

**JUAN GUAIDÓ IS NOT “SELF-PROCLAIMED.”  
HE ASSUMED THE INTERIM PRESIDENCY OF THE REPUBLIC OF  
VENEZUELA AS OF JANUARY 10, 2019, IN OBSERVANCE OF THE  
CONSTITUTION, DUE TO THE ABSENCE OF A LEGITIMATELY-  
ELECTED PRESIDENT**

Allan R. Brewer-Carías  
*Emeritus Professor of the Central University of Venezuela*

**I**

In view of the persistent “disinformation” reflected in the affirmations read in the media stating that Juan Guaidó, President of the National Assembly of Venezuela had “proclaimed himself” as interim President of the Republic, it is worth insisting on the falsehood and error of such an assertion.

Representative Juan Guaidó, in his capacity as president of the National Assembly, took charge of the Presidency of the Republic as of January 10, 2019, at the end of the 2013-2019 presidential term, pursuant to a mandate contained in the Constitution and fulfilling an obligation provided thereby, because at that date there was no president of the Republic legitimately elected for the subsequent constitutional presidential term (2019-2025), since the same National Assembly, on May 2018, had declared and deemed as “non-existent” the alleged election of Nicolas Maduro held on May 20 of that same year for said presidential term.

It was not a decision adopted by Representative Guaidó of his own will, that is, he did not “*self proclaim*” himself as interim President –as has been erroneously stated-, but rather he assumed that office as one of the duties inherent in his position as President of the National Assembly, pursuant to the oath sworn on **January 5, 2019**.

**II**

In fact, the so-called “re-election” of Nicolas Maduro held on **May 20, 2018**, was an election process that did not meet the national and international standards set for democratic, free, fair and transparent election processes and, furthermore, was illegitimately called by a fraudulent and unconstitutional National Constituent Assembly installed in 2017, and not by the National Electoral Council, the body in charge of calling election processes.

As a result of that usurpation of power, the National Assembly, *as a political and legislative body that represents the sovereign will of the people, legitimately elected on December 2015, being the primary interpreter of the Constitution on behalf of the people*, approved on **May 22, 2018** a Resolution denouncing the “farce” of said elections process of May 20, 2018, stating that:

“violated all the electoral guarantees recognized in Human Rights Treaties and Agreements, and in the Constitution of the Bolivarian Republic of Venezuela and the Organic Law of Electoral Processes, considering the effective absence of the Rule of Law; the partiality of the electoral arbiter; the violation of the effective guarantees for exercising the right to vote and the right to be elected to office by popular vote; the lack of effective controls against acts of electoral corruption perpetrated by the government; the systematic breach of the freedom of expression, together with the partiality of mass media controlled by the government, the absence of effective and transparent mechanisms of electoral oversight.”

*The National Assembly also construed that if the majority of the “people of Venezuela” refrained from participating in said illegitimate elections process, it was the people who:*

“defending our Constitution and invoking Articles 333 and 350 sanctioned by the Constitution, *decided to reject, disavow and not validate the farce* called for May 20, in spite of the government’s pressure through the social control media.”

By virtue of the foregoing, the National Assembly, again as the *legitimate political and legislative body that represents the sovereign will of the people and primary interpreter of the Constitution on behalf of the people*, resolved:

“1. **To declare as “non-existent” the farce that took place on May 20, 2018**, because it was held in total breach of the provisions of Human Rights Treaties, the Constitution and the Laws of the Republic.

2. **To disavow the alleged outcome announced by the National Electoral Council**, especially, the alleged election of Nicolas Maduro Moros as President of the Republic, who must heretofore be deemed a usurper of said office.

3. **To disavow any null and illegitimate acts of proclamation and swearing in** by virtue of which it may be purported to constitutionally invest Nicolas Maduro Moros as alleged president of the Bolivarian Republic of Venezuela for the 2019-2025 term.”<sup>1</sup>

A few months thereafter, on November 13, 2018, the same National Assembly adopted a Resolution “to promote a political solution for the national crisis” stating, in all accuracy, that:

“as of January 10, 2019, Nicolas Maduro *continues to usurp* the office of President of the Republic, for in spite of not being the president-elect, he factually holds the office of President of the Republic, wherefore all the decisions of the National Executive Branch are ineffective as of that date, pursuant to the terms of Article 138 of the Constitution.”

