

America and Venezuela: Constitutional Worlds Apart

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Region: [Latin America & Caribbean, USA](#)

Global Research, August 22, 2007

22 August 2007

Although imperfect, no country anywhere is closer to a model democracy than Venezuela under President Hugo Rafael Chavez Frias. In contrast, none is a more shameless failure than America, but it was true long before the age of George W. Bush. The difference under his regime is that the mask is off revealing a repressive state masquerading as a democratic republic. This article compares the constitutional laws of each country and how they're implemented. The result shows world's apart differences between these two nominally democratic states - one that's real, impressive and improving and the other that's mostly pretense and under George Bush lawless, corrupted, in tatters, and morally depraved.

US Constitutional Law from the Beginning

Before they're old enough to understand its meaning, young US children are taught to "pledge allegiance to the flag of the United States of America and to the Republic for which it stands," and, by inference, its bedrock supreme constitutional law of the land. At that early age, they likely haven't yet heard of it, but soon will with plenty of misinformation about a document far less glorious than it's made out to be.

This article draws on Ferdinand Lundberg's powerfully important 1980 book, "Cracks in the Constitution," that's every bit as relevant today as then. In it, he deconstructs the nation's foundational legal document, separating myth from reality about what he called "the great totempole of American society." He analyzed it, piece by piece, revealing its intentionally crafted flaws. It's not at all the "Rock of Ages" it's cracked up to be, but students at all levels don't learn that in classrooms from teachers going along with the deception or who simply don't know the truth about their subject matter.

The Constitution falls far short of a "masterpiece of political architecture," but it's even worse than that. It was the product of very ordinary scheming politicians (not the Mt. Rushmore types they're portrayed as in history books) and their friends crafting the law of the land to serve themselves while leaving out the greater public that was nowhere in sight in 1787 Philadelphia. Unlike the Venezuelan Constitution, discussed below, "The People" were never consulted or even considered, and nothing in the end was put to a vote beyond the state legislative bodies that had to ratify it. In contrast to popular myth, the framers crafted a Constitution that didn't constrain or fetter the federal government nor did they create a government of limited powers.

They devised a government of men, not laws, that was composed of self-serving devious officials who lied, connived, used or abused the law at their whim, and pretty much operated ad libitum to discharge their duties as they wished. In that respect, things weren't much different then from now except the times were simpler, the nation smaller, and the ambitions of those in charge much less far-reaching than today.

The Constitution can easily be read in 30 minutes or less and just as easily be misunderstood. The opening Preamble contains its sole myth referring to “We the people of the United States of America.” The only people who mattered were white male property owners. All others nowhere entered the picture, then or mostly since, proving democracy operatively is little more than a fantasy. But try explaining that to people today thinking otherwise because that’s all they were taught from the beginning to believe.

They were never told the American revolution was nothing more than a minority of the colonists seceding from the British empire planning essentially the same type government repackaged under new management. Using high-minded language in Article I, Section 8 of the supreme law of the land, the founders and their successors ignored the minimum objective all governments are, or should be, entrusted to do – “provide for....(the) general welfare” of their people under a system of constitutional law serving everyone. But that’s not its only flaw build in by design.

Our revered document is called “The Living Constitution,” and Article VI, Section 2 defines it as the supreme law of the land. In fact, it’s loosely structured for governments to do as they wish or not wish with the notion of a “government of the people, by the people, for the people” a nonstarter. “The People” don’t govern either directly or through representatives, in spite of commonly held myths. “The People” are governed, like it or not, the way sitting governments choose to do it. As a consequence, “The Living Constitution” was a “huge flop” and still is.

Setting the Record Straight on the Framers

Popular myth aside, the 55 delegates who met in Philadelphia from May to September, 1787 were very ordinary self-serving, privileged, property-owning white men. They weren’t extraordinarily learned, profound in their thinking or in any way special. Only 25 attended college (that was pretty rudimentary at the time), and Washington never got beyond the fifth grade.

