

Committee: Legal Committee

Issue: Judicial Independence in Venezuela

Student Officer: Panagiotis Diamantis

Position: Co-Chair

PERSONAL INTRODUCTION

Dear delegates,

My name is Panagiotis Diamantis and I have the immense honour to serve as the Co-Chair of the Legal Committee in the upcoming ACG MUN. I am a 15-year-old student of the GCE Department of Ekpedeftiki Anagennisi and the 4th ACG MUN will be my 11th conference overall. Personally, the world of MUN has given me the unique opportunity to delve into interesting, as well as thought-provoking issues. For me, MUN means far more than representing a country. Comprehending difficult topics, vocally advocating for human rights, successfully addressing pivotal problems that affect us all and socializing do not suffice to describe the utmost significance of MUN for me. During my MUN journey, so far, I have discovered my deep passion for two domains; law and international relations. Hence, the Legal Committee is one of my favourite committees since it perfectly encapsulates my interest in these two domains. My goal as a Chair is to convey my undeviating passion, unwavering commitment and enthusiasm for MUN and to effectively guide you through the complex topics that you will be asked to find realistic solutions for.

The issue of judicial independence in Venezuela is a quite intricate, dire and demanding topic that has sparked an array of debates worldwide. The present study guide aims to help you gain a better understanding of this challenging topic, as it provides important information about it. However, you are advised to conduct further research on the topic and especially on your country's policy. Should any questions arise, do not hesitate to contact me via e-mail (panagiotisdiam2004@hotmail.com). My advice to you is that during the conference you should try to think outside the box and find innovative solutions. I firmly believe that creativity is the foundation of an impactful and practical resolution. I wish each and every one of you the best of luck with your preparation. Nevertheless, always remember that the presidency will be there to help with any difficulty that may arise.

Looking forward to our cooperation,

Panagiotis Diamantis

TOPIC INTRODUCTION

The Bolivarian Republic of Venezuela is a country located in Latin America and over the last months, it has made the headlines as it faces an unparalleled crisis. Venezuela has an abundance of oil deposits and significant quantities of other resources such as coal, iron ore, bauxite



Figure 1 The geographical location of Venezuela

and gold. Yet, due to the lack of infrastructure, Venezuela has failed to successfully exploit these resources and as a result, the country is inflicted by unprecedented poverty. Thus, many Venezuelans do not have access to basic goods such as food and medicine. Under such conditions, the country is unable to emphasize on the judicial system. Consequently, it severely malfunctions.

Venezuela is going through a critical humanitarian crisis. Severe shortages of water, food and clothing, violations of human rights, increased infant mortality, criminality and a dysfunctional health care system have been repeatedly reported by the UN's human rights experts and agencies such as the OCHA (United Nations Office for the Coordination of Humanitarian Affairs). Nicolas Maduro (the current president of Venezuela) and his government have accused the United States of America of waging an economic war against Venezuela, while the opposition has continuously criticized the current government for mismanagement of the country's economy and holds the government's policies (which it deems repressive) accountable for the shortages and the economic collapse.

Political corruption is deemed as a major problem for Venezuela. Irrefutably, it has a crucial impact on the judicial system. Constant political interventions in the court's decisions undermine its impartiality. The autonomy of the judicial system cannot be taken for granted, as the states have to actively take a number of steps in order to establish its independence and follow international law principles and standards. Many could argue that the independence of the judicial system should not be the priority for Venezuela, as the country is stricken by several other more essential issues such as the humanitarian crisis. Albeit the humanitarian crisis is a pivotal issue, judicial independence and the right to a fair trial is a basic human right and undeniably a priority. Judicial independence is a grave and pressing issue as described by the United Nations' Sustainable Development Goals (SDGs). Sustainable Development Goal number 16 calls for the promotion of peace and justice and the strengthening of

institutions. An unquestionable justice system establishes and strengthens a peaceful, inclusive and equitable society. Thus, it is of paramount importance to address the situation in Venezuela and to ensure the independence of the justice system.

DEFINITION OF KEY TERMS

Judicial Independence

A country is considered to have judicial independence when it presents the following characteristics: Initially, the judiciary should be impartial. This means that its decisions should not be influenced by the judges' personal interests and opinions. Instead, they should strictly follow the law. Secondly, everyone must respect and abide by the decisions taken by the courts. Furthermore, the government has to respect the decisions of the courts. For instance, constitutional courts should have the right to revoke a law that was voted by the government and not be criticized for it. Another crucial point is that the judicial system must be free from interference, judicial corruption and coercion. Lastly, in an independent judicial system, the judges are appointed only after selection procedures. Some countries' governments appoint the judges of the Supreme Courts. Should this happen, the independence of the judicial system could be questioned.

