

The 1999 Constitution of the Bolivarian Republic of Venezuela -- the Spanish-language original text is uniquely that with legal application.

# Constitution of the Bolivarian Republic of Venezuela

## NATIONAL CONSTITUENT ASSEMBLY

### PREAMBLE

The people of Venezuela, exercising their powers of creation and invoking the protection of God, the historic example of our Liberator Simon Bolivar and the heroism and sacrifice of our aboriginal ancestors and the forerunners and founders of a free and sovereign nation; to the supreme end of reshaping the Republic 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; 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 furthers and 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; exercising their innate power through their representatives comprising the National Constituent Assembly, by their freely cast vote and in a democratic Referendum, hereby ordain the following:

## CONSTITUTION

### TITLE 1

### FUNDAMENTAL PRINCIPLES

**Article 1:** The Bolivarian Republic of Venezuela is irrevocably free and independent, basing its moral property and values of freedom, equality, justice and international peace on the doctrine of Simon Bolivar, the Liberator. Independence, liberty, sovereignty, immunity, territorial integrity and national self-determination are unrenounceable rights of the Nation.

**Article 2:** Venezuela constitutes itself as a Democratic and Social State of Law and Justice, which holds as superior values of its legal order and actions those of life, liberty, justice, equality, solidarity, democracy, social responsibility and, in general, the preeminence of human rights, ethics and political pluralism.

**Article 3:** The essential purposes of the State are the protection and development of the individual and respect for the dignity of the individual, the democratic exercise of the will of the people, the building of a just and peace loving society, the furtherance of the prosperity and welfare of the people and the guaranteeing of the Fulfillment of the principles, rights and duties established in this Constitution. Education and work are the fundamental processes for guaranteeing these purposes.

**Article 4:** The Bolivarian Republic of Venezuela is a decentralized Federal State on the terms set forth in this Constitution, governed by the principles of territorial integrity, cooperation, solidarity, attendance and shared responsibility.

**Article 5:** Sovereignty resides untransferable in the people, who exercise it directly in the manner provided for in this Constitution and in the law, and indirectly, by suffrage, through the organs exercising Public Power. The organs of the State emanate from and are subject to the sovereignty of the people.

**Article 6:** The government of the Bolivarian Republic of Venezuela and of the political organs comprising the same, is and shall always be democratic, participatory, elective, decentralized, alternative, responsible and pluralist, with revocable mandates.

**Article 7:** The Constitution is the supreme law and foundation of the legal order. All persons and organs exercising Public Power are subject to this Constitution.

**Article 8:** The national flag with its yellow, blue and red stripes, the National Anthem "Gloria al bravo pueblo" (Glory to the Brave People), and the coat of arms of the Republic are the symbols of the native land. Law shall regulate their characteristics, meaning and use.

**Article 9:** Spanish is the official language. The use of native languages also has official status for native peoples, and must be respected throughout the territory of the Republic, as constituting part of the cultural heritage of the Nation and humanity.

## TITLE II

# GEOGRAPHICAL SPACES AND POLITICAL DIVISION

## *Chapter I*

## Territory and Other Geographical Spaces

**Article 10:** The territory and other geographical spaces of the Republic are those which belonged to the Captaincy-General of Venezuela before the political transformation begun on April 19, 1810, as amended by virtue of the treaties and arbitration awards which have not been vitiated with nullity.

**Article 11:** The full sovereignty of the Republic is exercised on the continental, and insular spaces, lake and river spaces, territorial sea, historic, vital and inland sea areas, and those lying within such straight baselines as have been adopted or may come to be adopted by the Republic; seabed and under the seabed of the aforementioned; the continental, insular and maritime air space and the resources located within the aforementioned spaces, including genetic resources, migratory species, derived products and any intangible components that may be present within the aforementioned spaces because of natural causes. The insular space of the Republic includes the Archipelago of Los Monjes, Las Aves, Los Roques, La Orchila, La Tortuga, La Blanquilla, Los Hermanos, islands of Margarita, Cubagua and Coche, Los Frailes, La Sola Island, Los Testigos Archipelago, Patos Island and Aves Island, as well as the islands, islets, keys and banks located or coming in the future to emerge from the territorial sea, that covering the continental shelf or that lying within the limits of the exclusive economic zone. As to the water spaces consisting of the contiguous maritime zone, the continental sheaf and the exclusive economic zone, the Republic exercises exclusive rights of sovereignty and jurisdiction on such terms, to such extent and subject to such conditions as may be determined by public international law and national law. The Republic has rights in outer space and in those areas which are or may be the Common Property of Humanity, on such terms, to such extent and subject to such conditions as may be determined by public international agreements and by the national legislation.