Lundberg described them as a devious bunch of wheeler-dealers likely meeting in smoke-filled rooms (literally or figuratively) cutting deals the way things work today. He called them no “all-star political team” (except for George Washington) compared to more distinguished figures who weren’t there like Jefferson, Adams (the most noted constitutional theorist of his day), John Jay (the first Supreme Court Chief Justice), Thomas Paine, Patrick Henry and others. Madison and Alexander Hamilton, who did attend, were virtual unknowns at the time, yet ever since Madison has been mischaracterized as the Constitution’s father. In fact, he only played a modest role.

The delegates came to Philadelphia in May, 1787, assembled, did their work, sent it to the states, and left in a despondent mood. They disliked the final product, some could barely tolerate it, yet 39 of the 55 attendees knowingly signed a document they believed flawed while we today extoll it like it came down from Mt. Sinai. The whole process we call a first-class historical event was, in fact, an entirely routine uninspiring political caucus producing no “prodigies of statecraft, no wonders of political (judgment), no vaulting philosophies, no Promethean vistas.” Contradicting everything we’ve been “indoctrinated from ears to toes” to believe, the notion that the Constitution is “a document of salvation....a magic talisman,” or a gift to the common man is pure fantasy.

The central achievement of the convention, and a big one (until the Civil War changed

things), was the cobbling together of disparate and squabbling states into a union. It held together, tenuously at best, for over seven decades but not actually until Appomattox “at bayonet point.” The convention succeeded in gaining formal approval for what the leading power figures wanted and then got it rammed through the state ratification process to become the law of the land.

After much wheeling and dealing, they achieved mightily but not without considerable effort. Enough states balked to thwart the whole process and had to be won over with concessions like legitimizing slavery for southern interests and more. Then consider the Bill of Rights, why they were added, for whom, and why adopting them made the difference. It came down to no Bill of Rights, no Constitution, but they weren’t for “The People” who were out of sight and mind.

These “glorified” first 10 Amendments were first rejected twice, then only added to assure enough state delegates voted to ratify the final document with them included. Many in smaller states were displeased enough to want a second convention that might have derailed the whole process had it happened. To prevent it, concessions were made including adding the Bill of Rights because they addressed key state delegate concerns like the following:

- prohibitions against quartering troops in their property,
- unreasonable searches and seizures there as well,
- the right to have state militias,
- the right of people to bear arms, but not as the 2nd Amendment today is interpreted,
- the rights of free speech, the press, religion, assembly and petition, all to serve monied and propertied interests alone - not “The People,”
- due process of law with speedy public trials for the privileged, and
- various other provisions worked out through compromise to become our acclaimed Bill of Rights. Two additional amendments were proposed but rejected by the majority. They would have banned monopolies and standing armies, matters of great future import that might have made a huge difference thereafter. We’ll never know for sure.

In the end and in spite of its defects, the framers felt it was the best they could do at the time and kept their fingers crossed it would work to their advantage. None of them suggested or wanted “a sheltered haven....for the innumerable heavily laden, bedraggled, scrofulous and oppressed of the earth.” On the contrary, they intended to keep them that way meaning things weren’t much different then than now, and the founders weren’t the noble characters they’re made out to be.

There were no populists or civil libertarians among them with men like Washington and Jefferson (who was abroad and didn’t attend) being slave-owners. In fact, they were little more than crass opportunists who willfully acted against the will of “The People” they ignored and disdained. In spite of it, they’re practically deified and ranked with the Apostles, and one of them (Washington) sits in the most prominent spot atop Mt. Rushmore.

The constitutional convention ended September 17, 1787 “in an atmosphere verging on

glumness.” Of the 55 attending delegates, 39 signed as a pro forma exercise before sending it to the states with power to accept or reject it. Again, “The People” were nowhere in sight in Philadelphia or at the state level where the real tussle began before the founders could declare victory.

What Was Achieved and What Wasn't

Contrary to popular myth, the new government wasn't constrained by constitutional checks and balances of the three branches created within it. In fact, then and since, sitting governments have acted expediently, with or without popular approval, and within or outside the law. In this respect, our system functions no differently than most others operating as we do. It's accomplished through “the narrowest possible interpretations of the Constitution,” but it's free to go “further afield under broader or fanciful official interpretations.” History records many examples under noted Presidents like Lincoln, T. and F. Roosevelt and Wilson along with less distinguished ones like Reagan, Clinton, Nixon, GHW Bush and his bad seed son, the worst ever of a bad lot.