Political Interventionism

"Political interventionism is the act of influencing or manipulating the legal actions of another government."¹

Sustainable Development Goals

The 17 Sustainable Development Goals (SDGs), comprise the most important part of the 2030 Agenda for Sustainable Development and are an urgent call for action by all countries -both More Economically Developed Countries (MEDCs) and Less Economically Developed Countries (LEDCs)- in a global partnership. The 2030 Agenda for Sustainable Development was adopted by all United Nations Member States in 2015 and aims to provide a shared blueprint for peace and prosperity for people and the planet, now and into the future. ²

Humanitarian Crisis

"A humanitarian emergency is an event or series of events that pose a critical

¹ Study.com, Study.com, study.com/academy/lesson/what-is-interventionism-in-politics-definition-history-examples.html.

² Sustainable Development Goals ∴ Sustainable Development Knowledge Platform." United Nations, United Nations, sustainabledevelopment.un.org/?menu=1300.

threat to the health, safety, security or wellbeing of a community or another large group of people, usually over a wide area.”³

Intergovernmental Organization (IGO)

The term intergovernmental organization (IGO) refers to an entity created by treaty, involving two or more nations, for them to work in good faith on issues of common interest. In the absence of a treaty, an Intergovernmental Organization does not exist legally. A working example is the United Nations or the European Union, since both constitute a group of nations created after a treaty.⁴

Non-Governmental Organization (NGO)

A non-governmental organization (NGO) is a non-profit, citizen-based group that functions independently of government. Non-Governmental Organizations, sometimes called civil societies, are organized on community, national or international levels to serve specific social or political purposes, and are cooperative, rather than commercial, in nature.⁵

Partido Socialista Unido de Venezuela (PSUV)

The Partido Socialista Unido de Venezuela (PSUV) is the socialist party of Venezuela that was founded by Hugo Chavez in 2006 after the Bolivarian Revolution. Today, the current president of Partido Socialista Unido de Venezuela is Nicolas Maduro. The socialist party of Venezuela, after years of governing the country, has managed to gain control over many key institutions such as the electoral council, the judiciary and the Supreme Court.⁶

Constitution

“The constitution is the basic law or laws of a nation or a state which set out how that state will be organized by deciding the power and authorities of government between different political units and by stating the basic law-making and structural principles of society.”⁷

³ Mj.proulx. “What Is a Humanitarian Emergency?” Mj.proulx, 6 May 2015, www.humanitariancoalition.ca/what-is-a-humanitarian-emergency.

⁴ Harvard Law School. “Intergovernmental Organizations (IGOs).” Harvard Law School, hls.harvard.edu/dept/opia/what-is-public-interest-law/public-service-practice-settings/public-international-law/intergovernmental-organizations-igos/.

⁵ Folger, Jean. “What Is an NGO (Non-Governmental Organization)?” Investopedia, Investopedia, 18 Nov. 2019, www.investopedia.com/ask/answers/13/what-is-non-government-organization.asp.

⁶ <http://www.psuv.org.ve/psuv/>, <https://www.bbc.com/news/world-latin-america-48121148>

⁷ Constitution Definition, www.duhaime.org/LegalDictionary/C/Constitution.aspx.

Interim President

The interim president (in the case Guaidó) of a regime is also known as an acting president, a figure who is enlisted for temporary political leadership and has to temporarily fulfill the duties of the incumbent president (in this case Maduro).

BACKGROUND INFORMATION

Historical background of Venezuela

Historically, Venezuela has gone through many turbulent times, which explain the multiple challenges it is currently facing, including concerns regarding its judicial independence. At first, it was a part of Gran Colombia, which, also consisted of Colombia, Ecuador, Panama and some parts of Peru, Guyana and Brazil. In 1830,



Figure 2 Photos from rallies against Hugo Chavez

Venezuela gained its independence. Pursuant to that, the country had to get a number of loans and its inability to pay them back in 1902 caused the blockage of the ports of Venezuela by the ships of Italy, Germany and the United Kingdom. Following that, Venezuela managed to become the largest oil exporter in 1948 and democracy was established as President Romulo Gallegos

