

## Nazi Jurist Carl Schmitt Revived as Legal Model For Venezuela's Chávez

by David Ramonet

How would you react if a state were to emerge in our Americas which, in all its essential aspects, were a copy of what Adolf Hitler imposed in Germany? In this state:

- all institutions associated with the previous discredited regime—congress, courts, trade unions, business federations, even religious organizations—are wiped out;
- a new Caesar is enthroned as absolute authority, from whom arbitrarily emanates the “rule of law” (constitution, laws, etc.);
- enraged Jacobin mobs are unleashed, whose irrational *vox populi* is used to terrify any and all opposition to that Caesar; and where
- all the theories of German jurist Carl Schmitt, the legal architect of Hitler’s Nazi regime and a follower of the Romantic school of G.W.F. Hegel and Karl Savigny, are adopted.

This is precisely what is happening today in Venezuela, under President Hugo Chávez Frías. Drawing on the generalized discontent that the globalist “economic reforms” of the past 25 years have created within the population, Chávez has driven Venezuela’s angry masses into destroying the traditional institutions of the nation, which were already discredited because of their own subservience to the dictates of the International Monetary Fund.

In the two years that he has run the government, Chávez has turned himself into a native “Caesar,” a dictator who, with the aura of the “charismatic leader,” has chosen and imposed each of the nation’s authorities, to the point that there is not one among his cabinet ministers, with all their academic degrees, who dares to contradict Chávez. And all of this has been done, citing as precedent and justification, the legal arguments formulated by German jurist Carl Schmitt, 60 years ago, in defense of Hitler.

Despite the Romantic leftist rhetoric which Chávez employs—his constant praise for Fidel Castro, his verbal critiques of neo-liberalism (while applying these same IMF-World Bank austerity policies inside Venezuela)—the “Chávez project” is identical in all essentials to the financial oligarchy’s “Hitler project,” and its architects would extend it across all Ibero-America.

### The ‘Constituent Assembly’ Process

The key to the whole process employed by Chávez in Venezuela is the Constituent Assembly, inspired from beginning to end by Carl Schmitt, known in the 1930s as “the Crown Jurist of the Third Reich.”

Chávez’s first act after assuming power in February 1999, was to issue a decree to hold a referendum to approve the creation of a Constituent Assembly that would rewrite the constitution. That referendum was held on April 25, 1999, after the Supreme Court was armtwisted into providing a sophist justification for legalizing the referendum, which was in clear violation of the existing constitution.

However, the Supreme Court did not approve Chávez’s attempt to include in the terms of the referendum, the condition that the Constituent Assembly would be defined as the country’s “originating power.” That is, the court rejected the idea that the Constituent Assembly would have absolute powers to eliminate the existing legislature and judiciary, the Congress of the Republic and Supreme Court of Justice. However, Chávez simply trampled on the Supreme Court, and proclaimed that, independent of the court’s decision, the National Constituent Assembly, born of the referendum, would take the “sovereign” decision to declare *itself* the “originating power”—a carbon copy of the arguments used by Carl



Venezuelan President Hugo Chávez Frías, at first elected democratically in 1998, has subjugated the legislative and judicial branches of government to his personal rule, and ended Constitutional government. His actually fascist government bases itself on the legal justifications which Nazi “Crown Jurist” Carl Schmitt (inset) originally provided to Hitler.

Schmitt to justify Hitler’s coup. On July 25, the members of the Constituent Assembly were elected, with 53% of the electorate abstaining. Of the 131 members elected, 127 were personally designated by Chávez.

From the beginning, even before the referendum itself, Schmitt’s name began to surface publicly as the inspiration for the Assembly. On Jan. 19, 1999, lawyer Ignacio Quintana, the current Venezuelan ambassador to the Vatican, wrote an article in the Caracas daily *El Nacional*, entitled: “Constitutional Violence Against the Constituent Assembly.” He there states: “Carl Schmitt described in his *Theory of the Constitution*, on page 225, the underlying structure of a Constitution that responds to the interests of the people, and not to the interests of economic groups, of parties, of a political and ideological superstructure which seeks, through ‘constitutional’ text, to usurp political power and its derivatives.”