Key to understanding the American system is that “government is completely autonomous, detached, (and) in a realm of its own” with its “main interest (being) economic (for the privileged) at all times.” Constitutional shackles and constraining barriers are pure fantasy. Regardless of law, custom or anything else, sitting US governments have always been freelancing and able to operate as they please. They've also consistently been unresponsive to the public interest, uncaring and disinterested in the will and needs of the majority, and generally able to get around or remake the law to suit their purpose. George W. Bush is only the latest and most extreme example of a tradition begun under Washington, who when elected unanimously (by virtual coronation) was one of the two richest men in the country.

The Legislative Branch

The Constitution then and since confers unlimited powers on the government constituted under its three branches of the Congress, Executive and Judiciary. Article I (with seven in all plus 27 Amendments) deals with the legislative branch. Section 8, Sub-section 18 states Congress has power “to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution....or in any department or officer thereof.” It's for government then to decide what's “necessary” and “proper” meaning the sky's the limit under the concept of sovereignty.

The Executive and Judiciary branches are dealt with below with the three branches comprising a labyrinthine system the framers devised under the Roman notion of “divide and rule” as follows:

- a powerful (and at times omnipotent) chief executive at the top,
- a bicameral legislature with a single member in the upper chamber able to subvert all others in it through the power of the filibuster (meaning pirate in Spanish),
- a committee system controlled mostly by seniority or a political powerbroker,
- delay and circumlocution deliberately built into the system,
- a separate judiciary able to overrule the Congress and Executive, but too often is a partner, not an adversary,

— staggered elections to assure continuity by preventing too many officials being voted out together,

— a two-party system with multiple constituencies, especially vulnerable to corruption and the influence of big (corporate) money that runs everything today making the whole system farcical, dishonest and a democracy only in the minds of the deceived and delusional.

The Judiciary

Article III of the Constitution establishes the Supreme Court saying only: “The judicial power shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish.” Congress is explicitly empowered to regulate the Court, but, in fact, the opposite often happens or, at times, it cuts both ways. The function of Congress is to make laws with the Court in place to interpret them and decide their constitutionality if challenged and it decides to adjudicate.

As for the common notion of “judicial review,” it’s nowhere mentioned in the Constitution nor did the framers authorize it. Nonetheless, courts use it to judge the constitutionality of laws in place and public sector body actions. They derive their power to do it by deduction from two separate parts of the Constitution: Article VI, Section 2 saying the Constitution, laws and treaties are the supreme law of the land and judges are bound by them; then in Article III, Section 1 saying judicial power applies to all cases, implying judicial review is allowed. Under this interpretation of the law, appointed judges, in theory, “have a power unprecedented in history - to annul acts of the Congress and President.”

With or without this power, Lundberg makes a powerful case overall that the constitutional story comes down to a question of money and money arrangement - who gets it, how, why, when, where, what for, and under what conditions. Also addressed is who the law leaves out. The story has nothing whatever to do with guaranteeing life, liberty, and the pursuit of happiness (Jefferson’s Orwellian language meaning property); establishing justice; upholding the rule of law equitably for everyone; promoting the general welfare; or securing the blessings of freedom for “The People” unconsidered, unimportant and ignored by the three branches of government serving monied and property interests only, of which they are a part.

The Executive Branch

Lundberg’s theme is clear and unequivocal. Under US constitutional law, the President is the most powerful political official on earth, bar none under any other system of government. “The office he holds is inherently imperial,” regardless of the occupant or how he governs, and the Constitution confers this on him. Unlike the British model, with the executive as a collectivity, the US system “is absolutely unique, and dangerously vulnerable” with one man in charge fully able to exploit his position. “The American President (stands) midway between a collective executive and an absolute dictator (and in times of war like now) becomes, in fact, quite constitutionally, a full-fledged dictator.” Disturbingly, the public hasn’t a clue about what’s going on.

A single sentence, easily passed over or misunderstood, constitutes the essence of presidential power. It effectively grants the Executive a near-limitless source, only constrained to the degree he chooses. It’s from Article II, Section 1 reading: “The executive power shall be vested in a President of the United States of America. Article II, Section 3

then almost nonchalantly adds: “The President shall take care that the laws be faithfully executed” without saying Presidents are virtually empowered to make laws as well as execute them even though nothing in the Constitution specifically permits this practice. More on that below.