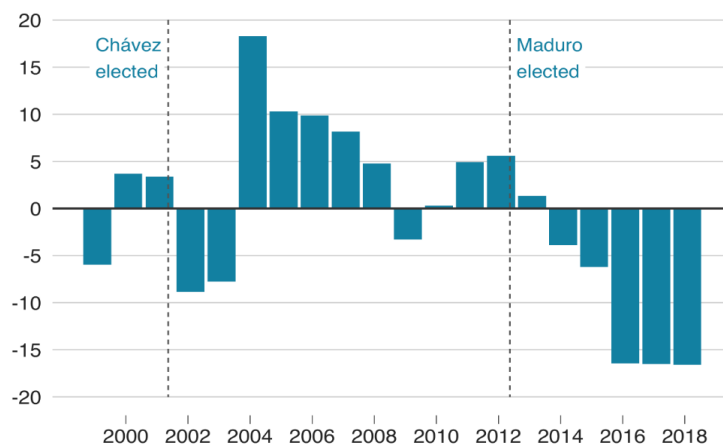
became the first democratically-elected president. Nevertheless, Marcos Perez Jimenez managed to overthrow him after a successful coup. In 1964, democracy was restored as Raul Leoni was democratically elected and in 1973 the economy of Venezuela was ameliorated due to the exploitation of oil. In 1983, a reduction in oil prices globally led to political unrest and financial regression. Hence, the constant alternations of the political regime, from democracy to dictatorship, and the economic recessions have greatly and negatively affected Venezuela.

Political crisis and corruption

This situation worked in favor of Hugo Chavez, founder of the Partido Socialista Unido de Venezuela, who became president of Venezuela. He followed a policy opposing the United States of America and initiated the Bolivarian Revolution. The Bolivarian Revolution was a movement that sought the independence of northern South America from the Spanish rule. The movement was successful, but despite the victorious outcome, it provoked the rise of nationalism and a state-led economy. In

Venezuela's economy collapsed under Maduro

% GDP growth



Source: Banco Central de Venezuela

BBC

Figure 3 Graph showing the fall of the GDP of Venezuela

heavily influence the key institutions of the country. During the period that Maduro was in power, the economy collapsed, and the shortages of basic goods became widespread.

Concerns regarding the lack of judicial Independence

Nicolas Maduro has repeatedly been accused of using unfair means to eliminate his political opponents and win the election. For instance, when the opposition gained the majority in the legislature (National Assembly), he created a rival body, which was dominated by his supporters and could make important decisions. Under these circumstances, Guaido (the leader of the opposition), declared himself interim president of Venezuela. Thus, as many argue, Maduro decided once again to use the justice system to eliminate his opponents. He held Guaido accountable for several crimes. As a result, the court decided to freeze all his financial assets and to issue a travel ban. However, it is important to mention that nothing has been officially proven by any transparent organizations and thus Maduro cannot be officially accused of intervening in the justice system. In any case, regardless of whether the court's decision was politically driven or not, no one can doubt that the government constitutes a significant threat to the justice system since it could have benefits from intervening in it and the ability to influence the judges.

Additionally, Venezuela had adopted a groundbreaking constitution since it established innovative mechanisms for the selection of the judiciary. Yet, many have argued that the requirements of the constitution were not met for those participating in the fundamental organs of the country.

2002, a failed coup d'Etat against Hugo Chavez further destabilized the economy. In 2013, Hugo Chavez died. Nicolas Maduro became president of the Partido Socialista Unido de Venezuela (PSUV) and got elected while in 2018, he managed to get re-elected. Over the years that the PSUV governed, it managed to

The effects of the humanitarian crisis

The critical humanitarian crisis has triggered political instability, economic recession and social regression. The repressive political regime, the few economic



Figure 4 Photo from an anti-governmental protest in Venezuela

opportunities and the high crime rates have engendered the phenomenon of “brain drain”, where –mainly- educated people abandon the country to seek opportunities abroad. Under these circumstances, the economy is not able to recover and prosper. Consequently, when the economy is not efficient,

the government is unable to fund the state mechanism, including the judicial system. Additionally, according to the constitution voted in 1999, not more than 2% of the national budget should be spent in the justice system. This is a considerably low percentage, which leads to shortages. Thus, Venezuela should increase the budget for the legal system in order for it to function properly.

MAJOR COUNTRIES AND ORGANISATIONS INVOLVED

United States of America:

The United States of America is one of the first countries that opposed Maduro and accused him of using unfair means to win the elections, while they have run a powerful campaign against the current government of Venezuela. They have even tried to impose sanctions on countries that have recognized Maduro as the legitimate president of Venezuela. The United States of America have fervently supported Guaido and recognize him as the legitimate president of Venezuela. In order to help him ascend to power, they have sanctioned Venezuelan politicians, such as Luis Parra. Regardless of the United States' intentions, it is certain that the political interventionism harms the reliability of the political system of Venezuela and leads people to lose their trust towards it.

