THE LAST BLOW TO THE RULE OF LAW:

AN "ANTIBLOCKADE" "CONSTITUTIONAL LAW" TO SELL OFF AND SHARE OUT THE REMAINS OF THE NATIONALIZED ECONOMY, WITHIN A FRAMEWORK OF SECRECY AND LEGAL UNCERTAINTY

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I. UNDERMINING THE LEGAL SYSTEM IN ORDER TO APPLY, IN SECRECY, A "NEW" ECONOMIC POLICY OF DESTATIZATION, DENATIONALIZATION AND PRIVATIZATION OF THE ECONOMY IN ORDER TO OBTAIN "ADDITIONAL INCOME"

The National Constituent Assembly, which was unconstitutionally and fraudulently called and elected in 2017,[1] in October 8th, 2020 approved without much debate[2] an *Anti-blockade Law for the national development and the guaranty of human rights,* so called "Constitutional Law" (a concept that does not exist in the Venezuelan constitutional system, in which the sole body competent for enacting

[1] See on this matter, Allan R. Brewer-Carías y Carlos García Soto (Coordinators), *Estudios sobre la la Asamblea Nacional Constituyente y su inconstitucional convocatoria en 2017* Colección Estudios Jurídicos Nº 119, Editorial Jurídica Venezolana, Caracas 2017

[2] See on this matter the report by Sebastiana Barráez, "La Ley Antibloqueo dividió al chavismo: legisladores de su propia asamblea denuncian que viola la Constitución de Venezuela;" available at: *Infobae*, October 12, 2020, available at: https://www.infobae.com/america/venezuela/2020/10/12/la-ley-antibloqueo-dividio-al-chavismo-legisladores-de-su-propia-asamblea-denuncian-que-que-viola-la-constitucion/

laws is the National Assembly),[3] which was drafted on the basis of a proposal[4] that was submitted by Nicolás Maduro a week before, on October 1, 2020.[5]

This "Constitutional Law,"[6] as it is expressed in its provisions, has the basic purpose of obtaining "additional income" (art. 18), through the implementation of a "change" in the economic policy in order to destatisize, denationalize and indiscriminately and secretly privatize the economy, and of new public financial negotiations, in order to supposedly take care of the need of the country; but all of it, subverting the entire legal system.[7] The "Constitutional Law," although did not

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[3] See on this matter, Allan R. Brewer-Carías, *Usurpación Constituyente 1999, 2017. La historia se repite: una vez como farsa y la otra como tragedia*, Colección Estudios Jurídicos, No. 121, Editorial Jurídica Venezolana International, 2018.

[4] See the text of the document in "Presidente Maduro presentó ante la ANC proyecto de Ley Antibloqueo," available at: *Aporrea*, 30/09/2020 ; available at: https://www.lapatilla.com/2020/09/30/este-es-la-ley-antibloqueo-presentada-ante-la-constituyente-cubana-documento/

[5] See our comments on the proposal in Allan R. Brewer-Carías, "La Ley Antibloqueo: una monstruosidad jurídica para desaplicar, en secreto, la totalidad del ordenamiento jurídico," New York, October 4, 2020; available at: https://bloqueconstitucional.com/efectos-del-informe-de-la-mision-internacional-independiente-sobre-violaciones-a-los-derechos-humanos-en-venezuela-en-relacion-con-el-estado-de-derecho-y-las-elecciones/ Also see on this bill of law, the critique by: Ramón Peña, "El Anti-bloqueo: la panacea," in *The World News,* October 4, 2020; available at: https://theworldnews.net/ve-news/el-anti-bloqueo-la-panacea-por-ramon-pena; Luis Brito García, "Proyecto Ley Antiboqueo," in *News Ultimasnoticias*, October 3, 2020; available at: https://theworldnews.net/ve-news/proyecto-de-ley-antibloqueo-luis-brito-garcia; https://primicias24.com/opinion/294724/luis-britto-garcia-proyecto-de-ley-antibloqueo/ ; and https://ultimasnoticias.com.ve/noticias/especial/proyecto-de-ley-antibloqueo-luis-brito-garcia/; Juan Manuel Raffalli "Proyecto de Ley Antibloqueo crea cuarto oscuro que impide conocer documentos y procesos," in: *Lapatilla.com*, October 1, 2020, available at https://www.lapatilla.com/2020/10/01/juan-manuel-raffalli-proyecto-de-ley-antibloqueo-crea-cuarto-oscuro-que-impide-conocer-documentos-y-procesos/

[6] See in en *Gaceta Oficial* No.6.583 Extra. of October 12, 2020. See the comemets regarding the Law, in: Alejandro González Valenzuela, "Ley Antibloqueo: Hacia el deslinde definitivo con la Constitución y el Estado de derecho," in *Bloque Constitucional*, October 12, 2020, available at: https://bloqueconstitucional.com/ley-antibloqueo-hacia-el-deslinde-definitivo-con-la-constitucion-y-el-estado-de-derecho/ ; José Guerra, "Ley Antibloqueo es un golpe de Estado," in Enrique Meléndez, *La Razón*, Octubre 2020; available at: https://www.larazon.net/2020/10/jose-guerra-ley-antibloqueo-es-un-golpe-de-estado/; and *Acceso a la Justicia*, "Ley Antibloqueo de la írrita Constituyente en seis preguntas, en *Acceso a la Justicia*, 16 de octubre de 2020, disponible en: https://www.accesoalajusticia.org/ley-antibloqueo-de-la-irrita-constituyente-en-seis-preguntas/

[7] The opinion of Alejandro González Valenzuela is that the "Anti-Blockade Law" reinforces a "constitutional exception regime" by assigning to the Executive Branch of the Government

expressly provide that it prevailed *in toto* over the Constitution (which nonetheless was proposed by the Bill of Law submitted by N. Maduro), it can be wielded to achieve an approximate effect, for it declares its articles to be of "preferential application" over all laws, of "public order and general interest," and of mandatory enforcement by all territorial levels of the government and by all persons (Art. 2).

This rupture of the legal system can be noted specifically in the following aspects:

First, in the conception of the "Constitutional Law" as a *regulatory framework of a supra-legal rank*, that is, above all, for organic and ordinary laws of the Republic, regarding which the "Constitutional Law" is declared to be of preferential application (First Transitory Provision), which is equivalent to stating what was proposed in the original bill of the Law: that all "rules that collided with the provisions thereof were now suspended" (Second Transitory Provision of the Bill of Law submitted by N. Maduro). In any event, the approved Law achieves similar purpose by setting forth that its provisions prevail over organic and ordinary laws.