To understand how the US government works, it’s essential to know what executive power is, in fact, knowing it’s concentrated in the hands of one man for good or ill. Also crucial is how Presidents are elected – “literally (by) electoral (unelected by the public) dummies” in an Electoral College. The scheme is a long-acknowledged constitutional anomaly as these state bodies are able to subvert the popular vote, never meet or consult like the College of Cardinals electing a Pope, and, in effect, reduce and corrupt the process into a shameless farce.

Once elected, it only gets worse because the power of the presidency is awesome and frightening. The nation’s chief executive:

- is commander-in-chief of the military functioning as a virtual dictator in times of war; although Article I, Section 8 grants only Congress that right, the President, in fact, can do it any time he wishes “without consulting anyone” and, of course, has done it many times;

- can grant commutations or pardons except in cases of impeachment;

- can make treaties that become the law of the land, with the advice and consent of two-thirds of the Senate (not ratification as commonly believed); can also terminate treaties with a mere announcement as George Bush did renouncing the important ABM Treaty with the former Soviet Union; in addition, and with no constitutional sanction, he can rule by decree through executive agreements with foreign governments that in some cases are momentous ones like those made at Yalta and Potsdam near the end of WW II. While short of treaties, they then become the law of the land.

- can appoint administration officials, diplomats, federal judges with Senate approval, that’s usually routine, or can fill any vacancy through (Senate) recess appointments; can also discharge any appointed executive official other than judges and statutory administrative officials;

- can veto congressional legislation, and history shows through the book’s publication they’re sustained 96% of the time;

- while Congress alone has appropriating authority, only the President has the power to release funds for spending by the executive branch or not release them;

- Presidents also have a huge bureaucracy at their disposal, including powerful officials like the Secretaries of Defense, State, Treasury, and Homeland Security and the Attorney General in charge of the Justice Department;

- Presidents also command center stage any time they wish. They can request and get national prime time television for any purpose with guaranteed extensive post-appearance coverage promoting his message with nary a disagreement with it on any issue;

- throughout history, going back to George Washington, Presidents have issued Executive Orders (EOs) although the Constitution “nowhere implicitly or explicitly gives a President (the) power (to make) new law” by issuing “one-man, often far-reaching” EOs. However,

Presidents have so much power they can do as they wish, only constrained by their own discretion.

— George Bush also usurped “Unitary Executive” power to brazenly and openly declare what this section highlights – that the law is what he says it is. He proved it in six and a half years of subverting congressional legislation through a record-breaking number of unconstitutional “signing statements.” – They rewrote over 1132 law provisions through 147 separate “statements,” more than all previous Presidents combined. Through this practice, George Bush expanded presidential power well beyond the usual practices recounted above.

— Presidents are, in fact, empowered to do almost anything not expressly forbidden in the Constitution, and very little is; more importantly, with a little ingenuity and lots of creative chutzpah, the President “can make almost any (constitutional) text mean whatever (he) wants it to mean” so, in fact, his authority is practically absolute or plenary. And the Supreme Court supports this notion as an “inherent power of sovereignty.” If the US has sovereignty, it has all powers therein, and the President, as the sole executive, can exercise them freely without constitutional authorization or restraint.

In effect, “the President....is virtually a sovereign in his own person.” Compared to the power of the President, Congress is mostly “a paper tiger, easily soothed or repulsed.” The courts, as well, can be gotten around with a little creative exercise of presidential power, and in the case of George Bush, at times just ignoring their decisions when they disagree with his. As Lundberg put it: “One should never under-estimate the power of the President....nor over-estimate that of the Supreme Court. The supposed system of equitable checks and balances does not exist, in fact, (because Congress and the courts don’t effectively use their constitutional authority)....the separation in the Constitution between legislative and the executive is wholly artificial.”

Further, it’s pure myth that the government is constrained by limited powers. Quite the opposite is true “which at the point of execution (resides in) one man,” the President. In addition, “Until the American electorate creates effective political parties (which it never has done), Congress....will always be pretty much under (Presidents’) thumb(s).” Under the “American constitutional system (the President) is very much a de facto king,” and under George Bush a corrupted, devious, criminal and dangerous one.