## II

In view of this situation, which had been noted by other national institutions, such as the Academy of Political and Social Sciences,<sup>2</sup> the National Assembly, again as the *legitimate political and legislative body that represents the sovereign will of the people as primary interpreter of the Constitution on behalf of the people*, merely *interpreted the Constitution* to start resolving the political crisis that arose from the unprecedented political event in the country’s history, that on **January 10, 2019**, there was no legitimately elect president that could be sworn in and take the office of President of the Republic for the 2019-2025 term, pursuant to Article 231 of the Constitution. For that purpose, the Assembly applied by analogy Article 233 of the Constitution

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<sup>1</sup> See the original text of Resolution, available at: [http://www.asambleanacional.gob.ve/actos/\\_acuerdo-reiterando-el-desconocimiento-de-la-farsa-realizada-el-20-de-mayo-de-2018-para-la-supuesta-eleccion-del-presidente-de-la-republica](http://www.asambleanacional.gob.ve/actos/_acuerdo-reiterando-el-desconocimiento-de-la-farsa-realizada-el-20-de-mayo-de-2018-para-la-supuesta-eleccion-del-presidente-de-la-republica). See also the reference in: “Asamblea Nacional desconoce resultados del 20M y declara a Maduro “usurpador,” en *NTN24*, 22 de mayo de 2018, available at: <http://www.ntn24.com/america-latina/la-tarde/venezuela/asamblea-nacional-desconoce-resultados-del-20m-y-declara-nicolas>

<sup>2</sup> The National *Academy of Political and Social Sciences*, highest consultative entity of the country on institutional matters, on January 4th, 2019, highlighted that due “to the non-existence of the necessary conditions in order to celebrate free and just elections,” the illegitimate presidential “reelection” of May 2019, has place the country in an “unprecedented situation” (which was the one that Venezuelans faced in January 2019), “due to the fact that on next January 10<sup>th</sup> 2019, date on which, as established in article 231 of the Constitution, the president for the constitutional term 2019-2019 has to be sworn, the country lacks of a president legitimately elected by means of free and just election.” Consequently, the Academy, facing the grave situation of the country confirmed by those “unconstitutional and illegitimate facts,” and considering that it was necessary to proceed “to comply with the citizens’ duty establish in article 333 of the Constitution,” demanding “the different Branches of Government to respect the Constitution,” and to “proceed to the full reestablishment of the constitutional and democratic order of the country;” a message that **could only be addressed to the National Assembly**, recognized as the only State organ with democratic legitimacy in the country, due to the fact that all the other branches of government were totally subdued to the national Executive, in particular the Supreme Tribunal of Justice, the National Electoral Council, and the organs of the Citizens Branch, leaded by the General Prosecutor of the Republic. See the Pronouncement of the *Academia de Ciencias Políticas y Sociales*: “Ante el 1º de enero de 2019: fecha en la que ha de juramentarse al presidente de la República conforme a la Constitución,” available at: <https://www.lapatilla.com/2019/01/04/academia-de-ciencias-politicas-y-sociales-sobre-juramentacion-del-10ene-no-contamos-con-un-presidente-elegido-legitimamente/>

referring to cases of “absolute lack of the president prior to taking office,”<sup>3</sup> regarding which, the relevant section of this article that governs similar situations provides the following:

“When an elected President becomes permanently unavailable to serve prior to his inauguration, a new election by universal suffrage and direct ballot shall be held within 30 consecutive days. Pending election and inauguration of the new President, the President of the National Assembly shall take charge of the Presidency of the Republic.”