Quintana, of course, did not feel it necessary to tell his readers that Schmitt was a Hitlerian. And at that time, no one responded publicly to Quintana, a financier whose intellectual capacity is acknowledged to be rather precarious, who is linked to the Banco Latino which, in 1994, helped drive the national banking system into bankruptcy.

### The Precedent Is Hitler

A short time later, the president of the Commission to Reform the State, Ricardo Combellas, a specialist in constitutional law and former Social Christian converted (briefly) to Chavism, published an article in the newspaper *El Universal* of April 23, 1999, entitled “Byzantine Discussion?” which explicitly defends Schmitt’s concept of “the originating act.” According to Combellas:

“By its very nature, the constituent power is the originating power, which is additional and supraconstitutional, and belongs to the people who hold title to sovereignty. Its limits are meta-constitutional (democracy, human rights), never constitutional, given its rank above the established powers, which cannot obstruct its activity. As Carl Schmitt emphasizes: ‘It is not just one more power, coordinated with other different ‘powers’ (legislative, executive, and judicial). It is the power which embraces all the other ‘powers’ and ‘division of powers.’ ”

Combellas also “forgot” to mention the Schmitt-Hitler connection.

But historian Jorge Olavarría responded two days later, with an article in *El Nacional* entitled “The Blackest Hour,” where he wrote the following, under the subhead “Tell Me Whom You Quote . . . and I Will Tell You How You Think”:

“Dr. Combellas published an article in *El Universal*, in which he insists yet again on the totalitarian nature of the Constituent Assembly.

I won’t bother to refute the sophisms to which Combellas resorts, as he prepares the bed for the tyrant he now woos. I am simply going to call attention to the quote Combellas uses from the German jurist Carl Schmitt, to reinforce and give authority to his ideas about what, according to him, the all-powerful Constituent Assembly can do, and what Chávez announces he will do, in open defiance of the court’s ruling.

“Who is Carl Schmitt, and what does he represent in contemporary history? Professor at the universities of Cologne and Berlin, Schmitt is the most important theoretician of the modern totalitarian state. A fierce critic of the Weimar Constitution, and of the ‘bourgeois freedoms’ of liberalism, his ideas about a strong and monocratic state were adopted literally by Adolf Hitler, who based himself on them to install, in 1933, the brutal dictatorship which ended in the fashion which we all know.”

Olavarría continues: “Argentine neo-Nazi Norberto Ceresole begins his book entitled *The Leader, Army, People*, in which he analyzes the election of Hugo Chávez, with another quote from Carl Schmitt. And why not? Carl Schmitt is the author of the thesis of ‘presidential exclusivity in managing the state,’ with which President Chávez concludes his arguments in his memorable letter to the magistrates of the Supreme Court of Justice.”

### Who ‘Invented’ Chávez?

The Ceresole to whom Olavarría refers, is an Argentine conspirator, a true, anti-Semitic Nazi-Communist, with shadowy ties to various international intelligence services, including Cuba’s. He has served intermittently as an adviser to Chávez, including during his electoral campaign and the

formation of his government. Ceresole, too, premises much of his argumentation on Schmitt.

Schmitt supervised the project to revise German law to conform to Nazi theories. The Nazi regime was to include three elements: the state, the movement, and the people, in which the state represented the administrative apparatus, the movement represented the political leadership, which abrogated representation of the people, and the people, fully identified with their leader, all under the protection of “a higher political order.” Whenever the Führer required “democratic” legitimacy, he presented the people with a plebiscite. In this way, according to Schmitt, under “charismatic leadership,” the state would no longer be a mere “bureaucratic regime.”

Ceresole’s job was to give all this theorizing a “native” flavor. In his pamphlet “The Leader, People, Army,” Ceresole boasts of having “invented” Chávez, supposedly after seeing him on the streets of Caracas and realizing that here was his “dream come true.” However, Ceresole thinks that his “dream” will only be fully realized when it is generalized throughout the continent, and the formula becomes “Army, Leader, people.”

Once these theories of Schmitt and his followers were put into practice, the result of the manipulation of Venezuela’s various elections over the past two years has meant the virtual disappearance of all political parties, except for those aligned with the regime.