As for impeaching and convicting a President for malfeasance, Article II, Section 4 states it can only be for “treason, bribery, or other high crimes and misdemeanors.” Based on the historical record, it’s near-impossible to do with no President ever having been removed from office this way, and only two were impeached, both unjustly. John Adams, the most distinguished constitutional theorist of his day, said it would take a national convulsion to remove a President by impeachment, which is not to say it won’t ever happen and very likely one day will with no time better than the present to prove it.

In sum from the above, the US system of constitutional law is full of flaws and faults. “The People” were deliberately and willfully left out of the process proving the Constitution doesn’t recognize democracy in America in spite of the commonly held view it does. In addition, the President, at his own discretion, can usurp dictatorial powers and end republican government by a stroke of his pen. That should awaken everyone to the clear and present danger that any time, for any reason, the President of the United States can declare a state of emergency, suspend the law of the land and rule by decree.

Constitutional Government in Venezuela

How does America's system of government contrast with rule under the 1999 Constitution of the Bolivarian Republic of Venezuela? Hugo Chavez was first elected president in December, 1998 and took office in February, 1999. He then held a national referendum so his people could decide whether to convene a National Constituent Assembly to draft a new constitution to embody his visionary agenda. It passed overwhelmingly followed three months later by elections to the National Assembly to which members of Chavez's MVR party and those allied with it won 95% of the seats. They then drafted the revolutionary *Constitucion de la Republica Bolivariana de Venezuela*. It was put to a nationwide vote in December, 1999 and overwhelmingly approved changing everything for the Venezuelan people.

It established a model humanistic participatory social democracy, unimaginable in the US, providing real (not imagined) checks and balances in the nation's five branches of government. They comprise the executive, legislative and judicial ones plus two others. One is the independent national electoral council that regulates and handles state and civil society organization electoral procedures to assure they conform to the law requiring free, fair and open elections. The other is a citizen or public power branch functioning as a unique institution. It lets ordinary people serve as ombudsmen to assure the other government branches comply with constitutionally-mandated requirements. This branch includes the attorney general, the defender of the people, and the comptroller general.

The Legislative Branch

Venezuela is governed under a unicameral legislative system called the National Assembly. It's composed of 167 members (compared to 535 in the two US Houses) elected to serve for five years and allowed to run two more times. It differs from the bicameral system in the US but is broadly similar to governments like in the UK. Although it's bicameral, it's governed solely by publicly elected members of the House of Commons that includes the Prime Minister and his cabinet as members of Parliament. The upper House of Lords is merely token and advisory, there by tradition like the Queen, with no power to overrule the lower House that runs everything.

The Office of the President

The President is elected with a plurality of universally guaranteed suffrage. Article 56 of the Bolivarian Constitution states: "All persons have the right to be registered free of charge with the Civil Registry Office after birth, and to obtain public documents constituting evidence of the biological identity, in accordance with law." In addition, all Venezuelans are enfranchised to vote under one national standard and are encouraged to do it under a model democratic system with the vast majority in it actively participating.

In contrast, the US system is quite different. Precise voting rights qualifications are for the states to decide with no constitutionally mandated suffrage standard applying across the board for everyone. The result is many US citizens are denied their franchise right. They're unable to participate in the electoral process for a variety of reasons no democratic state should tolerate, but America built it into the system by design.

The Judicial System

Under Article 2 in The Bolivarian Constitution, the judicial system shares equal importance to the law of the land. But it wasn't always that way earlier when the Venezuelan judiciary had an odious reputation before Chavez was elected. It had a long history of corruption, a disturbing record of being beholden to political benefactors, and a tradition of failing to provide an adequate system of justice for most Venezuelans. Chavez vowed to change things and undertook a major restructuring effort after taking office. He put this government branch under the Supreme Tribunal of Justice and made it independent of the others. The law now requires those serving be elected by a two-thirds legislative majority (not the previous simple one), and tighter requirements are in place regarding eligible candidates along with public hearings to vet them.