**Article 12:** Mineral and hydrocarbon deposits of any nature that exist within the territory of the nation, beneath the territorial sea bed, within the exclusive economic zone and on the continental shelf, are the property of the Republic, are of public domain, and therefore inalienable and not transferable. The seacoasts are public domain property.

**Article 13:** The territory shall never be assigned, transferred, leased or in any manner whatsoever conveyed, even temporarily or partially, to foreign States or other international law subjects. The geographical space of Venezuela is an area of peace. No foreign military bases or facilities having purposes that are in any way military shall be established within such space by any power or coalition of powers. Foreign States or other international law subjects shall be permitted to acquire real property only for the quarters of their diplomatic or consular delegations, within such area as may be determined and subject to guarantees of reciprocity, with such limitations as may be established by law. In all such cases, national sovereignty shall remain intact. There shall be no conveyance of title to

vacant land existing within the federal dependencies and on islands in rivers and lakes, and the right to use the same shall be granted only in a manner that does not involve, directly or indirectly, the transfer of title to the land.

**Article 14:** The law shall establish a special legal regime for those territories which, by the freely adopted decision of their inhabitants and with the approval of the National Assembly, come to be incorporated into the territory of the Republic.

**Article 15:** The State is responsible for establishing an overall policy in land, insular and maritime border areas, preserving the territorial integrity, sovereignty, security, defense, national identity, diversity and environment in accordance with cultural, economic and social development and integration. Taking into account the inherent nature of each border region through special financial allocations, an Organic Law on Borders shall determine the obligations and objectives comprising this responsibility.

## ***Chapter 11***

# Political Division

**Article 16:** For purposes of the political organization of the Republic, 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. The political division of the territory shall be regulated by an organic law which shall guarantee municipal autonomy and administrative/political decentralization. Such law may provide for the creation of federal territorial in certain areas within the States, the taking effect of which shall be subject to the holding of a referendum to approve the same in the organ concerned. By special law, a federal territory may be given the status of a State; being allocated part or all of the territorial area concerned.

**Article 17:** Federal dependencies are the maritime islands which are not incorporated into the territory of a State, as well as any island that may form or appear in the territorial sea or that covering the continental sheaf. Their regime and administration shall be provided by law.

**Article 18:** The city of Caracas is the capital of the Republic and the seat of the organs of National Power. The provisions of this article shall not prevent the exercise of National Power elsewhere in the Republic. A special law shall establish the territorial and political unit of the city of Caracas, incorporating into a two-tier system of municipal government the Municipalities of the Capital District and those of the State of Miranda. Such law shall provide for the organization, government, administration, competency as well as resources of the city, with a view to its harmonious overall development. In any case the law shall guarantee the democratic and participative character of its government.

## TITLE III

# DUTIES, HUMAN RIGHTS AND GUARANTEES

## *Chapter 1*

### General Provisions

**Article 19:** The State shall guarantee to every individual, in accordance with the progressive principle and without discrimination of any kind, no renounceable, indivisible and interdependent enjoyment and exercise of human rights. Respect for and the guaranteeing of these rights is obligatory for the organs of Public Power, in accordance with the Constitution, the human rights treaties signed and ratified by the Republic and any laws developing the same.

**Article 20:** Everyone has the right to the free development of his or her own personality, subject only to the limitations deriving from the rights of others and public and social order.

**Article 21:** All persons are equal before the law, and, consequently:

1. No discrimination based on race, sex, creed or social standing shall be permitted, nor, in general, any discrimination with the intent or effect of nullifying or encroaching upon the recognition, enjoyment or exercise, on equal terms, of the rights and liberties of every individual.
2. The law shall guarantee legal and administrative conditions such as to make equality before the law real and effective manner; shall adopt affirmative measures for the benefit of any group that is discriminated against, marginalized or vulnerable; shall protect in particular those persons who, because of any of the aforementioned circumstances, are in a manifestly weak position; and shall punish those who abuse or mistreat such persons.
3. People will only be officially addressed as Citizens, except for diplomatic forms.
4. No titles of nobility or hereditary distinctions shall be recognized.

**Article 22:** The recitation of rights and guarantees contained in this Constitution and in international instruments concerning human rights are not to be understood as negating others inherent to individuals, not expressly mentioned in such recitation. The absence of a law regulating these rights shall not adversely affect the exercise thereof.

**Article 23:** The treaties, pacts and conventions relating human rights which have been executed and ratified by Venezuela have a constitutional rank, and prevail over internal legislation, insofar as they contain provisions concerning the

enjoyment and exercise of such rights that are more favorable than those established by this Constitution and the laws of the Republic, and shall be immediately and directly applied by the courts and other organs of the Public Power.

