

The Path to Authoritarianism: How do we get there?!

Written by Patricia Sohn

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PATRICIA SOHN, MAR 8 2018

Chile seems to have avoided it, but Argentina was all about it in some periods. Nazi Germany is in some ways its apex, although one might say the same for Stalin's Soviet Union. Napoleon, of course, was an inspiration for many in this process, including Colombia and the Soviet Union. There are cases where the line between independent judiciary *versus* judiciary-as-administrative agency (e.g., judiciary-as-arm-of-the-executive, sometimes of the legislature as well, or what in its milder forms can be called "judicial deference") is problematic in other parts of the world, too. And, then, there is the United States.

Here, there is much playing with the model of judiciary-as-administrative agency, with non-judicial *and* non-executive branch court-appointees in place to "lighten the load" of the executive. That is, rather than following through on the executive branch job of overseeing and intervening in social issues where they exist, citizen rights and basic constitutional protections are cast aside in the service of self-appointed "experts" who are not, functionally, overseen by any government agency whatsoever in their daily work or decisions – not the judicial branch, and not the executive. No accountability: No democracy. The *Guardian Ad Litem* movement is a perfect example of this travesty against the constitutional rights of U.S. citizens everywhere. While, in writing, originally intended to represent the interests of children when parents cannot agree, in practice, it is used to remove children from parents who are poor, people of color, women, or in some other way not part of the dominant-Leftist-secular-atheist-Socialist-hegemon that drives the courts in many parts of the country. Ask any person of color or person from a religious minority under-represented in the political process, and they will tell you. It is a system ripe for abuse with almost no public accountability.

In what world is it legal to take away the *legal rights* of parents to represent their own children's best interests – and perhaps to take the children away altogether – just because they are poor, etc.? It is better that we be more honest about what we are doing and call it human trafficking of children on the part of the powerful against the parents and children of the less powerful. That makes it sound like what it is, and it reminds that this sort of policy falls under the Statute of Rome as **crimes against humanity** (see Part II, Articles 6 and 7). Efforts at "ethnic planning," shall we say, or "economic planning" whereby wealthy communities seek to remove the children of the poor or people of color in order to "homogenize" them into the "dominant" (read that, an actual minority) normative community falls under: *forcible transfer of children to another group, including forced adoptions; forcible population transfer; sexual slavery, forced pregnancy and/or forced sterilization for purposes related to controlling group or race*, etc. Parts of it fall under the Statue of Rome, in addition, some aspects fall under the UN Convention on the Prevention and Punishment of Genocide (see Articles II and III), which includes physical and cultural **genocide** by group/community.

It still happens every day in the American South. It is not small-fry trespassing that I'm talking about here. Check the registries of private (and many public) adoptions. Deciding that there is a Black culture or cultures, or a poor culture or cultures in the U.S. and that they should be wiped out by "well-meaning" and wealthy New Stalinists (read that, Leftist Bolsheviks) who think they know better for all of us falls very much under these provisions.

The American Psychological Association, even in its rare moments of theoretical agreement, does not substitute for the Constitution of the United States of America – even when it comes to parents and children. Is the colonizing impulse really so ingrained in some individuals that they just *must* put their noses in the lives of other women's and

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men's and children's private existence no matter what? This movement appears to be the last great bastion for those seeking control of other people, since colonialism has become so *passé*...

Why are judiciaries-as-administrative-agencies not a good idea? In cases such as Argentina and Brazil, when judiciaries were asked to rubber-stamp the repressive policies of dictators against their own peoples, sometimes the judges stood up to the dictators, and sometimes they did not. Entrenched authoritarian regimes use judges and judiciaries to give credibility and legitimacy to their various degrees of autocratic rule. One of the key tools that oppressive regimes use in this effort is the development of judiciaries-as-administrative-agencies, sometimes also known as "judicial bureaucracies." By contrast, political systems in transition often go back and forth between judicial independence and judges as an arm for the executive branch for some amount of time.

In Nazi Germany, entire prison systems were administered through what was called the "judicial administration." The Nazi system in its early days used courts – and especially courts as administrative agencies – to take away citizens' businesses, property, and other rights without due process. Judges acted as judge, jury, police, prison guard, and otherwise as the enforcement agency for their own decisions. Why is this not a good idea? If we still have to discuss why Nazi Germany is not a good model for democracy, then we have gone much further down the road to authoritarianism than I was, until now, aware.

Judiciaries not checked *and* decisions not enforced by the *outside* institution of the executive branch falls into the very serious problem of arbitrary rule, which, it has been noted, was a key cause for the American Revolution.

Some of our fellow-citizens have become our own oppressors. Avoiding checks and balances, and separation of powers, within a democracy, is like avoiding spinach and other vegetables when you're a kid. It may seem like a good idea at the time. But it will starve your body of nutrients, affecting your brain development as well as the strength of your bones, just as avoiding checks and balances, and separation of powers will rob your people of the institutions of democracy and due process. It is only a matter of time and of degree.

About the author:

Dr. Patricia Sohn, Ph.D., is Associate Professor of Political Science at the University of Florida. She is co-editor of *Beyond the Death of God: Religion in 21st Century International Politics*, (University of Michigan Press 2022); and author of *Judicial Power and National Politics: Courts and Gender in the Religious-Secular Conflict in Israel* (SUNY Press 2017 and 2008).