“The current government wants to be the expression of a united national political will, which seeks to put an end to the state methods of multiple parties, which were destructive for the state and for the Constitution.”

Although this reads like a quote from one of the innumerable speeches in which Chávez fiercely attacks the traditional political parties, it is actually a quote from Carl Schmitt, referring to Adolf Hitler’s Nazi regime.

### ‘Ontological Temporariness’

But despite the fact that the Constituent Assembly approved a new constitution, the Bolivarian Constitution of Venezuela, the day-to-day implementation of that constitution has remained in the hands of Hugo “Caesar” Chávez. To justify such arbitrariness, a number of magistrates of the new Supreme Court have put their Romantic legal rhetoric at the service of the regime, wherein the dominant influence of the Schmitt school is evident.

Such Romanticist criteria of the Chavista regime contrast sharply with the Renaissance tradition in law, which establishes that the state has legitimacy solely and exclusively to the extent that it fulfills the precept of guaranteeing the General Welfare of the entire population, and of its posterity. This is something completely foreign to the Chavista process, for which there are only friends or enemies.

Magistrate José Delgado Ocando gave a speech on Jan. 11, 2001, in which he used rhetoric taken directly from Caesarist Roman law to argue that the “process” is going through an “ontological temporariness” which enables the ruler to

make decisions outside the framework even of its own, hand-crafted Constitution. “By means of that ontological temporariness, projected onto the effectiveness of the originating constitutional change, the validity of the constitutional order goes beyond the purview of the Constitution of 1999,” Delgado concludes.

In other words, the “Questions and Bases of the Referendum,” which was voted up on April 25, 1999 as a mere draft by Chávez and his legal advisers, has greater authority than the new constitution approved Dec. 15 of that year! In practice, this has served to undermine the new Bolivarian Constitution itself, allowing the “charismatic leader” to make arbitrary decisions about the direction of the “process,” and giving *ex post facto* legal justification to whatever Chávez chooses to do. This is pure Carl Schmitt.

In this way, Chávez was able to name all the magistrates of the new Supreme Court, without taking into account the requirements established by the Constitution. The same held true for the Prosecutor General, the Comptroller General, and the People’s Defender, with which he consolidated power in the hands of total loyalists. Similarly, he eliminated “undesireable” governors in various states of the republic, and concentrated 60% of the Constituent Assembly seats in the hands of “friends” of the process.

### The Chavista Leviathan

In his book *The Concept of the Political*,<sup>1</sup> Carl Schmitt noted that the existence of the state presupposes the existence of the political, and the political consists primarily of the relationship between the friend and the foe. In this sense, the state achieves its legitimacy, thanks to its capacity to identify and exterminate its foes. According to Schmitt, sovereignty is the ability to make decisions under states of emergency (he called them “states of exception”), and to define the enemies of the state under these exceptional circumstances.

This has been precisely Chávez’s approach. Chávez draws his main support from the lumpenized sectors of the Venezuelan population, the real audience to whom he directs all his speeches, offering them a sentiment of moral impunity in the face of all the abuses they are forced to face in their daily lives, while leading them to believe, with almost religious fervor, that their anti-social acts have the quality of heroism. Following his inauguration in February 1999, Chávez told the mob that they can steal if they are hungry. Later, Chávez justified land invasions by the homeless, in the same way.

Those Venezuelans who own farms today live in fear, because Chávez’s weekly televised speeches are warning that he will throw into the “garbage” all property titles that he deems to be illegal. For the past two years, he has been encouraging mob invasions of productive lands. And, according to Defense Minister José Vicente Rangel, whoever complains

1. As emphasized by Barbara Boyd in her article, “Carl Schmitt Revival Designed To Justify Emergency Rule,” *EIR*, Jan. 19, 2001.

of being invaded, will first have to prove that they are the legitimate owners of the challenged land. This gives the invaders recourse to take their case to the courts, “legally.”