In addition, to root out long-standing corrupt practices, Chavez created a Judicial Restructuring Commission to review existing judgeships and replace those not fit to serve. Henceforth, all sitting judges with eight or more corruption charges pending are disqualified. It effectively eliminated 80% of those on the bench in short order and showed the extent of malfeasance in the national judicial culture. It also suggested the huge amount throughout the government from generations of institutionalized privilege. Those in power were licensed to steal the country blind and enrich themselves and foreign investors at the expense of the vast majority.

Reform in all areas of government is still a work in progress, including in the judiciary needing much of it. The process hasn't been perfect because of the enormity of the task. By the end of 2000, about 70% of sitting judges in the so-called capital region of Caracas, Miranda and Vargas states were replaced by provisional ones with charges of old judges removed for equally beholden new ones. It may be true and points to how hard the going is to change the long-standing culture of privilege and institute real democratic reforms throughout the government.

Nonetheless, the Constitution established Chavez's vision for a foundation and legal framework for revolutionary structural change. He's been working since to transform the nation incrementally into a model participatory social democracy serving all Venezuelans instead of for the privileged few alone the way it traditionally was in the past and how US framers designed American constitutional law. The differences between the two nations couldn't be more stark.

The spirit of the Venezuelan Bolivarian Constitution is stated straightaway in its Preamble:...."to establish a democratic, participatory and self-reliant, multiethnic and multicultural society in a just, federal and decentralized State that embodies the values of freedom, independence, peace, solidarity, the common good, the nation's territorial integrity, comity and the rule of law for this and future generations;"

It further "guarantees the right to life, work, learning, education, social justice and equality, without discrimination or subordination of any kind; promotes peaceful cooperation among nations and further strengthens Latin American integration in accordance with the principle of nonintervention and national self-determination of the people, the universal and indivisible guarantee of human rights, the democratization of imitational society, nuclear disarmament, ecological balance and environmental resources as the common and inalienable heritage of humanity;....."

This language would be unimaginable in the US Constitution, and, unlike our federal law, they're more than words. This is Hugo Chavez's commitment to all Venezuelans ordained

under nine Title headings, 350 Articles, and 18 Temporary Provisions. It's a first class democratic document, little known in the West, that greatly outclasses and shames what US framers' enacted for themselves and privileged friends alone. Democracy was nowhere in sight then nor has it shown up since. In Venezuela under Hugo Chavez, it's resplendent, glorious, still imperfect and a work in progress, but heading in the right direction with newly proposed changes discussed below.

The contrast with America today couldn't be greater. The nation under George Bush is ruled by Patriot and Military Commissions Act justice under an institutionalized imperial system of militarized savage capitalism empowering the rich to exploit all others. A state of permanent war exists; civil liberties are disappearing and human rights are a nonstarter; dissent is a crime; social decay is growing; a culture of secrecy and growing fear prevail; torture is practically sanctified; injustice is tolerated; the dominant media function as virtual national thought-control police gatekeepers; and the law is what a boy-emperor president says it is. Aside from the privileged it serves, democracy in America is only in the minds of the bewildered and last of the true-believers who sooner or later will discover the truth.

Consider Venezuela's Bolivarian spirit in contrast. The people freely and openly choose their leaders in honest, independently monitored elections. They're unencumbered by a farcical electoral college voting scheme (for Presidents) and a system of rigged electronic voting machine and other electoral engineered fraud corrupting the entire process sub rosa. They also have unimaginable benefits like free quality health and dental care (mandated in Articles 83 - 85) as a "fundamental social right and....responsibility of the state....to guarantee....to improve the quality of life and common welfare." It's administered through a national public health system proscribed from being privatized. That's how health delivery in America gets corrupted for profit. The result is 47 million and counting are uninsured, many millions more have too little coverage, and the cost of care is unaffordable for all but the well-off or those on Medicare, Medicaid (if qualify) or under disappearing company-paid plans.

The Constitution also enacted the principle of participatory democracy from the grassroots for everyone. It's mandated in Articles 166 and 192 establishing citizen assemblies as a constitutional right for ordinary people to be empowered to participate in governing along with their elected officials. Constitutionally guaranteed rights also ban discrimination; promote gender equity; and insure free speech; a free press; free, fair, and open elections; equal rights for indigenous people (assured a minimum three National Assembly legislative seats); and mandates government make quality free education available for all to the highest levels, as well as housing and an improved social security pension system for seniors, and much more.

