation of the principle of equality, even without identified victims (Court of Justice of the European Union, 2008). Although the case dealt with discrimination in employment, its ratio decidendi applies analogously to establishments that signal, even indirectly, that certain groups are not welcome. Directives 2000/43/EC and 2004/113/EC establish a robust *framework* against discrimination in access to goods and services, explicitly including restaurants and similar establishments.

The European Court of Human Rights has also navigated complexities at the intersection of religious freedom and neutrality policies. In *Lachiri v. Belgium* (2018), it recognised that preventing a woman from entering court wearing a hijab violated her religious freedom (European Court of Human Rights, 2018). The established principle—that restrictions on religious symbols must be strictly justified—applies even more strongly to private spaces for public use, such as restaurants.

Contemporary challenges reveal increasing sophistication in mechanisms of exclusion. What was once openly stated—"We do not serve black people", "No Jews allowed"—is now disguised in seemingly neutral

policies. *Dress codes* become instruments of social filtering when applied selectively. Advance booking requirements with premium cards create economic barriers that correlate with racial and social exclusion. Online booking algorithms can incorporate discriminatory biases under the guise of technological neutrality.

The COVID-19 pandemic has introduced new vocabulary for old practices. "Health protocols", "limited capacity", "preferred customers"—terms that, while having legitimate epidemiological justification, have in many cases been applied selectively. Here, hermeneutic reflection can dialogue with Giorgio Agamben: States of exception tend to normalise exclusions under the guise of necessity, showing how emergencies are fertile ground for producing institutionalised discrimination.

People with disabilities face multiple barriers: architectural (lack of ramps, adapted toilets), communicational (lack of Braille menus, absence of interpreters), and attitudinal (impatience with different service times, refusal of guide dogs). The Convention on the Rights of Persons With Disabilities requires "reasonable accommodations", a concept that challenges restaurants to rethink not only their physical structure but also their service culture (United Nations, 2006, Articles 2, 9).

Discrimination against LGBTQIA+ (lesbian, gay, bisexual, transgender, queer, intersex, asexual, and other identities) people in restaurants takes many forms: from open hostility towards same-sex couples to microaggressions such as systematically directing these customers to less visible tables. The issue of transgender people using toilets in restaurants is emerging as a new battleground for fundamental rights, testing the limits of human dignity in everyday spaces.

"Neosegregation"—a term I propose to describe contemporary forms of exclusion—operates through mechanisms that maintain an appearance of neutrality while producing discriminatory effects. Exclusive *membership* clubs, referral systems for reservations, dynamic pricing based on customer profiles, and customer "curation" are devices that, without declaring an intention to exclude, produce social homogenisation of spaces.

Given this panorama, critical hermeneutics cannot be satisfied with superficial analyses. As Streck teaches, it is necessary to unveil the structures of meaning that allow discrimination (2020b, pp. 298-305). Each justification must be read in its historicity, recognising that apparently technical concepts carry value judgements that, without hermeneutic vigilance, perpetuate exclusions.

The interpreter committed to constitutional integrity must ask: What is the substantial difference between yesterday's "Whites Only" and today's "Members Only"? Between declared segregation and algorithmic exclusion? The sophistication of the mechanisms cannot hide the continuity of the exclusionary practice.

Analysis of cases—from historic *sit-ins* to contemporary subtleties—reveals that restaurants remain a frontier where decisions are made about who belongs to the political community. The table continues to be a political space par excellence, where the constitutional promise of equality is either fulfilled or betrayed. It is this reality that demands an appropriate legal response: a critical hermeneutics that unveils the new guises and forms of old discrimination, insisting that no technical sophistication can legitimise exclusion from society's common table.

Final Considerations

Throughout this journey, we have moved from the seemingly trivial—the simple act of sitting at the table—to the constitutionally fundamental. The trajectory reveals a profound transformation: From *the* old *droit de fourchette*, a banal feudal right that ensured the lord precedence at the table and the privilege of being served first,

we have arrived at the contemporary demand for freedom of access, which prohibits the arbitrary exclusion of any person from the common table of society. This evolution is not merely a normative change, but a true hermeneutic revolution that redefines the space of the restaurant in constitutional geography.

The restaurant emerges from our analysis as a true "hermeneutic laboratory of equality". Every day, the limits and possibilities of the democratic constitutional project are tested there. Every door that is selectively closed, every table denied with subterfuge, every *dress code* applied with double standards constitutes a micro-violation of the constitution—small in scale, but profound in meaning. It is in these minimal gestures that the Constitution is realised or betrayed, confirming Gadamer's lesson that understanding always takes place in the concrete horizon of life.

Critical hermeneutics has shown that there is no possible neutrality in this field. When the interpreter invokes "contractual freedom" to legitimise exclusions, or when they weigh abstractly between "business rights" and "customer rights", they are choosing—consciously or not—to perpetuate historical structures of marginalisation. Streckian criticism of decisionism finds eloquent confirmation here: Without constitutional integrity, the law becomes an instrument for legitimising everyday injustice.

Comparative law has revealed a remarkable convergence. From the Greensboro *sit-ins* to the French debate on the veil, from European directives to Brazilian jurisprudence, the same legal intuition prevails: Establishments open to the public bear constitutional responsibility. They are not mere private spaces, but extensions of the democratic public space. Neo-segregation, with its technological masks and sophisticated rhetoric, only confirms the permanence of the challenge.

We thus arrive at the central conclusion: Freedom of access to restaurants is not a luxury, a whim, or academic preciousness. It is an indicator of the concrete realisation of human dignity, a barometer of democracy in its most everyday dimension. When someone is prevented from sharing the common table—whether because of their colour, religion, sexual orientation, physical or social condition—they are not just a frustrated consumer: They are a citizen whose equal dignity has been denied.

Therefore, we propose the express recognition of the fundamental right of non-discriminatory access to public establishments as a minimum requirement of constitutional democracy. This is not a matter of creating a new right, but of making explicit what already follows from the systematic combination of dignity (Art. 1, III, CF/88), equality (Art. 5, caput, CF/88), and international human rights commitments (such as the Charter of Fundamental Rights of the European Union, Art. 21). This recognition would have significant practical effects: It would consolidate the responsibility of establishments, guide judicial interpretation and, above all, symbolically affirm that society's common table does not allow arbitrary exclusions.

The restaurant will continue to be a paradoxical space—private in ownership, public in function. But it is precisely in this tension that its richness as an object of legal reflection lies. Every time a door opens unconditionally, the Constitution is fulfilled. Every time a pretext for exclusion is invented, it is denied. Between invitation and refusal, between hospitality and hostility, it is decided daily whether we live in a real or merely formal democracy.

The restaurant table is, after all, a metonymy for the larger table of the Republic. Those who are excluded from it lose not only a meal: They lose a part of their citizenship. That is why the right of access, far from being

a minor issue, touches the very heart of the constitutional project. In a society that claims to be free, fair, and supportive, no one can be barred at the door. The critical hermeneutics of access to the restaurant thus reveals a broader truth: There is only democracy where there is room at the table for everyone. Or, to put it succinctly: Without a place at the table, there is no democracy.

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