Russian Federation

The Russian Federation always opposed to the intervention by the United States of America in Venezuela and has strongly supported Maduro during the crisis.

Russia has always been a key ally of Venezuela. The two countries had established their mutual support as early as 2006, when Venezuela, under Hugo Chavez, and Russia had signed a 3 billion deal according to which Russia would provide Venezuela with ammunition. The Russian support to the regime of Hugo Chavez was further reinforced through another oil and gas cooperation accord, signed in 2008. Besides, Russian owned a significant part of the oil fields of Venezuela and thus it had important financial activity in the country.

China

China, alongside Russia, has expressed its deep disagreement towards the political intervention of the United States of America in the situation and its support towards the government of Maduro. The strong relations between Venezuela and China were created in 1999 with Hugo Chavez's election and they were further strengthened during Maduro's tenure. From 2000 to 2018, China's investments have reached 6 billion dollars, while the trade between the two countries has been significantly fortified. Furthermore, socialist Venezuela can be deemed a considerable ally of China in the political and economic rivalry with the United States of America.

Cuba

Cuba is a country that has invariably expressed its support towards Maduro and his policies, while it has a long history of disputes with the United States of America. Since 1959, the United States of America have imposed an embargo on Cuba. Thus, Cuba is another example of a country opposing the United States' intervention.

Human Rights Watch

The Human Rights Watch is an international non-governmental organization that has an important presence in Venezuela. It was the Human Rights Watch that recorded multiple violations of human rights, while it has repeatedly informed the global

community for issues such as the refugee crisis, the prosecution of political opponents, the extrajudicial killings and the impunity of several individuals.

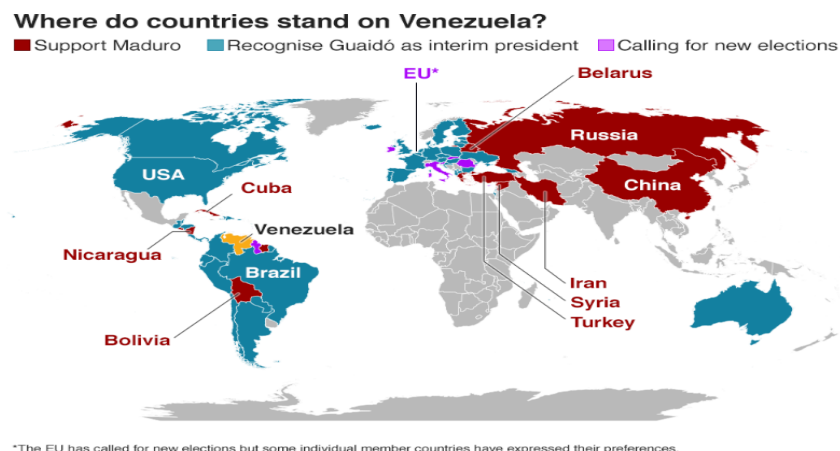


Figure 5 Map showing the stance of every country towards the recognition of Guaidó as the interim president of Venezuela

BLOCS EXPECTED

The issue of judicial independence in Venezuela has triggered a vehement debate all around the globe. It is, therefore, challenging for every country to easily identify its stance on the issue. In order to create the right alliances, two major factors should be taken into consideration. Firstly, whether a state has or has not acknowledged Guaido as the statutory and qualified president of Venezuela. If it has, the country is liable to disagree with the current policies of the Venezuelan government about the justice system, since they do not agree with Maduro's policy. These countries, such as the United States of America cannot be in the same alliance with Venezuela, since they are opposing its policies. However, countries such as Cuba, that have adopted a friendly policy towards Maduro could join the alliance of Venezuela. Apart from that, the domestic policy of every country should be valued. States that follow policies that could be considered more repressive, usually identify with the Venezuelan policy and consequently could be in the same alliance as Venezuela.

TIMELINE OF EVENTS

Date	Description of event
1998	Hugo Chavez was elected. His government established a new constitution and he adopted more and new socialist policies. He followed an acidulous policy against the United States of America.
2002	A failed coup d' Etat against Hugo Chavez took place leading to the economy being severely harmed.
July 2006	Hugo Chavez signed an agreement with Russia for the provision of ammunition.
September 2008	The oil and gas accords are signed between Venezuela and Russia.
2013	The president of Venezuela, Hugo Chavez, died and Nicolas Maduro (the chosen successor of Chavez) was elected.
May 2018	President Nicolas Maduro was re-elected to a second tenure.
January 10, 2019	Nicolas Maduro was sworn president of Venezuela.
January 23, 2019	Guaido declared himself the interim president of Venezuela.
January 29, 2019	The Court decided to issue a travel ban and to freeze all financial assets of Guaido
April 30, 2019	Guaido called the security forces of the country to join him in a coup in order to remove Nicolas Maduro from power.