"extraordinary power such as: (i) the de-regulation of economic sectors and activities (by disapplying legal, and eventually, constitutional rules); (ii) holding and closing legal acts and deals; modifying the system for the organization, ownership, management and operation of public and mixed companies in Venezuela and abroad; the administration of assets and liabilities through transactions available in national and international markets; all the above without observing the regime that reserves economic activities instituted by Article 303 of the Constitution; (iii) the implementation of exceptional contracting mechanisms; (iv) the association with illegitimate capitals under illegal conditions, that are also harmful for Venezuela; (v) using a totalitarian repressive apparatus against whoever oppose the "enforcement thereof." See Alejandro González Valenzuela, "Ley Antibloqueo: Hacia el deslinde definitivo con la Constitución y el Estado de derecho," in *Bloque Constitucional*, October 12, 2020; available at https://bloqueconstitucional.com/ley-antibloqueo-hacia-el-deslinde-definitivo-con-la-constitucion-y-el-estado-de-derecho/. In similar sense, José Ignacio Hernández has summarized the purpose of the Law by pointing out that its purpose is to: " Dispose of State assets and manage the Venezuelan economy without parliamentary control, "for which purpose," articles "19, 24, 27 and 29 allow Maduro (i) to carry out public expenditures; (ii) Contract debt operations and, in general, renegotiation operations; (iii) Enter into public interest contracts; and (iv) Reorganize State-owned companies to transfer their assets to private investors, even with respect to assets that have not been formally acquired, as they are affected by "occupation" measures. Anticipating the wave of litigation that these measures could unleash, the "Law" creates a special service for the exercise of legal actions abroad (Article 36)." See José Ignacio Hernández, "La Ley Constitucional Antibloqueo" y el avance de la economía criminal," en *La Gran Aldea*, Octubre 15, 2020; available at: https://lagranaldea.com/2020/10/15/la-ley-constitucional-antibloqueo-y-el-avance-de-la-economia-criminal-en-venezuela/

Second, in granting a *unlimited power for the Executive Branch of the Government to "disapply" rules having a legal rank in specific cases,* as it deems necessary in order to attain the purposes of the Law (Art. 19), that is, giving it the power to decide in specific cases that an organic law or any other law *does not apply,* which undoubtedly implies establishing an *unlimited legislative delegation in favor of the Executive Branch, to exercise the power to legislate* in order to make up for the absence of rules or the legislative vacuum resulting from to the executive decision to "*disapply*" the rules of the legal order.

Third, it also grants the same *unlimited power for the Executive Branch to "disapply" in specific cases, that is, singularly, regulations and other rules of a sub-legal rank* that are deemed to be counterproductive for achieving the purposes of the Law (Art. 19), infringing the general principle of singular non-modifiability or non-derogability of the regulations that is guaranteed by Article 13 of the Organic Law on Administrative Procedure.

Fourth, the establishment of a *broad power to sign "international treaties, agreements and conventions*, bilateral or multilateral, favoring the integration of free peoples" that should be based on "pre-existing obligations of the Republic" (Art. 10), seeking with this to obviate the necessary approval of said instruments by a law enacted by the National Assembly, as required in the Constitution (Art. 154).

And fifth, the formal and express establishment of a *system of total lack of transparency*, by providing not only to disapply the laws on bids and public contracts (Arts. 21 and 28), but also that all the "procedures, formalities and records made on the occasion of implementing any of the measures" set forth in the Law that "imply disapplying *rules* of a legal or sub-legal rank" shall be *secret and reserved"* (Art. 42).

The foregoing is equivalent to a total undermining of the legal system of the State, which is entirely incompatible with the most elementary principles of the rule of law, materialized in the "regulation" or formal establishment of the "disapplying" of laws, in secrecy, by the Executive Branch. [8] Although qualified as a "*special and temporary* regulatory framework that provides the *legal tools* for the Venezuelan

[8] As expressed by the Venezuelan Episcopal Conference, "The so-called" anti-blockade law ", approved by the illegitimate National Constituent Assembly, is one more expression of the government's will to lead our country down paths other than legality, and thus squander the national resources that belong to all, with the aggravating factor, that now it tries to be done in a hidden and totally discretionary way." See, Conferencia Episcopal Venezolana, "Sobre la Dramática situación social, económica, moral y política que vive nuestro país," 15 de octubre de 2020, disponible en: https://conferenciaepiscopalvenezolana.com/downloads/exhortacion-pastoral-sobre-la-dramatica-situacion-social-economica-moral-y-politica-que-vive-nuestro-pais

Public Power" to achieve the purpose set in the Law, in fact it is an "exceptional regime with a vocation of permanence,"[9] to achieve what appears to be a radical change in the economic policy toward a destatization, denationalization and privatization of the economy, for the purpose of "counteracting, mitigating and reducing in an effective, urgent and necessary manner the harmful effects caused by the imposition against the Republic and its people," of what it characterizes as:

> "unilateral coercive measures and other restrictive or punitive measures originating from or issued by another State or group of States, or by actions or omissions arising therefrom, by international organizations and other foreign public or private entities."

According to such "Constitutional Law," those "coercive measures" would affect the human rights of the Venezuelan people, imply attacks against International Law and, as a whole, are crimes against humanity" (Art. 1); which affirmations clash and ignore the crimes against humanity perpetrated and denounced in the "*Detailed Conclusions of the Independent International Fact-Finding Mission on the Bolivarian Republic of Venezuela (443 pp.),*[10] submitted barely a few weeks before, on September 15, 2020, to the United Nations Human Rights Council, in compliance with the Council's Resolution 42/25 of September 27, 2019, and which characterized several of the crimes perpetrated by government officials in Venezuela against human rights, as crimes against humanity.

