



VIEWPOINT

The Venezuelan centralized federation: A political contradiction?

BY ALLAN R. BREWER-CARÍAS

Allan Brewer-Carías is a professor at the Central University of Venezuela who specializes in administrative and constitutional law. He was a Minister of State for Decentralization in a previous Venezuelan government. His opinions and views expressed here are his own and not those of the Forum of Federations. He wrote the chapter on Venezuela in the *Handbook of Federal Countries 2002*, published by McGill-Queen's University Press.

A federation, above all, is a decentralized form of government in which public power is territorially distributed among the federal order of government, the constituent units and local governments. It is not simply a constitutional framework in order to decentralize power, a goal that also can be achieved through other regional forms of government

But federation and political decentralization are intimately related concepts, to the extent that a “centralized federation” is a contradictory term politically and constitutionally.

In spite of having a federal form of government since 1811, particularly after the sanctioning of the December 1999 Constitution, political power in Venezuela has been centralized, leaving the general principles of federation in the shadows.

A strong argument can be made that in federation, constituent units should have a significant measure of political equality. Because they are different in economic development and population, one of the few institutions in which constituent units can be equally treated is a federal second chamber or Senate in which each unit has the same representation and participation in national affairs. But in Venezuela, for the first time in all its constitutional history, the 1999 Constitution eliminated the Senate and the bicameral organization of legislative power. The Constitution replaced the Congress by a national assembly in which the most populated states have a shocking predominance, breaking the principle of equality.

Thus, in a federation, constituent units must have the opportunity to participate directly in the conduct of national affairs, particularly when they affect the constituent units' interest. That is the main reason for the existence of second chambers or Senates. But in the absence of a Senate, the Venezuelan 1999 Constitution expressly establishes one means of direct state participation in the process of discussion and approval of national legislation by the National Assembly.

The constitution obliges the National Assembly to formally consult with the states through their legislative councils prior to the approval of legislation, which may affect the states' interest. But in spite of this explicit constitutional provision, during the last three years, the National Assembly has ignored

the states when it has enacted national laws that could affect the states' interests. In particular, during the last three years, very important laws have been adopted concerning the states' interest without any political participation whatsoever of state authorities.

National Assembly regulates state legislatures

Federalism also implies the existence of a constitutional guarantee of the autonomy of the constituent units vis-a-vis the federal order of government and normally should prevent interference in the exercise of the states' legal powers by federal bodies.

This autonomy implies the power of the constituent units to organize and exercise their powers within the frame of the federal constitution without interference by the federal order, except through judicial review by the Supreme or Constitutional Court. That is why the constituent units are often empowered to amend their own constitutions and to pass legislation in order to regulate the organization and functioning of their own legislative, executive and judicial powers.

In Venezuela judicial power has always been centralized at the federal level, and since the 1999 Constitution, the states' power to organize their legislative processes (legislative councils) has been limited. For the first time in Venezuelan constitutional history, the 1999 Constitution empowered the National Assembly to pass a national law in order to regulate the organization and functioning of the state legislatures. This limits the states' constitutional power to organize their own affairs. Additionally, the National Assembly has approved a federal law regulating the nomination of the head of State Audit Offices, which are part of the state constitutional structures. The autonomy of the constituent units, which is one of the key principles of federation, has been thus considerably reduced.

When it comes to money. . .

Finally, the essence of viability of a federal government lies in the constitutional distribution of taxation powers between federal and state levels, in order to guarantee a basic minimum level of state income and reduce the state's dependence on the federal government from the budgetary point on view.

That is why in federations, constituent units almost always have some taxation powers.

