

# Las Armas de Coronel

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## [CHAVEZ DICTATOR, SAYS ALLAN BREWER CARIAS](#)



Allan Brewer Carias, Venezuelan Constitutionalist.

In a conference given at the Duquesne University School of Law, Pittsburgh, in November 2008, Venezuelan Constitutionalist Allan Brewer had this to say, to explain how the Hugo Chavez government had become an authoritarian regime without effective separation of powers while keeping up some pretenses of legality:

*"In any system of separation of powers, even with five separate branches of government (Legislative, Executive, Judicial, Citizen and Electoral), in order for such separation to become effective, the independence and autonomy among them has to be assured in order to allow check and balance, that is, the limitation and control of power by power itself. This was the aspect that was not designed as such in the 1999 [Venezuelan] Constitution, and notwithstanding the aforementioned penta separation of powers, an absurd distortion of the principle was introduced by giving the National Assembly the authority not only to appoint, but to dismiss the Judges of the Supreme Tribunal of Justice, the Prosecutor General, the General Comptroller, the People's Defendant and the Members of the National Electoral Council (Articles 265, 279 and 296); and in some cases, even by simple majority of votes".*

In other words, although there was a theoretical separation of powers built into the 1999 Venezuelan constitution, the National Assembly, totally controlled politically by Hugo Chavez and mostly through the votes of a simple majority, could name or remove the members of all other powers. As Dr. Brewer says, it became impossible for the powers to be autonomous or independent. In fact, whenever a judge decides against the will of the Executive (Chavez) he, she is removed. This has led, adds

Brewer, to a total absence of fiscal or audit control. In particular the Comptroller's office is more concerned with the disqualification of opposition candidates and political dissidents than with its proper duties.

Dr. Brewer illustrates how the constitution has been further perverted:

*"independently of the constitutional provisions regarding the possible dismissal by the National Assembly of the Heads of the non elected branches of government, and its distortions, one of the mechanisms established in order to assure their independence, was the provision in the Constitution of a system to assure that their appointment by the National Assembly was to be limited by the necessary participation of special collective bodies called Nominating Committees that must be integrated with representatives of the different sectors of society (arts. 264, 279, 295). Those Nominating Committees are in charge of selecting and nominating the candidates, guaranteeing the political participation of the citizens in the process.*

*Consequently, the appointment of the Justices of the Supreme Tribunal, of the Members of the National Electoral Council, of the Prosecutor General of the Republic, of the People's Defendant and of the Comptroller General of the Republic, can only be made among the candidates proposed by the corresponding "Nominating Committees," which are the ones in charge of selecting and nominating the candidates before the Assembly. These constitutional provisions seek to limit the discretionary power the political legislative organ traditionally had, to appoint those high officials through political party agreements by assuring political citizenship participation. Unfortunately, these exceptional constitutional provisions have not been applied, due to the fact that the National Assembly during the past years, also defrauding or perverting the Constitution, has deliberately "transformed" the said Committees into simple "parliamentary Commissions" reducing the civil society's right to political participation."*

Although the constitution stipulated a mechanism to incorporate civil society into the selection process of the members of the different powers, this mechanism was never implemented. By integrating the "committees" with parliamentary members loyal to Chavez the selection process has become a fraud.

In relation to the judiciary, says Dr. Brewer, the fraud is complete:

*"The process began with the appointment, in 1999 of new Magistrates of the Supreme Tribunal of Justice without complying with the constitutional conditions, made by the National Constituent Assembly itself, by means of a Constitutional Transitory regime sanctioned after the Constitution was approved by referendum. From there on, the intervention process of the Judiciary continued up to the point that the President of the Republic has politically controlled the Supreme Tribunal of Justice and, through it, the complete Venezuelan judicial system".*

The fraud is so shameless that one magistrate of the Supreme Tribunal of Justice, Fernando Vegas Torrealba, made a fully paid 2006 tour of some 12 cities in the United States extolling the virtues of the strongman and of the "revolution". I attended the one he made at the American University School of Law, in front of a reduced number of U.S. law students who were amazed to hear a magistrate of the "supreme" court converted into a cheer leader for a despot.

The selection of the magistrates is controlled by Chavez, as admitted by the president

of the selection committee of the National Assembly: "Although we, the representatives, have the authority for this selection, the President of the Republic was consulted and his opinion was very much taken into consideration." He added: "Let's be clear, we are not going to score auto-goals. In the list, there were people from the opposition who comply with all the requirements". Not one was selected.

As a result, says Dr. Brewer: "This configuration of the Supreme Tribunal, as highly politicized and subjected to the will of the President of the Republic has eliminated all autonomy of the Judicial Power and even the basic principle of the separation of powers, as the corner stone of the Rule of Law and the basis of all democratic institutions"

As a result of all these maneuvers and stratagems Chavez has become a dictator. Dr. Brewer provides other examples:

"during July and August 2008, the President of the Republic, according to the powers to legislate by decree that were delegated upon him by his completely controlled National Assembly on January 2007, sanctioned 26 very important new Statutes with the intention of implementing, of course in a fraudulent way, all the constitutional reform proposals that were rejected by the people in the 2007 December referendum. Unfortunately, even being all-unconstitutional, those Decree Laws have been enacted and will be applied without any possibility of control or judicial review".

Even a geologist such as myself can see that this represents a true coup d'état, done in full daylight, under the noses of the hemispheric community of nations, where Chavez is still considered a democratic president by leaders such as Lula da Silva, Jose Miguel Insulza and Michele Bachelet, just to name a few.

In a speech given in August 28, 2008, Chavez had this to say in his traditional elegant style:

*"I warn you, group of Stateless, putrid opposition.*

*Whatever you do, the 26 Laws will go ahead! And the other 16 Laws,... also.*

*And if you go out in the streets, like on April 11 (2002)... we will sweep you in the streets, in the barracks, in the universities. I will close the opposition media;*

*I will have no compassion whatsoever ...This Revolution came to stay, forever !*

*You can continue talking stupid things ... I am going to intervene all communications and I will close all the enterprises I consider that are of public usefulness or of social interest! Out [of the country] contractors and members of Fourth*

*Republic corrupt people!*

*I am the Law ... I am the State!!*

(See the reference of this speech at the blog of Gustavo

Coronel, <http://www.lasarmasdecoronel.blogspot.com/>, posted October 15, 2008).

Is this the speech of a democratic leader? Is this the speech of a mentally sane leader?

Dr. Brewer ended his speech at Duquesne quoting Teodoro Petkoff's article on the Harvard Review for Latin America, Fall 2008, where he said:

*"Chavez controls all the political powers. More than 90% of the Parliament obey his commands; the Venezuelan Supreme Court, whose number were raised from 20 to 32 by the parliament to ensure an overwhelming officialist majority, has become an extension of the legal office of the Presidency... The Prosecutor General's Office, the Comptroller's Office and the Public Defender are all offices held by "yes persons," absolutely obedient to the orders of the autocrat. In the National Electoral Council, four of five members are identified with the government. The Venezuelan Armed Forces are tightly controlled by Chavez. Therefore, from a conceptual point of view, the Venezuelan political system is autocratic. All political power is concentrated*



in the hands of the

President.

There is no real separation of Powers.”

This is what we have in Venezuela today. This is what Venezuelans are up against. No only Venezuelans but the hemispheric community of nations.

As lawyers would say: I rest my case.

Publicado por Gustavo Coronel en [8:37](#) [0 comentarios](#)  