**Article 24:** No legislative provision shall have retroactive effect, except where it imposes a lesser penalty. Procedural laws shall apply from the moment they go into effect, even to proceedings already in progress; however, in criminal proceedings, evidence already admitted shall be weighed in accordance with the laws that were in effect when the evidence was admitted, insofar as this benefits the defendant. When there are doubts as to the rule of law that is to be applied, the most beneficial to the defendant will prevail.

**Article 25:** Any act on the part of the Public Power that violates or encroaches upon the rights guaranteed by this Constitution and by law is null and void, and the public employees\* ordering or implementing the same shall incur criminal, civil and administrative liability, as applicable in each case, with no defense on grounds of having followed the orders of a superior.

**Article 26:** Everyone has the right to access the organs comprising the justice system for the purpose of enforcing his or her rights and interests, including those of a collective or diffuse nature to the effective protection of the aforementioned and to obtain the corresponding prompt decision. The State guarantees justice that is free of charge, accessible, impartial, suitable, transparent, autonomous, independent, responsible, equitable and expeditious, without undue delays, superfluous formalities or useless reinstating.

**Article 27:** Everyone has the right to be protected by the courts in the enjoyment and exercise of constitutional rights and guarantees, including even those inherent individual rights not expressly mentioned in this Constitution or in international instruments concerning human rights. Proceedings on a claim for constitutional protection shall be oral, public, brief, free of charge and unencumbered by formalities, and the competent judge shall have the power to restore immediately the legal situation infringed upon or the closest possible equivalent thereto. All time shall be available for the holding of such proceedings, and the court shall give constitutional claims priority over any other matters. The action for the protection of liberty or safety, may be exercised by any person and the physical custody of the person of the detainee\* shall be transferred immediately to the court, without delay. The exercise of this right shall not be affected in any way by the declaration of a state of exception or restriction of constitutional guarantees.

**Article 28:** Anyone has the right of access to the information and data concerning him or her or his or her goods which are contained in official or private records, with such exceptions as may be established by law, as well as what use is being made of the same and the purpose thereof, and to petition the court of competent competence for the updating, correction or destruction of any

records that are erroneous or unlawfully 'affect the petitioner's right. He or she may, as well, access documents of any nature containing information of interest to communities or group of persons. The foregoing is without prejudice to the confidentiality of sources from which information is received by journalist, or secrecy in other professions as may be determined by law.

**Article 29:** The State is obliged to investigate and legally punish offenses against human rights committed by its authorities. Actions to punish the offense of violating humanity rights, serious violations of human rights and war crimes shall not be subject to statute of limitation. Human rights violations and the offense of violating humanity rights shall be investigated and adjudicated by the courts of ordinary competence. These offenses are excluded from any benefit that might render the offenders immune from punishment, including pardons and amnesty.

**Article 30:** The State has the obligation to make full reparations to the victims of human rights violations for which it may be held responsible, and to the legal successors to such victims, including payment of damages. The State shall adopt the necessary legislative measures and measures of other nature to implement the reparations and damage compensation provided for under this article. The State shall protect the victims of ordinary crimes and endeavor to make the guilty parties provide reparations for the inflicted damages.

**Article 31:** Everyone has the right, on the terms established by the human rights treaties, pacts and conventions ratified by the Republic, to address petitions and complaints to the intentional organs created for such purpose, in order to ask for protection of his or her human rights. The State shall adopt, in accordance with the procedures established under this Constitution and by the law, such measures as may be necessary to enforce the decisions emanating from international organs as provided for under this article.

## ***Chapter II***

# Nationality and Citizenship

## Section One: Nationality

**Article 32:** Are Venezuelans\* by birth:

- (1) Any person who was born within the territory of the Republic.
- (2) Any person who was born in a foreign territory, and is the child of a father and mother who are both Venezuelans by birth.
- (3) Any person who was born in a foreign territory, and is the child of a father or a mother, who is Venezuelan by birth, provided they have established residence

within the territory of the Republic or declared their intention to obtain the Venezuelan nationality.

(4) Any person who was born in a foreign territory, and is the child of a father or a mother who is Venezuelan by naturalization, provided that prior to reaching the age of 18, they establish their residence within the territory of the Republic, and before reaching the age of 25 declare their intention to obtain the Venezuelan nationality.

**Article 33:** Are considered Venezuelans\* by naturalization:

(1) Foreign nationals\* who obtain a naturalization letter. In order to do so, they must have at least ten years of uninterrupted residence immediately preceding the application date.

(2) The period of residence shall be reduced to five years in the case of foreign nationals whose original nationality is that of Spain, Portugal, Italy, or a Latin American or Caribbean country.

(3) Foreign nationals\* who marry a Venezuelan\*, upon declaring their wish to adopt the Venezuelan nationality, which may be done at least five years after the date of marriage.