When interpreting the Constitution and applying this rule by analogy, the National Assembly decided that in the situation that occurred on January 10, 2019, since there was no legitimately elected president that could be constitutionally sworn in to said office for the constitutional presidential term of 2019-2025, and as the same National Assembly had decided since May 2018, it should consider, pursuant to Article 233 of the Constitution, in view of the absolute lack of a president-elect, that the president of the National Assembly had the duty to take charge of the Presidency of the Republic, this being precisely one of the functions inherent in his duties in the cases of absolute lack of a president of the Republic, fully by operation of law, without the need for any additional swearing in before the Assembly, for he had already done this when accepting the position as President of the Assembly on January 5, 2019

In this case, whereas Mr. Maduro had been illegitimately “re-elected” as president of the Republic for the 2019-2025 term, in an election declared “non-existing” by the National Assembly, and for this reason could not be sworn in for this term before the people’s representatives as ordered by the Constitution, he did this illegitimately before the Supreme Tribunal of Justice, which is controlled by the Executive Branch; this being an act void of all legal effect and which has furthermore been disavowed by the international community.<sup>4</sup>

### III

The *interpretation of the Constitution made by the National Assembly as the legitimate representative of the sovereign will of the people*, started to be sanctioned in the Resolution issued by the Assembly on the same January 10, 2019, when it decreed the “emergency due to the total disruption of constitutional continuity,” and acted as *the primary interpreter of the Constitution*, setting the path for the “ceasing of the usurpation;”<sup>5</sup> wherefore, the president of the National Assembly stated on that same day that “Today there is no Chief of State, today there is no commander in chief of the Armed Forces, today there is a National Assembly that represents the people of Venezuela.”<sup>6</sup>

Afterwards, the National Assembly, “*as sole legitimate authority of the State and representative of the Venezuelan people*,” completed the interpretation of the Constitution when

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<sup>3</sup> See the text of the Resolution in [http://www.asambleanacional.gob.ve/actos/\\_acuerdo-reiterando-el-desconocimiento-de-la-farsa-realizada-el-20-de-mayo-de-2018-para-la-supuesta-eleccion-del-presidente-de-la-republica](http://www.asambleanacional.gob.ve/actos/_acuerdo-reiterando-el-desconocimiento-de-la-farsa-realizada-el-20-de-mayo-de-2018-para-la-supuesta-eleccion-del-presidente-de-la-republica). See also: “Asamblea Nacional desconoce resultados del 20M y declara a Maduro “usurpador,” en *NTN24*, 22 de mayo de 2018, available at <http://www.ntn24.com/america-latina/la-tarde/venezuela/asamblea-nacional-desconoce-resultados-del-20m-y-declara-nicolas>

<sup>4</sup> In effect, the same day January 10<sup>th</sup> 2019, the Permanent Council of the Organization of American States decided “not to recognize the legitimacy of the regime of Nicolas Maduro,” adopting a motion proposed by Argentina, Chile, Colombia, Costa Rica, Estados Unidos, Perú y Paragua, approved by the favorable vote of Jamaica, Panamá, Paraguay, Perú, República Dominicana, Santa Lucía, Argentina, Bahamas, Brasil, Canadá, Colombia, Costa Rica, Ecuador, Granada, Guatemala, Guyana, Honduras y Haití. See in *El País*, 11 enero 2019, available at [https://elpais.com/internacional/2019/01/10/estados\\_unidos/1547142698\\_233272.html](https://elpais.com/internacional/2019/01/10/estados_unidos/1547142698_233272.html). Véase en *El Nacional*, 10 de enero de 2019, en [http://www.el-nacional.com/noticias/mundo/oea-aprobo-resolucion-para-desconocer-juramentacion-maduro\\_265882](http://www.el-nacional.com/noticias/mundo/oea-aprobo-resolucion-para-desconocer-juramentacion-maduro_265882)

<sup>5</sup> See: “Venezuela: Asamblea Nacional se declara “en emergencia” por jura de Nicolás Maduro. Su presidente, Juan Guaidó hizo un llamado a las fuerzas militares de Venezuela para que acompañen una eventual transición política, en *Tele13*, 10 de enero de 2019, available at: <http://www.t13.cl/noticia/mundo/venezuela-asamblea-nacional-se-declara-emergencia-jura-nicolas-maduro>