RELEVANT RESOLUTIONS, TREATIES AND EVENTS

[Human Rights Council Resolution RES/42/4](#)

Title: Strengthening cooperation and technical assistance in the field of human rights in the Bolivarian Republic of Venezuela

This resolution was adopted on September 26, 2019 and proposes several actions in order to eliminate flaws of the judicial system. Clause 11 aims to ensure the restitution of the victims of criminal actions and the accountability of the perpetrators.

[Human Rights Council Resolution 29/6](#)

This resolution was an attempt by the Human Rights Council to promote judicial independence all around the world. Clause 1 calls for the impartiality and the objectivity of the jury and the prosecutors, while clause 7 aims to ensure that the judicial system functions in the most independent way.

[ECOSOC Resolution 2006/23](#)

The above resolution represents the efforts of the Economic and Social Council to ensure that all the judicial systems adhere to international law principles. More specifically, clause 3 aims to strengthen the independence and the integrity of the judicial system.

PREVIOUS ATTEMPTS TO SOLVE THE ISSUE

One remarkable attempt that was made was the establishment of the Caracas Declaration. According to the Caracas Declaration, Venezuela had to adopt a policy of criminal justice and crime prevention, to select judges according to their qualifications and to ameliorate the ways that offenders were treated. Adding to that, a number of resolutions followed, which mainly aimed to address the humanitarian crisis and to protect human rights. For instance, the Human Rights Council passed resolution 42/4 on September 26, 2019 (mentioned above) in order to further protect the rights of Venezuelans. The greater instability in Venezuela had even concerned the European Union, which through resolution 0008/2019 condemned repression and violence, while it emphasized on the need to solve the presidential crisis. Lastly, the United States of America have tried to address the situation by acknowledging Guaido as the only legitimate president of Venezuela. Through a resolution adopted on April 9, 2019 the importance of Maduro leaving the government was stressed.

POSSIBLE SOLUTIONS

Despite the intricacy of the issue, there is a variety of measures that could be adopted in the resolution in order to bolster the institutions of Venezuela and more specifically its judicial system.

The constitution of Venezuela

To begin with, the constitution of Venezuela plays a decisive role in the function of the judicial system. The constitution shall enshrine the independence of the judicial system and it should also shield the impartiality of the judges and ensure that they act according to the law. Improper restrictions, pressure and threats should in all cases be eliminated. The constitution must also shield the separation of powers; the judicial system should be separate from the executive and the legislative branch.

Freedom of the judges

Apart from the constitution, there are other ways to establish judicial independence, such as ensuring that judges are free; the judges should have freedom of expression as defined by the Universal Declaration of Human Rights. They should have the right to express their opinion without being criticized and their decisions should be respected. In these conditions, they will not be afraid to make decisions against powerful figures and the government, should the events require it.

Fair selection processes for the judges

The judges should meet several qualifications. In order to safeguard the integrity of the judicial system, it is imperative that there is a fair selection process where judges are selected solely for their merit. In other words, the judges should not be appointed by politicians, but they should be selected through objective processes. Thus, the state mechanism can ensure that the judges have the knowledge and skills required to administer justice.

Tenure of the judges

The judges should have a fixed tenure. Anyone that serves as a judge for a long period of time is subject to corruption. This does not necessarily mean that the political system has the right to remove judges. The inappropriate removals of judges should be eliminated and they should only take place for reasons of inability. Additionally, deliberations and confidential information must not be disclosed and there should always be secrecy during the procedure.

Sufficient funding of the judicial system

In order for the legal system to work, it needs adequate funding, so as to tackle shortages of judges, prosecutors, magistrates and lawyers. It is pivotal to make sure that the state is capable of offering the required capital. The judges conduct an extremely significant job and hence they should be paid accordingly.

Supervision of Non-Governmental and Intergovernmental Organizations

In order to ensure the transparency of the judicial system, judges could be supervised by independent organizations. For instance, UN experts could supervise the way that the judicial system functions and regularly report their findings so that the UN can tackle the problems that arise.

Education of the citizens

It is important to promote human rights. Educational campaigns could make people aware of their rights and as a result, they would be able to recognize when these are being violated. Consequently, aware citizens are less likely to allow the government to violate their rights.

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