
Supreme Court of Injustice: Terrible impunity

By: Arnaldo Musa / Special for CubaSi
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Busy with the designation of the North American companies that will receive billions of dollars for the continued and massive weapons shipment to Ukraine, President Joe Biden finds himself virtually handcuffed by the decisions of a Supreme Court that they say stands for Justice, which contradicts the feeling of the majority and becomes elements of conflict, by rejecting progressive social developments and turning them into reactionaries in matters of abortion, weapons, religion and the environment.

The Los Angeles Times describes as revolutionary the laws issued by a Court controlled by conservative elements (six out of nine), three of whom had been appointed by the former president, Donald Trump, and which now contradict what Biden tried to amend, aiming to avoid new and massive protests and paying attention to the upcoming mid-term elections, where everything points the Democratic Party is losing.

The truth is that, in its first session, the Court's conservative majority issued significant decisions that limit the regulatory powers of the government. And that majority has indicated that it has no plans to stop and appears poised to maintain control of the Court for years, even decades, to come.

Ending a nearly half-century constitutional guarantee of abortion rights had the most immediate impact, closing or restricting abortions in about a dozen states.

By expanding gun rights and finding religious discrimination in two cases, judges also made it harder to uphold control laws and reduce barriers to religion in public life.

By setting new crucial limits on regulatory authority, the justices also curbed the government's ability to combat climate change and blocked an attempt by Biden to vaccinate workers at big businesses against COVID-19.

Those decisions do not seem particularly popular with the public, and polls show a sharp drop in the court's approval rating and in people's trust in the body as an institution.

Liberal judges admitted that the Court's decisions are damaging it as an institution. Sonia Sotomayor described her companions as "a restless and recently constituted court." Elena Kagan, in her dissent on abortion, wrote: "The Court changes course for one reason and one reason only: because the composition of this Court has changed."

In 18 decisions, at least five conservative judges joined to form a majority and all three progressives disagreed in roughly 30% of all the cases the Court heard in its session that began in October last year.

The court made it more difficult for people to sue state and federal authorities for violations of constitutional rights; raised the cap on defendants who claim their rights were violated, ruling against a Michigan man who was handcuffed during trial; and limited how some death row inmates and others sentenced to long prison terms can make claims that their attorneys did a poor job in representing them.

In emergency appeals, also called "shadow" court filings because judges often provide little or no explanation for their actions, conservatives ordered the use of congressional districts for this year's elections in Alabama and Louisiana, even though lower federal courts found they likely violated the federal Voting Rights Act by diluting the power of black voters.

The Court will also weigh a controversial Republican-led appeal that would vastly increase the power of state lawmakers, and other issues give rise to ideologically divided decisions, as in the case of the intersection of LGBTQ and religious rights, as well as other major environmental case related to development and water pollution.

DOMINANT ROLE

With recent decisions on abortion, gun control, religious freedom, and the environment, the United States Supreme Court once again reaffirmed its core role in the country.

The nine judges are not elected, serve for life, and until recently were all white men. But their actions have helped define the American way of life for over two centuries and they are now dismantling the separation between Church and State.

It can override or change its own precedent over time, as it did with decisions that allowed racial segregation or with the last month's reversal of a 1973 decision that guaranteed the constitutional right to abortion.

They can indirectly override decisions, and they can amend the Constitution, but this is a Herculean political task that requires, in theory, massive public support, which does not exist for either party so far.

In essence, the court decides whether laws and government actions are constitutional and describes the breadth and limits of government.

Supreme Court judges are appointed by the President and approved by the legislature, and can serve until death or retirement. It means that, in theory, they are insulated from the whims of the political branches. But that does not make judges popular: Current polls show that less than a third of Americans trust the court.

And although they can be removed by the same process that is used for the President, it has never happened, despite having endorsed rulings that made innocent people lose their lives, as in the case of the seven anarchists tried in 1887 in Chicago, five of them were sentenced to death by hanging for the death of a police officer at a rally that became a tragedy due to the explosion of a bomb that was not dropped by them, some of whom were not even present.

Our José Martí, when criticizing the demands of a bloodthirsty press, judges who caved in under threats, false witnesses, and the selection of juries who were convinced of guilt, wrote about the death of the anarchists (Volume 27 of the Complete Works, Critical Edition, page 87):

"He who excuses his vices and crimes out of a womanly fear of appearing lukewarm in his defense does not deserve the dictate of a defender of freedom. Nor deserving of forgiveness are those who, incapable of taming the hatred and antipathy that crime inspires, judge social crimes without knowing and considering the historical causes of which they were born, nor the impulses of generosity that produce them."