On the other hand, all this regulatory framework, in the end, has been established for the purpose of obtaining public "new incomes" through the definition of a "new" economic policy of destatization, denationalization and privatization , and new ways of financing, all implemented in secrecy, with the excuse to attain objectives that are not new, for they are contained in the Constitution of 1999 (Arts. 112 - 118, and 399 - 321), and are simply repeated in the Law. This can be deducted from the enunciates of its various articles stating, for example, on the "harmonic development of the

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[9] Véase Bloque Constitucional Venezolano, "Sobre la pretendida Ley Antibloqueo," en *Bloque Constitucional*, 16 de ocurre de 2020,; available at: http://digaloahidigital.com/noticias/el-bloque-constitucional-de-venezuela-la-opini%C3%B3n-p%C3%BAblica-nacional-e-internacional-sobre-la

[10] Report of September 15, 2020, available at: https://www.ohchr.org/Documents/HRBodies/HRCouncil/FFMV/A_HRC_45_CRP.11_SP.pdf See the comments on this Report in Allan R. Brewer-Carías, "Efectos del Informe de la Misión Internacional Independiente sobre violaciones a los derechos humanos en Venezuela en relación con el Estado de derecho y en las elecciones,' 1 de octubre de 2020, disponible en http://allanbrewercarias.com/wp-content/uploads/2020/10/1261.-Brewer.-efectos-del-informe-de-la-mision-internacional-independiente-en-el-estado-de-derecho-y-en-las-elecciones.pdf

national economy geared toward generating sources of employment, high value added, raising the standard of living of the population and strengthening the country's economic sovereignty" (Art. 3.2); the "unalienable right to full sovereignty over all its wealth and natural resources" (Art. 3.3); the protection of "third-party rights, including other States, investors and other individuals or legal entities that deal with the Republic" (Art. 5.3); "guaranteeing the people's full enjoyment of their human rights, the timely access to goods, services, food, medicines and other products that are essential for life" (Art. 6); the development of "compensatory systems for the workers' salary or true income" (Art. 18.1); funding the "social protection system" (Art. 18.2); "recovering the capacity to provide quality public services" (Art. 18.3); "driving the national productive capacity, especially of the strategic industries, and the selective substitution of imports" (Art. 18.4); the "recovery, maintenance and expansion of public infrastructure"(Art. 18.5); "encouraging and promoting the development of science, technology and innovation" (Art. 18.6); "gradually restoring the value of social benefits, accrued termination benefits and savings obtained by the country's workers" (Art. 22); and the "implementation of national public policies regarding food, health, social security, provision of basic services and other essential economic goods" (Art. 23).

All this is provided in the Constitution, wherefore, if the purpose were to attain those goals, it would suffice for the government to have clearly and transparently defined a *change* in the orientation of the economic policy toward the abandonment of the statization and nationalizing policy that the government has been promoting pursuant to the guidelines of the so-called "21st Century Socialism," which have only brought economic stagnation, misery and poverty to the country. The opening and privatization of the economy that is now purported to be done in secrecy, could also have been effected, -as we noted when studying the first "economic emergency" decrees issued and extended as of 2016-, using the extraordinary and unconstitutional powers that the Executive Branch assigned to itself, beyond all constitutional limits, pursuant to which practically any decision could have been made.[11] However, all the unconstitutionality in these decrees was of no use.

Instead, with the "Constitutional Law," the path taken by the Constituent National Assembly at the request of the Executive Branch, for effecting that "change" of economic policy in order to obtain "new incomes," was to set up a

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[11] See Decree No. 6214 of January 14, 2020, *Gaceta Oficial* Extra. N. 6219 of March 11, 2016. Allan R. Brewer-Carías, "La usurpación definitiva de la función de legislar por el Ejecutivo Nacional y la suspensión de los remanentes poderes de control de la Asamblea con motivo de la declaratoria del estado de excepción y emergencia económica," in *Revista de Derecho Público,* No. 145-146, (January-June 2016), Editorial Jurídica Venezolana, Caracas 2016, pp. 444-468.

"regulatory" framework, in order to *regulate a situation of disapplying the law*, that is, of all organic and ordinary laws and regulations deemed necessary and, in this regard, enabling all the measures, without limitations, that the Executive Branch deemed convenient.[12] For such purpose the Law has created a new term ("to disapply") in the field of principles related to the temporary force of the law, implying an unlimited legislative delegation for the Executive Branch itself, enabling it to fill the regulatory "void" resulting from "disapplying" the rules.

Furthermore, as stated above, the "Constitutional Law" adds that the express provision of the entire system of prevalence of its provisions over all other organic and ordinary laws, and the disapplying of laws and regulations in specific cases, with the consequential delegation of the legislative power to the Executive Branch, shall be performed within the express frame of a total lack of transparency, that is, within a secrecy and confidential framework, by declaring now that the economic policy is a matter pertaining to the security of the Nation (Arts. 37, 42).

II. THE FUNDAMENTAL PURPOSE OF THE LAW: GENERATING "ADDITIONAL INCOME" THROUGH PRIVATIZATION OF THE ECONOMY BY MEANS OF ANY KIND OF CONTRACTS OR NEGOTIATIONS MADE IN SECRECY

The aim of the "Constitutional Law," as aforementioned, is to generate "new incomes," by "changing" in the economic policy to be accomplished outside the law and in full secrecy by the State, based on the destatization, denationalization and privatization of the economy and on engaging in new financial negotiations for "counteracting, mitigating and reducing in an effective, urgent and necessary manner," as stated in its Article 1, "the harmful effects caused by the imposition against the Republic and its people, of unilateral coercive measures and other restrictive or punitive measures."

Nonetheless, such "new income" are not to be spent within the budgetary discipline channel and according to the regime referred to public income in the Constitution, but to be used beside such provisions, for which purpose article 18 of the same "Constitutional Law" provides that it:

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[12] As expressed by José Ignacio Hernandez, all this is not new, "it is about the renewal of Maduro's goal of managing the economy at his discretion, thus facilitating arrangements that strengthen his kleptocracy and his alliances with organized crime. That objective, as we will see, began to be forged after the triumph of the opposition in the parliamentary elections of December 2015." See José Ignacio Hernández, "La "Ley Constitucional Antibloqueo" y el avance de la economía criminal en Venezuela," in *La Gran Aldea*, Octubre 15, de 2020; available at: https://lagranaldea.com/2020/10/15/la-ley-constitucional-antibloqueo-y-el-avance-de-la-economia-criminal-en-venezuela/

"would be registered separately among the availabilities of the national treasury and would be used to satisfy the economic, social and cultural rights of the Venezuelan people, as well as for the recovery of its quality of life and generating opportunities by fostering their capacities and potentialities."

The consequence is that the measures for obtaining such additional income would be adopted outside the legal system, secretly, providing separate accounting, which overtly is contrary to the provisions of the Constitution regarding the system of public income and budgetary discipline (Arts. 311 – 315).

Among the mechanisms for obtaining "additional income," in addition to the policy of destatization, denationalization and privatization, the "Constitutional Law" provides for a set of *measures for public financing*, establishing that the Executive Branch may "create and implement *large scale* financial mechanisms" (Art. 22), as well as "create or authorize *any form of* new financing mechanisms or sources") Art. 23); adding in Article 32 that "for the purpose of protecting the transactions involving financial assets of the Republic and its entities, the Executive Branch may authorize *the creation and implementation of any financial mechanism* that enables mitigating the effects of the unilateral coercive measures, restrictions and other threats that give rise to this "Constitutional Law," including the use of cryptoassets and instruments based on blockchain technology."