<sup>6</sup> See “Juan Guaidó: Hoy no hay jefe de Estado,” en *Noticiero52*, 10 de enero de 2019,” available at <https://noticiero52.com/juan-guaido-hoy-no-hay-jefe-de-estado/>

it issued the **Resolution of January 15, 2019** “regarding the declaration of usurpation of the Presidency of the Republic by Nicolas Maduro Moros and the reinstatement of the Constitution,” adopting a set of “decisions *to proceed to restore the force of the constitutional order, on the basis of Articles 5, 187, 233, 333 and 350 of the Constitution.*”

Specifically, the National Assembly, considering the constitutional obligation of all citizens and officials set forth in **Article 333** of the Constitution,<sup>7</sup> which provides the obligation to cooperate in the restoration of the effective force of the Constitution whenever it has been breached, and considering the “right to civil disobedience in view of the usurpation perpetrated by Nicolas Maduro” arising from **Article 350** of the Constitution,<sup>8</sup> “in the absence of a constitutional rule that regulates the current situation,” decided to:

*“apply by analogy Article 233 of the Constitution, in order to fill in the absence of a president-elect while concurrently acting to restore the constitutional order based on Articles 333 and 350 of the Constitution, and cause the ceasing of the usurpation by effectively forming a Transition Government and proceeding to organize free and transparent elections.”*

This way, *the National Assembly, as primary interpreter of the Constitution and as body through which the people exercises its sovereignty*, agreed on the analogical application of **Article 233** of the Constitution, *meaning that in the absence of a legitimate president-elect that can be sworn in as president for the 2019-2025 term, the president of the National Assembly took charge of the presidency of the Republic*; further deciding, officially, pursuant to **Articles 333 and 350 of the same Constitution**, among other things, the following:

*“First: to formally declare the usurpation of the Presidency of the Republic by Nicolas Maduro Moros and, consequently, consider the de facto status of Nicolas Maduro as legally ineffective, and declare all the alleged actions of the Executive Branch to be null and void, pursuant to Article 138 of the Constitution.*

*Second: to adopt, within the frame of the application of Article 233, the measures that allow restoring the conditions of electoral integrity so that, once the usurpation ceases and a Transition Government is formed and installed, to call and hold free and transparent elections within the shortest term possible, as provided in the Constitution and other Laws of the Republic and applicable treaties.”*<sup>9</sup>

For this transition process, the National Assembly enacted on **February 5, 2019**, the Law of the **Statute that governs the transition to democracy in order to reinstate the Constitution of the Bolivarian Republic of Venezuela**,<sup>10</sup> which confirmed, in its Article 14, that “the president of the National Assembly is the legitimate acting president of the Bolivarian Republic of Venezuela in accordance with Article 233 of the Constitution.”

#### IV

Consequently, after the *constitutional interpretation made by the National Assembly* in the aforementioned **Resolution of January 15, 2019**, and in the **Statute for the Transition**, to apply by analogy **Article 233 of the Constitution** due to the absence of a legitimate president-elect that could be sworn in as president of the Republic for the 2019-2025 term, this implied that *as of January 10, 2019, representative Juan Guaidó, in his capacity as president of the National Assembly, by mandate of the Constitution and without losing his capacity as such president of*

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<sup>7</sup> Article 333: “This Constitution shall not cease to be in effect if it ceases to be observed due to acts of force or because or repeal in any manner other than as provided for herein. In such eventuality, every citizen, whether or not vested with official authority, has a duty to assist in bringing it back into actual effect.”

<sup>8</sup> Article: 350: “The people of Venezuela, true to their republican tradition and their struggle for independence, peace and freedom, shall disown any regime, legislation or authority that violates democratic values, principles and guarantees or encroaches upon human rights.”

