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## Venezuela's 2007 Enabling Law

On January 31, 2007 Venezuela's National Assembly passed the Ley Habilitante, or the Enabling Law. This law, which was debated with the participation of civil society in a special open-air session of the National Assembly, allows the President to pass laws by decree for 18 months. Among those who engaged in the public discussion mandated by article 211 of the Venezuelan Constitution, and subsequently supported the final passage of the law, were everyday Venezuelans representing women's organizations, student's groups, and farmers, among many others.

The main components of the law are quite simple. For 18 months the powers of the executive will be extended to allow the passage of laws by decree in 11 key areas including public administration, taxation, and civic participation, just to name a few.

The laws that will be drafted in each sector are aimed at increasing efficiency, weeding out corruption, and providing more avenues for upward mobility for the citizenry. For instance, the stated goal in the sphere of public administration is to identify and train local and state officials in key values of public service while also strengthening the ethics of public servants.<sup>1</sup> In the economic and social arena, the goal is to achieve equality and the equitable distribution of wealth through investment in health care, education, and social security.<sup>2</sup> In relation to the energy sector, oil production in the Orinoco Oil Belt may be nationalized as well as the electricity sector.<sup>3</sup> According to the Associated Press, Chavez also plans to "carry out reforms aimed at bringing 'power to the people' through thousands of newly formed Communal Councils designed to give Venezuelans a say on spending an increasing flow of state money on projects in their neighborhoods, from public housing to potholes."<sup>4</sup>

### Key Sectors Affected by the Enabling Law

1. State functions.
2. Popular (grassroots) participation.
3. Public Administration.
4. Economic and social model.
5. Finances and taxation.
6. Citizen and judicial security.
7. Science and technology.
8. Territorial order.
9. Security and defense.
10. Infrastructure, transport, and services.
11. Energy sector.

*\*For the complete description of each see Venezuela's National Assembly website at: [www.asambleanacional.gov.ve/](http://www.asambleanacional.gov.ve/)*

<sup>1</sup> Venezuelan Legislature Allows President to Pass Laws by Decree for 18 Months, By Gregory Wilpert, Jan. 31, 2007 <http://www.venezuelanalysis.com/news.php?newsno=2207>

<sup>2</sup> Ibid.

<sup>3</sup> Ibid.

<sup>4</sup> Chavez Gains Free Rein in Venezuela, Associated Press, February 1, 2007, [http://www.nytimes.com/aponline/world/AP-Venezuela-Chavez.html?\\_r=1&oref=slogin](http://www.nytimes.com/aponline/world/AP-Venezuela-Chavez.html?_r=1&oref=slogin)

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Hugo Chavez is not the only Venezuelan president to be granted this power, which both the 1961 and 1999 constitutions have permitted. Nor is Venezuela the only country to include it in its constitution (article 203). The Spanish, German, and Italian constitutions also have clauses which permit the executive branch to legislate by decree.<sup>5</sup>

In Venezuela's case, in 1974 it was granted to President Carlos Andres Perez, in 1984 to President Jaime Lusinchi, and to interim President Ramon Jose Velasquez in 1993. The majority of the U.S. press and top government officials never raised concern over the use of the law under the previous administrations but today they have taken a different posture. Interestingly, Thomas Shannon, Assistant Secretary of State for Western Hemisphere Affairs, acknowledges that, "It's something valid under the constitution.... As with any tool of democracy, it depends how it is used." He went on, "At the end of the day, it's not a question for the United States or for other countries, but for Venezuela."<sup>6</sup> And that's exactly what Venezuelans will decide in the months ahead.

For the first time in Venezuela's history, the Enabling Law now gives the right to any Venezuelan to hold a referendum against laws established by decree as long as those laws do not deal with issues of human rights, international agreements, and the reinstatement of the death penalty, as explained in Article 74.<sup>7</sup> In fact, the day after the law was passed President Chavez was quoted in a local Venezuelan newspaper, El Universal, "If a Venezuelan does not like a law, that Venezuelan has the right to call the media outlets, convene an assembly, draft a petition, and look for signatures. They only need to have 10% of the signatures of citizens registered in the Electoral Registry, meaning 1.6 million Venezuelans."<sup>8</sup>

As all eyes will certainly be on Venezuela during the next 18 months, it is important to remember that this is not the first time that Chavez has been granted this power. In 2000 he used the Ley Habilitante to pass 49 laws including the fishing rights law, the hydrocarbons law, and the land reform law, all of which have been widely extolled as successes by the general public.

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<sup>5</sup> Article 82 of the Spanish Constitution, Article 77 of the Italian Constitution, and Article 80 of the Issues of Ordinances in the German Constitution.

<sup>6</sup> Chavez Gains Free Rein in Venezuela by Fabiola Sanchez, Associated Press, February 1, 2007

<sup>7</sup> [http://www.washingtonpost.com/wp-dyn/content/article/2007/01/31/AR2007013100192\\_pf.html](http://www.washingtonpost.com/wp-dyn/content/article/2007/01/31/AR2007013100192_pf.html)

<sup>8</sup> Ley Habilitante 2007, Article 74, January 31, 2007. [www.asambleanacional.gov.ve/](http://www.asambleanacional.gov.ve/)

<sup>8</sup> Presidente Chavez promulg Ley Habilitante, El Universal, February 1, 2007, <http://www.eluniversal.com/2007/02/01/anuncios.shtml>