On the other hand, for the obtainment of additional income, and for implementing the policy of destatization, denationalization and privatization of the economy, and of the financing negotiations mentioned, the "Constitutional Law" regulated a *total flexibilization of the public contracting system,* providing, in the first place, the "disapplying" of the legal rules that call for authorizations or approvals of national interest contracts by the National Assembly (Art.21), and, second, that the Executive Branch may "design and implement exceptional mechanisms for contracting, purchasing and paying for goods and services, preferably produced locally, destined for: 1) the satisfaction of the fundamental rights to life, health and food; 2) the generation of income, obtainment of foreign currency and the international mobilization thereof; 3) the normal management of the entities that are subject to the unilateral measures, restrictions and other threats that give rise to this Constitutional Law, and 4) selective import substitution." (Art. 28)

All this implies, without doubt, the general "disapplying" of the provisions of the Law on Public Contracting, the Law on Concessions and all laws governing this matter.

III. THE REGULATIONS SET FOR IMPLEMENTING THE "NEW" ECONOMIC POLICY OF DESTATIZATION, DENATIONALIZATION AND PRIVATIZATION OF THE ECONOMY

The "Constitutional Law," in order to guarantee the "additional resources" referred to above, defines throughout its text the "new" economic policy that is sought, and which means a total reversal of the statization policy applied in the last 20 years, which now consists in the destatization, denationalization and privatization of the economy.[13]

Tis result from the following provisions:

1. The provisions pertaining to the generalized policy for destatization or denationalization

The "Constitutional Law," in order to "increase the flow of foreign currency toward the economy and the profitability of assets," provides that the Executive Branch may "develop and implement operations for the *management of liabilities*, as well as for the *management of assets*, through the transactions available in national and international markets, *without impairment to the provisions of the Constitution* (Art. 27), which implies the possibility of disposing of assets with the sole limitation of the provisions in the Constitution; a redundant reference, but this refers to the provisions of Article 303 thereof (as expressly set forth in the Bill of Law), which demands that the shares of PDVSA remain in the hands of the State.

Furthermore, the "Constitutional Law" expressly authorizes the Executive Branch to *"lift trade restrictions on certain categories of subjects in activities that are strategic for the national economy*" (Art. 31) "whenever this is necessary in

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[13] As noted by Pedro Luis Echeverría, the "Anti-Blockade Law" has been "Conceived by the regime in order not to admit the destruction it has caused to the national economy, avoid international sanctions against it, illegally benefit the groups that are loyal to the regime, unlawfully get hold of the property and assets of the Nation, eliminate legal or sub-legal rules that prevent the regime from carrying out certain actions and implement measures that facilitate their predatory efforts to sell out the country. It therefore purports to replace numerous provisions contemplated in the National Constitution by an absurdity full of ambiguities, secrecy, uncertainty, surreptitious sell-out of the assets of the Republic to whomever the regime may handpick, in addition to doing so without informing the public or complying with the comptrollership tasks that the legitimate National Assembly must perform. This new dirty trick by the government tries to hide from the country the current incapacity of the Venezuelan economy to generate and supply to the people the bolivars and foreign currency required to satisfy their needs." See Pedro Luis Echeverría, "Ley Antobloqueo / La nueva trampa de Maduro," en *Ideas de Babel.com*, October 12, 2020, available: https://www.ideasdebabel.com/?p=101616

order to protect the country's core productive sectors and the actors who engage therein."

For the purpose of implementing the denationalization policy that is implicit in its provisions, when providing that the Executive Branch has the power to "disapply" all the organic laws and ordinary laws, that implies that the "Constitutional Law" is empowering the Executive Brach of Government to disapply the organic laws that established the nationalization or reserved certain economic activities to the State, among which, basically those related to the industry and trade of hydrocarbons (the 2001 Organic Law on Hydrocarbons and the 2008 Organic Law for the Reorganization of the Domestic Liquid Fuels Market); the petrochemical industry (2009 Law reserving petrochemical activities to the State); the services related to the oil industry (2009 Organic Law that reserves to the State the assets and services related to the oil industry); the iron industry (1974 Organic Law that reserves to the State the industry of exploitation of iron, and the 2008 Organic Law on the nationalization of the industry of iron and steel); the cement industry (2007 Organic Law that reserves to the State the industry of cement); and the activities related to the exploitation of gold (2011 Organic Law on the nationalization of gold mining and trade).

All the foregoing regulations aim specifically at the possibility of the total denationalization of the oil industry and the trade of oil by-products – among which, gasoline-, with the sole and exclusive limitation referred to above, that the shares of Petróleos de Venezuela S.A. (PDVSA), the oil industry's holding company, according to Article 303 of the Constitution must remain the property of the State (this was expressly set forth in Articles 22, 24 and 25 of the Bill of Law). This is inferred now from the equivalent text of Articles 24, 26 and 27 of the "Constitutional Law," which regulates, among its purposes, the privatization of the economy, "without impairment to the provisions of the Constitution." The clarification is obviously not necessary, because no State act or law can violate the Constitution.

In any case, the result of the provisions of the Law is that all the State-owned companies, subsdiaries or affiliates of PDVSA could be fully or partially privatized, without limitation, secretly.

This would even do away with the concept of mixed company or State shareholding participation in more than fifty percent of its capital, as regulated in the Organic Law on Hydrocarbons, which could be "disapplied" in all the "specific cases" that the Executive Branch deems necessary, and all of PDVSA's subsidiaries could become the property of private capitals, without limitation, given the prevalence of the "Constitutional Law" and the executive power to secretly disapply laws.

2. Provisions regarding the privatization of public companies

The implementation of the policy of destatization and denationalization of the economy naturally involves a process of *privatization of public companies,* to which end the "Constitutional Law" authorizes the Executive Branch to "*carry out into all formalities or negotiations that may be necessary* without impairment to the provisions of the Constitution" (that is, without affecting the State's full ownership of PDVSA's shares), in order to protect and "prevent or reverse actions or threats of freezing, seizing or losing control of the assets, liabilities and patrimonial interests of the Republic or its entities as a result of the application of unilateral coercive measures, restrictions and other threats." (Art. 24).