In contrast, according with the 1999 Constitution, states do not have any taxation powers of their own. They only have limited

Venezuela: Key Facts & Figures

Capital city	Caracas
Number and type of constituent units	23 States, 1 Federal District, 1 Federal Dependency
Official language(s)	Spanish
Area	912,050 km ²
Area - Largest constituent unit	Bolívar (238,000 km ²)
Area - Smallest constituent unit	Federal District - Caracas (1,930 km ²)
Total population	24,287,670 (July 2002 est.)
Political system	Federal Republic
Head of state	President Hugo Rafael Chávez Frías (1999/2000), Movimiento Quinta República – MVR (Movement for the Fifth Republic). Directly elected for a 6-year term (limit: 2 consecutive terms)
Head of government	President Hugo Rafael Chávez Frías (1999/2000), Movimiento Quinta República – MVR. President appoints cabinet (Council of Ministers).
Federal government	Unicameral: Under the 1999 Constitution, the bicameral Congress of the Republic was replaced by the unicameral National Assembly, which has 165 seats. Members are directly elected through proportional representation (a combination of party list and single-member constituencies) to serve 5-year terms.

governing unit: how many people are there per constituent unit. In France, for instance, the ratio between democratically elected local governments and the population of the country is approximately 1,614 inhabitants per local government (communes or municipalities); in Spain, it is 4,825; in Germany, 5,086; in Switzerland, 2,333; in Italy, 7,156; in the U.S.A, 3,872; and in Canada, 6,878. And we should bear in mind that the total number of elected local governments in those countries varies as follows: 36,559 in France; 8,082 in Spain; 16,121 in Germany; 2,333 in Switzerland; 8,104 in Italy; 70,500 in the U.S.A and 4,507 in Canada.

This ratio between local government and population is a central issue for federations.

taxation powers if and when the federal government chooses to assign to the states some taxation authority, which so far has not happened. Thus, the states depend entirely on revenue allocations from the federal government, some of which if it is true, are established in the Constitution in a relatively fixed manner and notionally directed toward the states. Despite that, the actual transfer of the due amount has frequently been delayed as a measure of political retaliation against some states with governors who are not in the president's party.

In addition, without the authority to do so, the federal government has also disposed of some amounts of incomes that were to be kept in a macroeconomic national fund – a fund which belongs to the states.

Democratic deficit?

Federation and decentralization are also concepts substantially related to democracy. All democracies in the Western world, in one way or another, are politically and constitutionally organized in a decentralized form of government (federal or regional). Decentralization is a practice of democracies - there are no decentralized autocracies. Thus, all intent to centralize power in a federation where a democratic regime exists, must be considered as an anti-democratic policy. Unfortunately, this has been the general trend of the political action developed in Venezuela during the last three years, in which centralization has been the main course of action lead by the federal government, without any effective possibility of political participation.

In addition to consulting the electorate through referenda and other means of direct democracy, decentralization is the most effective instrument to guarantee the effective participation of the electorate in the political process. In this context, there must be effective, representative instruments of local government. One measure of that is the ratio of population to

When more local entities exist in a country they are usually closer to the citizens and their communal organizations. The consequences of this are not only that democracy will be more real and effective as a mean of political participation, but also that the "intermediate" level of government (states, provinces, etc.) will tend to be stronger and more responsible to its citizens.

In contrast to the general situation of local decentralization in federations with solid democratic regimes, in Venezuela – in spite of the constitutional commitment – local government is so far from citizens and their communal organizations that it does not work as a tool for political participation and for strengthening democratic participation. Just to compare, in Venezuela with a territory double that of France, only 338 elected municipalities exist, with an average of 71, 006 inhabitants per local government!

This situation strongly mitigates any real possibility for grass-roots political participation, which, as a rule, can best be developed at the local level.

The 1999 Constitution expressly defines decentralization as a "national policy devoted to strengthening democracy by means of approaching power to the population and of the creation of better conditions for the exercise of democracy and for the efficient accomplishment of public tasks"(Art. 158). In contrast, the political praxis of the last three years has shown that the national policy that has been characterized by progressive centralization of government, without any real local government developments.

Consequently, in Venezuela, federalism has been postponed, and in a contradictory framework of a centralized federation, democracy has been weakened. (9)