<sup>9</sup> Available at: [http://www.asambleanacional.gob.ve/actos/\\_acuerdo-sobre-la-declaratoria-de-usurpacionde-la-presidencia-de-la-republica-por-parte-de-nicolas-maduro-moros-y-el-restablecimiento-de-la-vigenciade-la-constitucion](http://www.asambleanacional.gob.ve/actos/_acuerdo-sobre-la-declaratoria-de-usurpacionde-la-presidencia-de-la-republica-por-parte-de-nicolas-maduro-moros-y-el-restablecimiento-de-la-vigenciade-la-constitucion)

<sup>10</sup> Available at: [http://www.prensa.com/mundo/estatuto-que-rige-la-transicion-a-la-democraciapara-restablecer-la-vigencia-de-la-constitucionde-la-republica-bolivariana-de-venezuela-282\\_LPRFIL20190205\\_0001.pdf](http://www.prensa.com/mundo/estatuto-que-rige-la-transicion-a-la-democraciapara-restablecer-la-vigencia-de-la-constitucionde-la-republica-bolivariana-de-venezuela-282_LPRFIL20190205_0001.pdf)

*the Assembly, became by law the interim President of the Republic*, which, among other public statements, was expressed by Juan Guaidó himself in a public rally held on **January 23, 2019**.

By assuming the interim presidency of the Republic in his capacity as President of the National Assembly, Representative Juan Guaidó merely fulfilled a duty imposed by the Constitution. There was no “self-proclamation” as has been affirmed, but the assuming of one of the functions that have been constitutionally vested on him as president of the National Assembly. As expressed by Guaidó himself:

“My assumption as interim president is based on Article 233 of the Venezuelan Constitution, according to which, if at the onset of a new presidential term there is no chief of state elected, the power shall be ascribed to the president of the National Assembly until the holding of fair elections. For this reason, my oath of January 23 cannot be deemed a “self-proclamation.” I did not assume the presidency of my own accord but in pursuance of the Constitution.”<sup>11</sup>

Therefore, the “oath” expressed at a rally on January 23, 2019, although it was a very important political formality, did not replace the *formal oath that he did swear as president of the National Assembly on January 5, 2019, to fulfill, among others, the duty of precisely taking charge of the Presidency of the Republic*, which is constitutionally according to law under the Constitution, as of January 10, 2019.

This was understood by the country, represented by the majority of its citizens in demonstrations; this was understood by the international community, acknowledging him as the legitimate acting president of the Republic, and also, without doubt, was also recognized for instance by the European Parliament by Resolution of January 31, 2019,<sup>12</sup> when it decided to “*acknowledge Juan Guaidó (“the legitimate and democratically elected president of the National Assembly”) as the legitimate interim president of the Bolivarian Republic of Venezuela, in accordance with the Venezuelan Constitution, pursuant to the provisions of its Article 233, and to fully support his road map.*”<sup>13</sup>

New York, March 6, 2019

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<sup>11</sup> See Juan Guaidó, “How the World Can Help Venezuela,” en *The New York Times*, New York, 31 de enero de 2019, p. A23. See also, on this: José Ignacio Hernández, “De juramentos y proclamas: una explicación,” in *Prodavinci*, 24 de enero de 2019, available at: <https://prodavinci.com/de-juramentos-y-proclamas-una-explicacion/>

<sup>12</sup> Exhorting all the European State to do the same: See in “El Parlamento Europeo reconoce a Juan Guaidó como “legítimo presidente interino de Venezuela,” in *ABC España*, 31 de enero de 2019, available at: [https://www.abc.es/espana/abci-parlamento-europeo-reconoce-juan-guaido-como-legitimo-presidente-interino-venezuela-201901311357\\_video.html](https://www.abc.es/espana/abci-parlamento-europeo-reconoce-juan-guaido-como-legitimo-presidente-interino-venezuela-201901311357_video.html).

<sup>13</sup> See the text of the Resolution on the situation in Venezuela (2019/2543(RSP)), in *Parlamento Europeo, 2014-2019, Textos Aprobados*, P8\_TA-PROV(2019)0061 Situación en Venezuela, available at: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+TA+P8-TA-2019-0061+0+DOC+PDF+V0//ES>