With regard to the privatization of public companies, the "Constitutional Law" set provisions for the total reorganization of the public entrepreneurial sector, authorizing the Executive Branch, pursuant to the abovementioned policy for destatization and denationalization, to "modify the mechanisms for the organization, management, administration and operation of public or mixed companies, both in the national territory and abroad, without impairment to the provisions of the Constitution" (Art. 26). The Law further authorized the Executive Branch to:

> "proceed to organize and reorganize the decentralized state own enterprises, in the country or abroad, seeking their modernization and adjustment to the mechanisms used in international practices, according to the purpose and objectives of the given entity, improving their operation, commercial and financial relations, or the investment made by the Venezuelan State. The organization or reorganization must, above all, guarantee the safeguarding of the patrimony of the Republic and its entities." (Art. 25).

But a privatization, as State policy, can only be accomplished it the most rigorous transparency;[14] on the contrary, what we can witness is the secret distribution of State assets among specific allies of the regime.[15]

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[14] As Asdrúbal Oliveros expressed it, "the regime could begin an asset transfer process that could focus on the metal sectors, mixed oil companies, especially for gasoline production, and hotels;" considering that "privatization is necessary in Venezuela, but a privatization in the context of the rule of law, with guarantees for both the State and for citizens and the investor. With transparency, open, carried out through a bidding transparent process and an evaluation of what is being done. Unfortunately, none of this exists because it is extremely opaque." See the report: "Asdrúbal Oliveros: Ley antibloqueo formaliza prácticas ocultas que el chavismo realiza desde hace años," en *El Nacional,* October 14, 2020; available at: https://www.elnacional.com/economia/asdrubal-oliveros-ley-antibloqueo-formaliza-practicas-ocultas-que-el-chavismo-realiza-desde-hace-anos/

[15] That is why, José Ignacio Hernández has expressed about the policy established in the law, that it is rather about government measures to "please its economic and political allies, further

3. Provisions regarding the participation, promotion and protection of national and international capital in the economy

The destatization and denationalization policy, by providing for the privatization of public companies, obviously contemplates the need to regulate measures to ensure the participation of national and international private capital in the economy, for which purpose the "Constitutional Law" set forth several express provisions.

It the first place, the "Constitutional Law" defined *measures for alliances with the private sector with respect to companies that were expropriated (expropriated, confiscated, occupied) by the State*, providing the following in its Article 30:

> "the assets that are under Venezuela State's management as a consequence of *any administrative or judicial measure restricting the elements of property* [i.e. use, enjoyment and disposition], that may be required for their urgent incorporation to a productive process, could be the object of *alliances with entities of the private sector*, including small and medium industries, or with the organized People's Power, in order to maximize the production of goods and services for satisfying the fundamental needs of the Venezuelan people and achieve the best efficiency for the companies of the public sector."

This implies the possibility for the Executive Branch to privatize all companies and industries that were expropriated or confiscated through administrative and judicial measures during the last 20 years, by means of alliances, as was expressly provided in the Bill of Law proposed by Nicolás Maduro.

In the second place, to ensure the destatization of the economy through the privatization of public companies, the "Constitutional Law" issued *measures for promoting the participation of private capital in the national economy*, providing as an objective thereof, "the attraction of foreign investment, especially at a large scale (Art. 20), and assigning to the Executive Branch of the Government the power to "authorize and implement measures that encourage and favor the *integral or partial participation, management and operation of the national and international private sector* in the development of the national economy." (Art. 29).

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promoting the *criminalization of the Venezuelan economy."* In other words, "this policy cannot be seen as a kind of "economic opening" towards "capitalism", since its objective is not to expand free enterprise, but rather to distribute strategic assets among Maduro's allies, as in 2016 Citgo was distributed among the 2020 Bond holders and Rosneft." See José Ignacio Hernández, "La Ley Constitucional Antibloqueo" y el avance de la economía criminal," en *La Gran Aldea*, Octubre 15, 2020, disponible en: https://lagranaldea.com/2020/10/15/la-ley-constitucional-antibloqueo-y-el-avance-de-la-economia-criminal-en-venezuela/ .

In the third place, and in line with the previous measures, the "Constitutional Law" defined *measures for the protection of private investments*, authorizing the Executive Branch to agree "with its partners and investments, during the term contractually agreed upon, *on clauses for the protection of their investments […] for the purpose of generating trust and stability* (Art. 34). In this regard, under the "Constitutional Law" there could be signed, for example, "legal stability agreements," established in the Law for the Promotion and Protection of Investments of 1999 (now abrogated), which could never be signed because they were deemed to be contrary to the national interest. [16]

Within the specific frame of the *protection of foreign investments*, Article 34 of the "Constitutional Law" further expressly allows "clauses" for the "settlement of disputes," among which there is without doubt the concept of *arbitration*, and particularly, international arbitration, a legal figure that was also very vilified in the last 20 years as contrary to the national interests. It should be noted that the "Constitutional Law" did not include the exhaustion of internal resources in order to be able to resort to arbitration, which was contained in the Bill of Law that was submitted to the National Constituent Assembly.

Finally, specifically with regard to fostering private initiative, the Law regulated what it called the "social initiative," providing that the Executive Branch must create and implement "programs that allow and guarantee investments by professionals, technicians, scientists, academicians, entrepreneurs and workers' groups or organizations in the public and private sectors and by the organized people's power, in projects or alliances in strategic sectors." Art. 33)

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[16] As the Vice President of the Republic announced to the Diplomatic Corps: "It is expected to use "exceptional" mechanisms to attract additional income. To do this, alliances with private companies and investors of different kinds are established. […] This law will protect foreign economic investments, "under new forms of association, of society, and there will also be special forms of information protection, to protect those who come to invest in Venezuela." See the report: "Delcy Rodríguez vende la ley antibloqueo como protección a inversiones extranjeras," en *Tal Cual*, 13 de octubre de 2020, disponible en: https://talcualdigital.com/delcy-rodriguez-vende-la-ley-antibloqueo-como-proteccion-a-inversiones-extranjeras/. With that presentation, as explained by Rodrigo Cabezas, former Finance Minister, "it became clear" that "the anti-blockade law is aimed at the international economic sector" […] "The heart of the proposed law is the oil business and the possible privatizations of national companies and mixed, the privatization of assets such as ports, airports, mines (…) They want to scrape the assets of the Republic without any control." See the report: "Exministro chavista: Quieren 'raspar' los bienes de la República con la ley antibloqueo," en *Tal Cual*, 14 de octubre de 2020, disponible en: https://talcualdigital.com/rodrigo-cabezas-quieren-raspar-los-bienes-de-la-republica-sin-ningun-control/

IV. THE IMPRELENTATION OF THE NEW ECONOMIC POLICY AND OF PUBLIC FINANCING BY MEANS OF THE EXECUTIVE "DISAPPLYING" OF LEGAL RULES

In the "Constitutional Law," as already mentioned, for the purpose of executing the "new" economic policy and the financial transactions aforementioned, the provision that must be more highlighted, is the First Transitory Provision (which is by no means "transitory"), according to which:

> "The provisions of this Constitutional Law shall apply *on a preferential basis over the rules of a legal and sub-legal rank, including with regard to the organic and special laws that govern the matter, even in the system arising from the Decree granting the State of Exception and Economic Emergency* throughout the National territory […]."