The ranks of the lumpen masses upon whom Chávez has built his regime, have been swollen over the past ten years, in particular, thanks to the brutal effects of the International Monetary Fund’s austerity dictates. But rather than challenge the IMF, Chávez has chosen to glorify these lumpen masses into a national culture. Indeed, it is in the Mussolini-style emulation of the proletarian masses of the Roman Circus, where Chávez gives his Romantic charisma its religious trappings. For Chávez, the church is “the people,” a reference not to the citizens of a republic, but to the *vox populi* of the mob. According to Chávez, “Jesus thought and believed, like all revolutionaries, that there was great power in the gathering of men. What we are talking about here—unity, the force of the collective—that is the force of Jesus.”

In this way, with the mob elevated to the status of a “church,” and Chávez as its Roman *Pontifex Maximus*, the vast majority of Venezuelans who oppose his regime have been silenced. Chávez has proclaimed them enemies of the state; and the terror follows.

### Corollary

The Chávez government’s social programs have no intention of integrating marginalized workers, but rather to formalize the widespread petty thievery and other illegal acts, and encourage it, to turn it into a base of political support. All the surplus oil revenue of the past two years has been wasted on demagogic populist works which have only served as booty for their administrators. Corruption scandals in every social program of the current government have reached such a point, that the citizenry today identifies the initials of the ruling party, the V Republic Movement (MVR) as “*Me Volví Rico*,” or “I Got Rich!”

Some in the opposition in Venezuela still hold onto the illusion that, somehow, “the United States will not permit a dictatorship in Venezuela and will do something.” George Bush, Sr. himself shattered those illusions, for anyone willing to hear. During his visit to Venezuela on Feb. 16 of this year, Sir George Bush made remarks that were fully in agreement with the criteria expressed by Magistrate Delgado.

“I was very courteously received by President Chávez, a very charismatic leader. I expressed my opinions when I was President; I still have the same opinions, and I know that my son shares them. We want to see an entirely democratic and free hemisphere, all friends of the United States. There are many regimes, many ways to run a democracy, [and] many theories of how to achieve a pure democracy. But most important is to hear the voice of the people,” Bush explained to anxious journalists, who were hoping for some hidden “message” to Chávez, and not such a blessing of his regime.

In the meanwhile, the model of the native Caesar Chávez is slowly spreading, within and outside Venezuela.

# Teddy Goldsmith Deploys Terrorists in ‘Anti-Globalization’ Drive

by Scott Thompson

On April 20-22 an estimated 30,000 terrorists, proto-terrorists, and their broader support networks will converge on Quebec City, to try to stop the Summit of the Americas, at which the heads of state of all Western Hemisphere countries (except Cuba) will be attempting to hammer out a Free Trade Agreement of the Americas. The FTAA represents a vast extension of the North American Free Trade Agreement (NAFTA), through which the physical economies of the United States, Mexico, and Canada have been looted by the globalist financier oligarchy. There is every possibility that security forces may be overwhelmed, not only in Quebec City, but also along the U.S. borders with Canada and Mexico. The potential exists for even more chaos and violence than that which shut down the Nov. 29-Dec. 3, 1999 Ministerial Conference of the World Trade Organization (WTO) in Seattle, Washington.

The demonstrators say they are protesting against “globalization,” but the real agenda of the gamemasters who are pulling the strings of these Jacobin mobs, is something quite different. As *EIR*’s Lyndon H. LaRouche, Jr. has emphasized, the godfather of the “anti-globalist” countergangs is Theodore Goldsmith, the London-based brother of the late “green billionaire” Sir James Goldsmith. Teddy Goldsmith, who holds dual British and French citizenship, is today’s equivalent of the British Foreign Office’s controller of the French Jacobin Terror, Jeremy Bentham. Quite consciously, Goldsmith’s intent, and that of the Anglo-American establishment faction which he serves, is not to stop the genocidal process of “globalization,” but rather, to direct those opposed to it, who might otherwise follow LaRouche’s leadership in combatting it effectively, into a mindless rabble, to destroy the institutions of the sovereign nation-state.

In an interview with a Washington, D.C.-based journalist, Goldsmith made clear what he has in store for the United States, for example. Asked what might happen if the U.S. economy were to continue its “hard landing,” Goldsmith said: “Well, I think eventually America will have to break up. America is not a country, it’s a continent. And, of course it’s going to break up.” In short, Teddy Goldsmith seeks to do what the British, with their Boston bluebloods, Wall Street financiers, and the Southern slavocracy, failed to do during the American Civil War.