Hugo Chavez brought permanent change, and most Venezuelans won't tolerate returning to the ugly past. Why should they? They never got these essential social services before. Under a leader who cares, they do now, and their lives improved enormously.

Other Venezuelan Constitutionally Guaranteed Rights

The Bolivarian Constitution is a glorious document, fundamentally different in spirit and letter from its US counterpart it shames by comparison. Before Chavez took office in February, 1999, Venezuela only paid lip service to civil liberties, human rights and needs. They're now mandated by law. It encompasses an impressive array of basic rights and essential services like government-paid health care, education, housing, employment and

human dignity enforced and funded by a caring government as the law requires.

Article 58 in the Constitution also guarantees the right to “timely, true, and impartial” information “without censorship, in accordance with the principles of this constitution.” The opposite is true in America where major media are state propaganda instruments for the privileged.

Articles 71 – 74 establish four types of popular national referenda never imagined or held in America outside the local or state level where they’re often non-binding. The US is one of only five major democracies never to have permitted this type citizen participation. In Venezuela under Hugo Chavez, the practice is mandated by law and institutionalized to give people at the grass roots a say in running their government. Four types of referenda are allowed:

- consultative - for a popular, non-binding vote on “national transcendent” issues like trade agreements;
- recall - applied to all elected officials up to the President;
- approving - a binding vote to approve laws, constitutional amendments, and treaties relating to national sovereignty; and
- rescinding - to rescind or change existing laws.

Referenda can be initiated by the National Assembly, the President, or by petition from 10 – 20% of registered voters, with different procedural requirements applying for each.

Social, family, cultural, educational and economic rights are guaranteed under Chapters V – VII with the government backing them financially.

Indigenous Native Peoples’ rights are covered in Chapter VIII. Even environmental rights are addressed with Article 127 stating “It is the right and duty of each generation to protect and maintain the environment for its own benefit and that of the world of the future....The State shall protect the environment, biological and genetic diversity, ecological processes....and other areas of ecological importance.” Try imagining any US federal law with teeth containing this type language let alone the Constitution that includes nothing in its Articles or Amendments.

Citizen Power gets considerable attention under Articles 273 – 291. It’s exercised by “the Republican Ethics Council, consisting of the People Defender, the General Prosecutor and the General Comptroller of the Republic....Citizen Power is independent and its organs enjoy operating, financial and administrative autonomy.” Citizen Power organs are legally charged with “preventing, investigating and punishing actions that undermine public ethics and administrative morals, to assure lawful sound management of public property....(to help) create citizenship, together with solidarity, freedom, democracy, social responsibility, work” and more.

Venezuela’s Constitution covers much more as well under each of its nine Titles from:

- stating its fundamental Bolivarian principles in Title I, to
- National Security in Title VII,

— Protection of the Constitution in Title VIII to assure its continuity in the event of “acts of force” or unlawful repeal with each citizen having a duty to reinstate it if that need arises; and finally

— Constitutional Reforms in Title IX in the form of amendments, other reforms to revise or replace any of its provisions, and the National Constituent Assembly with power “resting with the people of Venezuela.” They’re empowered to call an Assembly to transform the State, create a new “juridical order” and draft a new Constitution to be submitted to a national referendum for the people to accept or reject. That’s how democracy is supposed to work. In Venezuela it does. In the US, it doesn’t, never did, and was never conceived or intended to from the nation’s founding to the present.

This happens because Americans know painfully little about their law of the land hidden from them in plain view. They’re taught misinformation about it and the framers who drafted it. Few ever read it beyond a quoted line or two and even fewer ever think about it. In contrast, in Venezuela, the Bolivarian Constitution is sold in pocket-sized form almost everywhere. People buy, read and study it. Why? Because it’s a vital unifying part of their lives codifying core democratic values and principles Venezuelan people cherish and wish to keep.

Prospective Venezuelan Constitutional Reforms

In July, President Chavez announced he’d be sending the National Assembly a proposal of suggested constitutional reforms to debate and consider. He stressed Venezuelans would then get to vote on them in a national referendum so that “the majority will decide if they approve....constitutional reform.”