The practical effect of the provision is that it can be deemed that *there are no pre-established legal rules* for adopting the measures that the Executive Branch may adopt in enforcing the economic policy –or the change thereof- purported in the Law, because if those contemplated in the current laws differ from the provision of the "Constitutional Law," they shall be in a sort of "suspended" or "inapplicable" status from the moment the Law was published (as expressly set forth in the original Project);[17] that is, a situation of the lack of applicable law, that is purported to be replaced by the authorization granted to the Executive Branch to decree the "disapplying" thereof in "specific cases" and therefore legislate to fill in the legislative void for the purpose of implementing the "economic policy" set forth in the Law.

Precisely for this purpose, the implementation of the general disruption of the legal order that is "decreed" in the Law, with the declaration of the general prevalence thereof, is detailed in its Articles 19 through 21, wherein the Executive

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[17] The *Bloque Constitucional Venezolano* regarding this Second Transitory Provision of the Law, has indicated that: "it leaves no doubt about the illegitimate purpose of this normative, by pointing out that all the norms that collide with that pseudo law are suspended, in practice promoting a constitutional disruption to create a new economic order (exceptional), starting from a "blank page", which amounts to a true legal aberration, because a "constitutional blank page", to be filled with the only unlimited will of the power holders, is the most unequivocal expression of arbitrariness, of the absence of the rule of law, which will generate greater vulnerability and unpredictability for Venezuelans." See Bloque Constitucional Venezolano, "Sobre la pretendida Ley Antibloqueo,"16 de Octubre 16, 2020, disponible en http://digaloahidigital.com/noticias/el-bloque-constitucional-de-venezuela-la-opini%C3%B3n-p%C3%BAblica-nacional-e-internacional-sobre-la .

Branch is authorized to proceed to "*disapply* rules of a legal or sub-legal rank," when dealing with the implementation of the measures for economic and productive equilibrium" (Art. 21); furthermore, said Branch is specifically authorized to "disapply" laws of a legal or sub-legal rank, for specific cases," "when this is necessary in order to overcome the obstacles and offset the damage caused by the unilateral coercive measures and other restrictive or punitive measures to the administrative activity, or whenever this contributes to the protection of the heritage of the patrimony of the Venezuelan State in the face of any act of deprivation or immobilization, or to mitigate the effects of the unilateral coercive measures and other restrictive or punitive measures that affect the flow of foreign currency" (Art. 19), and when the "enforcement thereof is impossible or counterproductive as a result of the effects of a given unilateral coercive measure or other restrictive or punitive measure" (Art. 19).

It can be said that, as of the coming into effect of this "Constitutional Law," the previous existing legal uncertainty has been formalized in an express legal text, but now extends to the effects of the laws and regulations related to the matters governed by said Law, the enforcement of which can be "suspended" by the Executive Branch.

The realm of arbitrariness implied by this absolute executive power to decide when a law or regulations are to be applied or not, which obviously can only give rise to absolutely null and void acts, is only slightly limited by requiring that a "technical report" –obviously not legal at all- be prepared in each case, in order to clearly determine "the provisions being disapplied and the grounds therefor" (Art. 42); that some prior opinions be obtained from certain agencies (Art. 35), and that the suspension be:

> "indispensable for the adequate macro-economic management, the protection and promotion of the national economy, the stability of the local productive and financial systems, the attraction of foreign investments, especially on a large scale, or the procurement of resources to guarantee the basic rights of the Venezuelan people and the official social protection system." (Art. 20).

In any event, the Law established a general limit for exercising this unique and novel power to "disapply" laws, by expressly providing that "in no case will it be possible to disapply rules related to the exercise of human rights" (Art. 21); to do otherwise would be the total negation of the Constitution.

The other limit established is that rules "pertaining to the division of Public Powers" cannot be "disapplied" (Art. 21), but adding that this so long as it "*does not pertain to the power to approve or authorize*," which means that if a law requires the necessary approval by the National Assembly for certain acts or contracts, such rule may notwithstanding be suspended, as has occurred within the frame of the

decrees for economic emergency when Nicolás Maduro authorized himself from the onset to sign contracts of national interest without the authorization or approval of the National Assembly,[18] which has been happening since 2016, under the status of judicial contempt in which the Constitutional Chamber has unconstitutionally placed the National Assembly.[19]

Consequently, for example, pursuant to this "Constitutional Law," the Executive Branch could "disapply" the provisions of the Organic Law on Hydrocarbons that require the National Assembly's authorization to incorporate mixed enterprises in the hydrocarbons sector, which would evidently be unconstitutional, because laws can only be abrogated by other laws, and their enforcement or application cannot be "suspended" by an executive decision.

In any event, it should be noted that the authorization given to the Executive Branch in the unconstitutional "Constitutional Law" to "disapply" organic laws and laws, in no case implies the possibility for it to also "disapply" the Constitution, particularly, the provision in its Article 151 that requires that all cases of national public interest contracts intended to be entered into with foreign states, foreign official entities or foreign companies not domiciled in the country must be previously authorized by the National Assembly (Art. 151). Of course, it would be totally inadmissible and unlawful that the Commercial Registry be deemed "secret" and conceal the information about foreign companies that might be domiciled in the country, in order to circumvent this constitutional requirement for parliamentary control.

V. SECRECY AS A RULE FOR IMPLEMENTING THE "CONSTITUTIONAL LAW" AND, PARTICULARLY, WITH REGARD TO DISAPPLYING LEGAL RULES

The framework of legal uncertainty that is expressly "regulated" in the "Constitutional Law," based on the power granted to the Executive Branch of Government to disapply all kinds of rules as it may deem indispensable for enforcing the economic measures in order to implement the purposes of the Law, is

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[18] See Allan R. Brewer-Carías, "El control político de la Asamblea Nacional respecto de los decretos de excepción y su desconocimiento judicial y Ejecutivo con ocasión de la emergencia económica decretada en enero de 2016**,** en *VI Congreso de Derecho Procesal Constitucional y IV de Derecho Administrativo*, *Homenaje al Prof. Carlos Ayala Corao*, *10 y 11 noviembre 2016*, FUNEDA, Caracas 2017. pp. 291-336.

