

The Judiciary: as the executer arm of the incumbent Venezuelan dictatorship

Venezuela: December 2015 and 2017, first four months period

“Acceso a la Justicia” has prepared an abstract with respect to the situation of the justice administration, and, especially, about what the decisions of the Supreme Court of Justice (“Tsj”) entailed, subsequent to the election in December, 2015, of a National Assembly showing in its entirety a relevant majority of representatives opposing the government and the policies thereunder. This was happening for the first time since the beginning of the so-called “Chavista” regime in 1999.

The unfortunate aftermath resulting from the systematical erosion in Venezuela of the balance that should prevail between judicial independence, rule of law, human rights and democracy; And this with the sole purpose to empower the executive power and keep the government’s party in an increasingly Orwellian control.

And so Venezuelan people are experiencing how, after a 17 years cycle of uninterrupted power of a Regime that has dismantled the State and its democratic foundations in the name of a Revolution against an oligarchic bourgeoisie, has changed a limited democracy system into an unlimited disguised democracy, and finally, into an autocracy with totalitarian features, the same results achieved by the Greek Dionysius’ of Syracuse revolution in Sicily, on 350 before Christ!

The outcome is that every day the Venezuelan people, no dupe anymore, are starving, suffering and even dying without medicine remedies since their constitutional warranties have increasingly been reduced to next to nothing through a “legal facade”, endorsed by the so called Constitutional Chamber of the Tsj, who has arrogated to itself, among others, the National Assembly’s power of appointing authorities, such as the Heads of the Electoral branch or the Ombudsman’s Office designation; the prerogative of approving the National budget and the State of Exception submission by the Executive without any approval of the National Assembly, subrogating the latter in its different functions and refusing admission to of citizens and NGOs on the grounds of form or any other excuse, so that there are no legal remedies to the Government’s abuse.

On the basis of the foregoing, we have seen that the Tsj and its Chambers, are favoring through their decisions the government's interests only and apply the "internal enemy's law" with any individual or organization maintaining a critical stance to it, as it can be evidenced by the Tsj attitude towards public pacific protests. Because the freedom of expression has been suppressed, television only show fake news and not by their own choice as in other countries. Thanks God and Internet, people here and abroad can see some of what happens in the streets and roads of Venezuela.

But what you cannot see is the fact that we are still in an indefinite State of Exception, which not only has not been approved by the National Assembly, as it constitutionally should have been, but it has never been reported to the international community, as it has been agreed in international treaties, such as the International Covenant on Civil and Political Rights.

Moreover, military justice has been imposed to those who protest against the outstanding government, and military justice here is still the same as it was under General Gomez who was a Dictator in Venezuela from 1908 to 1936; i.e.: it has never evolved into a democratic institution.

Why do we believe that there is a dictatorship in Venezuela?

- **In Venezuela, there is no separation of powers**

The functions of the National Assembly have been suspended since die by the Supreme Court of Justice or Tsj.

A substitute member of the National Assembly has been imprisoned and was judged by a Military Court.

The government has violated many times the parliamentary immunity of quite a few opposition members of the National Assembly

The magistrates of the Supreme Court of Justice have improperly arrogated to themselves the faculties that correspond exclusively to the National Assembly.

The Tsj has arrogated to itself, among others, the National Assembly's power of appointing authorities, such as the Heads of the Electoral branch or the Ombudsman's Office designation; the prerogative of approving the National budget and the State of Exception submission by the Executive without any approval by the National Assembly

The President of the Republic still has exceptional authority under the State of Exception since January 2016.

II. In Venezuela, there is no right to vote nor to political participation

- The regional elections have been suspended since die.
- The government has disqualified for office two (2) governors of the opposition and one mayor.
- The electoral branch decides when and which political parties can be registered.
- The political parties of the opposition are sentenced to illegal renewals be the electoral branch, and are being subjected to different conditions than the parties linked with the government.
- The future existence of the parties is subject to an administrative decision.

III. In Venezuela, there is no right to freedom of speech or to peaceful meeting

- The Minister of Defense pronounced a resolution allowing the use of weapons and chemical substances against civilians during peaceful protests
- The Supreme Court of Justice or Tsj have forbidden the opposition members of the National Assembly to call for protests in the streets.
 - 1) Every citizen that joins a pacific protest is at risk of being arrested and prosecuted by military courts.
 - 2) Government is using the paramilitary forces (Colectivos) to intimidate people protesting even in the long lines they have to endure to buy a bunch of food.

- 3) During the street protests or manifestations, the Government or censored private television cannot give any information.
- 4) A parallel law is applied that is not the Constitution, but a Law of the exercise of Power or Internal Enemy Law.
- 5) The “internal enemy law” is applied to any opponent-

**How comes that the Judiciary Power did not prevent this to occur?
On the contrary it was part and even architect of the Regime. How
did it happen?**

From its very beginning, CHAVISM (from its founder’s name Hugo CHAVEZ) took over that Judiciary. So the judicial power started to increasingly loose its power and became biased to Chavist politics. It happened in different stages as shown more below:

- Judicial Purge (1999-2003): Suspension of judges and magistrates stability of the judges and elimination of the judges and magistrates election by public contest.
- The increment of magistrates in the Supreme Court of Justice to gain more representation power (2004-2008)
- The creation and the implementation of laws from the Supreme Court of Justice that attempted against the judicial independence (2009-2012)
- Full bias to the Executive by the Supreme Court of Justice by naming judges and justices that don’t even comply with the constitutional requests to be a judges and are even active members of the Government Party (2013-2015)

Some details of the judges in Venezuela

Since year 2000 until now, only 7 of 84 justices of the Supreme Court of Justice have completed their constitutional period. The remainder 86% justices decided to ask for an early retirement.

More than 73% of judges are named provisionally and not on permanent terms.

Regarding the decisions and the petitions that have been sent to the Supreme Court

The Tsj replies to petitions from the President of the Republic in an average of 9 days, always ruling in favor; while for petitions from members of parliament of the opposition and local NGO’s, the average time for answers is between 300 and 400 days and always with a negative ruling.

“Acceso a la Justicia” has determined that citizens that have sent petitions including some criticisms on government matters, waited an average of 1.179 days for a decision. In that time, the President of the Republic would have received 131 responses from the Tsj.

Since April 2017, “Acceso a la Justicia” concluded that more than 80 decisions from the Tsj violate human rights and more than 50 are against the current National Assembly, which we must remember it comprised mostly by the opposition seats.

The State of Exception and its implications in the Venezuelan democracy

It has been almost a year since the State of Exception has been proclaimed and yet, it still does not specify which rights are going to be restricted.

It was not submitted to the approval of the National Assembly even though it is a fundamental request regarding our Constitution.

The International Covenant on Civil and Political Rights has been violated because the government never notified the international community through the Secretary General of the UN of the State of Exception

Our recommendations

Stop declaring more unconstitutional extensions of the State of Exception and Respect for the independence and the powers of the National Assembly.

No more interference to the promulgation of democratic laws concerning the Judicial Power.

Appoint the magistrates of the Supreme Court of Justice or Tsj in pursuance with the principles and procedures of our Constitution.