Chavez submitted his proposal in an August 15 address to the National Assembly that will debate and rule on them in three extraordinary sessions over the next 60 to 90 days. Included are amendments to 33 of the Constitution’s 350 articles to “complete the death of the old, hegemonic oligarchy and the old, exploitative capitalist system, and complete the birth of the new state.” Chavez stressed the need to update the 1999 Constitution because it’s “ambiguous (and) a product of that moment. The world (today) is very different from (then). (Reforms now are) essential for continuing the process of revolutionary transition.” They include:

- extending presidential terms from six to seven years;
- unlimited reelections (that countries like England, France, Germany and others now allow); Chavez wants the reelection option to be “the sovereign decision of the constituent people of Venezuela;”
- guaranteeing the right to work and establishing policies to develop and generate productive employment;
- creation of a Social Stability Fund for “non-dependent” or self-employed workers so they have the same rights as other workers including pensions, paid vacations and prenatal and postnatal leave entitlements;
- reducing the workday to six hours so businesses would have to employ more workers and hold unemployment down;

- ending the autonomy of Venezuela’s Central Bank;
- recognition of different kinds of property defined as social, collective, mixed and private;
- redefining the role of the military so henceforth “The Bolivarian Armed Forces (will) constitute an essential patriotic, popular and anti-imperialist body organized by the state to guarantee the independence and sovereignty of the nation...;” and
- guaranteeing state control over the nation’s oil industry to prevent any future privatization of this vital resource;

Chavez also wants other changes to strengthen the nation’s participatory democracy at the grassroots. He stresses “one of the central ideas is my proposal to open, at the constitutional level, the roads to accelerate the transfer of power to the people” in an “Explosion of Communal (or popular) Power.” It’s already there in more than 26,000 democratically functioning grassroots communal councils. They’re government-sanctioned, funded, operating throughout the country, and may double in number and be strengthened further under proposed constitutional changes.

Chavez wants “Popular (people) Power” to be a “State Power” along with the Legislature, Executive, Judicial, Citizen and Electoral ones and considers this constitutional change the most important one of all. If it happens, various sovereign powers and duties now handled at the federal, state and municipal levels will be transferred to local communal, worker, campesino, student and other councils. This will strengthen Venezuela’s bedrock participatory democracy making it even more unique and impressive than it already is.

In America, it’s unimaginable a President or other government officials would recommend “People Power” become our fourth government branch, co-equal with the others, with citizens empowered to vote in national referenda on crucial proposed changes in law.

Chavez also proposed a “new geometry of power” by amending article 16 that now states “the territory of the nation is divided into those of the States, the Capital District, federal dependencies and federal territories. The territory is organized into Municipalities.” Chavez wants this amended so popular referenda can create “federal districts” in specific areas to serve as states. He called this idea “profoundly revolutionary (and needed) to remove the old oligarchic, exploiter hegemony, the old society, and (quoting Gramsci weaken the former) historic block. If we don’t change the (old) superstructure (it) will defeat us.”

Chavez also stressed this new structure is needed to be in place when “Venezuela (grows to) 40 – 50 million people.” His plan includes “restructur(ing) Caracas” into a Federal District with more local autonomy, as it was at an earlier time.

These proposals and other initiatives are part of his overall socialism for the 21st century plan that’s also very business-friendly. Chavez opposes savage capitalism, not private enterprise, and under his stewardship domestic and foreign businesses have thrived. They’re a dominant force powering the economy to accelerated growth since 2003 with latest Central Bank 2nd quarter, 2007 figures coming in at 8.9%. With oil prices high and world economies prospering, this trend is likely to continue. That’s good news for business and households sharing in the benefits through greater purchasing power.

Chavez wants his new United Socialist Party (PSUV) to drive the revolutionary process and continue his agenda of reform for all Venezuelans. He wants everyone to enjoy the benefits,

not just a privileged few like in the past and in the US today. Under his leadership, their future is bright while in America poverty is growing, the middle class is dying, and the darkness of tyranny threatens everyone under George Bush with his agenda likely continuing under a new president in 2009.

Governance differences exist between these two nations because their constitutional laws are mirror opposite, and America has no one like Hugo Chavez. He's a rare leader who cares and backs his rhetoric with progressive people-friendly policies. In the US, there's George Bush, and that pretty much explains the problem. Knowing that, which leader would you choose and under which system of government would you prefer to live?

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