[19] See Allan R. Brewer-Carías, "La paralización de la Asamblea Nacional: la suspensión de sus sesiones y la amenaza del enjuiciar a los diputados por "desacato," en *Revista de Derecho Público*, No. 147-148, (julio-diciembre 2016), Editorial Jurídica Venezolana, Caracas 2016, pp. 322-325

complemented in an aberrant and astonishing manner by providing that such "disapplying" of rules must necessarily be effected in a concealed frame of secrecy and confidentiality,[20] behind the backs and not known by the citizens.[21]

It is elementary that in order for any law or rule to have legal effects vis-à-vis the citizens, the same must be published. However, according to the provisions of this "Constitutional Law," the disapplying of laws and regulations that it authorizes in order to implement the change to an economic policy of destatization, denationalization and privatization, which also affects all the citizens, is declared a matter pertaining to the "security of the Nation" and considered a secret activity of the State. This place the citizens in the absurd situation of not knowing or being able to know –because this is forbidden, it is secret- what rule is applied or not, or what transaction has been made, and under the Organic Law of National Security they may even be subject to imprisonment if they purport to "disclose" the secret (Art. 55).

And it is within this framework that the regime purports the absurdity of implementing measures to "attract" investors, who primarily demand "legal certainty" in any part of the world; that is, unless the purpose of the law is to consider investors that only move in the shadows.

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[20] As it has been recognized by the Vice President of the Republic: "The Law provides for mechanisms of confidentiality in the information, confidentiality in the identity in question, in the development of the activity, there is a system with a technological platform that will allow the protection of these investments." See in en Agencia Efe, "Delcy Rodríguez: No revelaremos la procedencia de las inversiones extranjeras o nacionales," en *Noticiero Digital ND*, October 18, 2020, available at: https://www.noticierodigital.com/2020/10/delcy-rodriguez-no-revelaremos-la-procedencia-de-las-inversiones-extranjeras-o-nacionales/ See also in: EFE, "El régimen dice que Venezuela recibirá inversiones sin revelar su procedencia de fondos," in *El Nacional*, October 18, 2020, available at in: https://www.elnacional.com/venezuela/el-regimen-dice-que-venezuela-recibira-inversiones-sin-revelar-su-procedencia-de-fondos/

[21] In this regard, Jesús Rangel Rachadell has stated that "it was said that the law was intended to "shield us," and the first shield is that it is forbidden to inquire about the economic transactions related to this law, because it precludes access to the information. […] It conceals who acquires State property, how much they pay, terms and conditions, guaranties, exceptions from liability, bids or direct awards, the formalities and records, the applicable jurisdiction (country where the obligations may be enforced), causes for nullity, methods of interpretation […] What is an outrage is that we citizens remain without knowledge about the disapplying of legal or sub-legal rules in order for the State to negotiate unchecked." See Jesús Rangel Rachadell, "Todo será secreto," in *El Nacional*, October 13, 2020, available at: https://www.elnacional.com/opinion/todo-sera-secreto/

The clearest evidence of this juridical aberration is found in Article 43 of the Law, which provides that:

> "*the procedures, formalities and records made on the occasion of implementing any of the measures set forth"* […in] this Constitutional Law that "*imply disapplying rules of a legal or sub-legal rank*" are declared to be *secret and reserved* […].

If this were not enough, based on that general provision of reserve and secrecy, Article 37 establishes what it refers to as a "transitory system for the classification of documents having confidential and secret contents for the purpose of protecting and guaranteeing the efficacy of the decisions made by the Venezuelan Public Power to protect the State against coercive unilateral measures, punitive measures and other threats." –which system is not at all transitory, for it lasts, as stated in Article 43 "up to 90 days after the unilateral coercive measures and other restrictive or punitive measures that have propitiated the situation have ceased."

Article 39 of the "Constitutional Law" further insists on the confidentiality and secrecy, when authorizing the "highest authorities of the bodies and entities of the central and decentralized National Public Administration" to consider "by reasons of national interest and convenience," "as reserved, confidential or of limited disclosure any record, document, information, fact or circumstance, that they become aware of in the performance of their duties, by application of the Constitutional Law," which should be done "by means of a duly *justified* formality, for a given term and with the ultimate purpose of guaranteeing the effectiveness of the measures designed to counteract the adverse effects of the unilateral coercive measures, punitive measures or other threats imposed." The latter, obviously, is of no use because the motivation of state actions is set to allow control of their legitimacy, legality and proportionality; however, since they are secret, it is useless to require their rationale.

The consequence of the confidentiality statement is that said documentation, characterized as secret, confidential and reserved, "shall be filed in separate case files or records, using mechanisms that guarantee its safety," visibly placing in their "cover the relevant warning, stating the restriction to their access and disclosure and the liabilities incurred by officials or persons who may infringe the respective system" (Art. 40)

There is another consequence arising from this regulation expressing the lack of transparency and this is, as stated in Article 41 of the Law, the establishment of a prohibition to "access documentation that has been characterized as confidential or reserved," which implies that no "simple or certified copies may be issued thereof."

This prohibition to access the documents, generally set forth in Article 41 and specifically developed in Articles 37 et seq., evidently is entirely incompatible with and contradicts the text of Article 38, which provides as a right of the people "to have access to administrative files and records, whatever their form of expression or type of material support that contain them, […] so as not to affect the effectiveness of the measures for counteracting the effects of the unilateral measures, punitive measures or other threats, nor the operation of public services, nor the satisfaction of the people's needs due to the interruption of the administrative processes set up for such purposes."

If everything is confidential, secret and has restricted access, which, of course, violates the Constitution, it is not possible to guarantee any right of access thereto.

Finally, the provisions in the Law about the subsequent "control" by the Office of the Comptroller General of the Republic (Art. 13), a body that, as is well known, has no autonomy, even appear to be innocuous, because in order for the Comptroller's office to have access to the secret documents, it must "coordinate" the manner of exercising its control with the Executive Branch (Art. 43), which in itself is a negation of control.

The "Constitutional Law" also reaches the absurdity of subjecting the judicial bodies that need the information labeled as confidential, in open violation of the autonomy and independence due to judges, to "formalize" their requests before the Office of the Attorney General of the Republic, who has the last word (Art. 44).

FINAL CONSIDERATIONS

It can be deemed that the "Constitutional Law" approved by the fraudulent and unconstitutional National Constituent Assembly, convened and elected unconstitutionally in 2017, which –even if it had been lawfully elected- would in no event have legislative powers, is of no legal value because it is contrary to the Constitution, being only an act of force against the legal system of the rule of law.[22]

Moreover, it delegated practically unlimited legislative powers to the Executive Branch to fill in the voids arising from the disapplying of laws, which ultimately

[22] For this reason, the National Assembly, by means of Agreement dated October 13, 2020, when "reiterating that the fraudulent National Constituent Assembly is legally non-extant and its decisions are ineffective," agreed to "disavow all parts of the so-called "Anti-blockade law for national development and guaranty of human rights," and, consequently, consider it non-extant and ineffective." See "Acuerdo en desconocimiento de la irrita Ley Antibloqueo dictada de manera inconstitucional por la fraudulenta Asamblea Nacional Constituyente," available at: https://asambleanacional-media.s3.amazonaws.com/documentos/acto/acuerdo-en-desconocimiento-de-la-irrita-ley-antibloqueo-dictada-de-manera-inconstitucional-por-la-fraudulenta-asamblea-nacional-constituyente-20201013204743.pdf

purports to change the economic policy in a covert, opaque, secret and not at all transparent manner, by destatizing, denationalizing and privatizing the economy by promoting and protecting the participation of national and international private capital in the economy. But it only protects the participation of those who operate in darkness and opacity, being this the outcome of a framework of total legal uncertainty and secrecy that could only lead to the indiscriminate transfer of the State's assets to national and foreign individuals, handpicked at the regime's discretion, absent any guaranty of control or budgetary discipline.

Within this frame of legal uncertainty and executive disapplying of laws in secrecy and with no transparence, it is a total fallacy to expect to effectively attract and incorporate national and international private investments in Venezuelan productive centers, particularly in the oil sector, compatibles with the national interests;[23] with the serious threat that those who finally will be able to take part in the indiscriminate and secret share-out of the remains of the economy in order to deliberately conceal their implications, could not be the best in order to guarantee the rights and interests of the Venezuelan people.[24]

For those interested in history and in similar laws and policies sanctioned and enforced in other countries, one can say that this "Anti-blockade Law," *by itself*, poses the serious risk of ending up giving rise altogether to situations like those that, derived, *on the one hand*, from the Law to Remedy the Distress of People and the *Reich*, approved as an "enabling law" by the German Parliament on March 23, 1933, which delegated to Chancellor Adolf Hitler all the legislative powers (for example,

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[23] See the review: "Ley antibloqueo faculta a Maduro privatizar participación de PDVSA en empresas mixtas," in *Petroguí@,* October 4, 2020, available at: http://www.petroguia.com/pet/noticias/petr%C3%B3leo/ley-antibloqueo-faculta-maduro-privatizar-participaci%C3%B3n-de-pdvsa-en-empresas. See also in: "Ministro Tareck El Aissami: Ley Antibloqueo fortalecerá la industria petrolera nacional," 1 de octubre de 2020, Available at: https://www.vtv.gob.ve/el-aissami-ley-antibloqueo-fortalecera-industria-petrolera/ ; y en: "Ley Antibloqueo': Maduro busca más poder legal en Venezuela para sellar nuevos negocios petroleros," October 1, 2020, available at: https://albertonews.com/nacionales/ley-antibloqueo-maduro-busca-mas-poder-legal-en-venezuela-para-sellar-nuevos-negocios-petroleros/

[24] See, for example, the opinión of several political leaders in the document "Acta de remate de la República," in the report, "Líderes políticos alertan: régimen de Maduro pretende rematar Venezuela. En un documento público, María Corina Machado, Antonio Ledezma, Diego Arria, Humberto Calderón Berti, Asdrúbal Aguiar, Enrique Aristeguieta Gramcko y Carlos Ortega se dirigen a los venezolanos y a la comunidad internacional para denunciar de las maniobras para liquidar y blanquear los activos de la nación en un acto de traición a la patria," in *El Nacional*, October 11, 2020, available at: https://www.elnacional.com/venezuela/lideres-politicos-alertan-regimen-de-maduro-pretende-rematar-venezuela/. Also available at: https://www.el-carabobeno.com/documento-publico-maduro-se-propone-rematar-en-secreto-bienes-de-la-nacion/

Article 1 provided that: "In addition to the procedure prescribed by the constitution, laws of the Reich may also be enacted by the government of the Reich"; and Article 4, that "Treaties of the Reich with foreign states, which relate to matters of Reich legislation, shall for the duration of the validity of these laws not require the consent of the legislative authorities," which law was the fundamental legal basis for the final collapse of the Weimar Republic and the consolidation of Nazi Germany; [25] and, *on the other hand*, those resulting from the *giant program for the privatization of public companies of the former Soviet Union* carried out between 1991 and 1999 under the government of the first Russian President, Boris Yeltsin, which allowed for the most important and oldest public companies to end up, in the midst of great corruption and crimes, in the hands of the so-called "Oligarchs," that is, the "nouveau riche" who were close to the regime.[26]

We hope that none of this happens in Venezuela, and much less what Karl Marx wrote in 1851, that "history occurs twice: first as a tragedy and then as a farce."[27]

New York, October 18, 2020

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[25] See on this matter, among others, William Sheridan Allen, *The Nazi seizure of power*. Echo Point Books & Media, 2010; and the review published in *Rea Silva*, "La muerte de la democracia en Alemania. Una democracia liberal no muere de un día para otro. Para acabar con el marco legal de un estado de derecho es necesario una serie de actores capaces de minar su legitimidad y estabilidad mediante todo tipo de tácticas políticas," available at https://reasilvia.com/2017/09/la-muerte-la-democracia-alemania/

[26] See on this matter, among others, Chrystia Freeland, *Sale of the Century: Russia's Wild Ride From Communism to Capitalism*, Crown Business, 2000; David Hoffman, *The Oligarchs: Wealth and Power in New Russia*, Public Affairs, 2002; and the review by Jeffrey Hay, in *Facts and details*, "Russian Privatization and Oligarchs. Privatization Of Russian Industry," 2016, available at http://factsanddetails.com/russia/Economics_Business_Agriculture/sub9_7b/entry-5169.html

[27] Karl Marx's famous phrase with which he began his study about "The Eighteenth Brumaire of Luis Bonaparte," published in *Die Revolution*, New York, 1852, said: "Hegel remarks somewhere that all great world-historic facts and personages appear, so to speak twice. He forgot to add: the first time as tragedy, the second time as farce." See Karl Marx, *El 18 Brumario de Luis Bonaparte*, available at: https://www.marxists.org/archive/marx/works/1852/18th-brumaire/ch01.htm