(4) Minors of foreign nationality, on the date of the naturalization of one of his/her parent who exercises parental authority, provided that such minor declares his or her intention of adopting the Venezuelan nationality before reaching the age of 21, and has resided in Venezuela without interruption throughout the five-year period preceding such declaration.

**Article 34:** The Venezuelan nationality is not lost upon electing or acquiring another nationality.

**Article 35:** Venezuelans\* by birth cannot be deprived of their nationality. The Venezuelan nationality by naturalization can be revoked only by a judgment handed down by a court in accordance with law.

**Article 36:** Venezuelan nationality may be renounced. A person who renounces the Venezuelan nationality by birth may regain such nationality if he or she establishes a residence within the territory of the Republic for a period of at least two years, and expresses the intention of regaining the Venezuelan nationality. Naturalized Venezuelans\* who renounce the Venezuelan nationality may regain it by again meeting the requirements prescribed under article 33 of this Constitution.

**Article 37:** The State shall promote the celebration of international treaties related to nationality, especially with the bordering countries and those indicated in item 2 of Article 33 of this Constitution.

**Article 38:** The substantive and procedural rules relating to the acquisition, election, renunciation and recovery of the Venezuelan nationality, as well as the revocation and withdrawal of naturalization, shall be determined by law, in compliance with the foregoing provisions.

## Section Two: Citizenship

**Article 39:** Venezuelans\* who are not subject to political disablement or civil interdiction, and meet the age requirements provided for in this Constitution, can exercise citizenship and therefore are entitled to political rights and duties in accordance to this Constitution.

**Article 40:** Political rights are reserved to those who are Venezuelans\*, with the exceptions established in this Constitution. Naturalized Venezuelans who have entered the country prior to reaching the age of seven years and have resided permanently in Venezuela until reaching legal age shall enjoy the same rights as Venezuelans by birth.

**Article 41:** Only Venezuelans\* by birth who have no other nationality shall be permitted to hold the offices of President\* of the Republic, Executive Vice President, Chairman\* and Vice-Chairman\* of the National Assembly, Justices\* of the Supreme Tribunal of Justice, Chairman\* of the National Board of Elections, Attorney General of the Republic, Comptroller General\* of the Republic, General Prosecutor\* of the Republic, People Defender\*, Ministers\* with responsibilities relating to national security, finance, energy and mining or education; Governors\* and Mayors\* of border States and Municipalities and those contemplated under the Organic Law on the National Armed Forces. In order to hold the position of member\* of the National Assembly, Minister\* or Governors\* and Mayors\* of non-border States and Municipalities, naturalized Venezuelans must be domiciled in Venezuela with at least fifteen years of permanent residence, as well as meeting the capability requirements provided for by law.

**Article 42:** Anyone who loses or renounces to nationality loses citizenship. The exercise of citizenship or any political rights can be suspended only by final judicial decision in the cases provided by law.

**Article 43:** The right to life is inviolable. No law shall provide for the death penalty and no authority shall apply the same. The State shall protect the life of persons who are deprived of liberty, serving in the armed forces or civilian services, or otherwise subject to its authority.

**Article 44:** Personal liberty is inviolable, therefore:

(1) No person shall be arrested or detained except by virtue of a court order, unless such person is caught in fraganti. In the latter case, such person must be brought before a judge within forty-eight hours of his or her arrest. He or she

shall remain\* free during trial, except for reasons determined by law and assessed by the judge on a case-by case basis.

(2) The bail as required by law for the release of a detainee shall not be subject to tax of any kind.

(3) Any person under arrest has the right to communicate immediately with members of his or her family, an attorney\* or any other person in whom he or she reposes trust, and such persons in turn have the right to be informed where the detainee is being held, to be notified immediately of the reasons for the arrest and to have a written record inserted into the case file concerning the physical or mental condition of the detainee, either by himself or herself, or with the aid of specialists. The competent authorities shall keep a public record of every arrest made, including the identity of the person arrested, the place, time, circumstances and the officers who made the arrest.

(4) In the case of the arrest of foreign nationals, (male or female), applicable provisions of international treaties concerning consular notification shall also be observed.

(5) The penalty shall not extend beyond the person of the convicted individual. No one shall be sentenced to perpetual or humiliating penalties. Penalties consisting of deprivation of liberty shall not exceed 30 years.

(6) Any authority taking measures involving the deprivation of liberty must identify himself or herself.

(7) No person shall remain under arrest after a release order has been issued by the competent authority or such person's sentence has been served.

**Article 45:** The public authorities, whether military, civilian or of any other kind, even during a state of emergency, exception or restriction or guarantees, are prohibited from effecting, permitting or tolerating the forced disappearance of persons. An officer\* receiving an order or instruction to carry it out, has the obligation not to obey, and to report the order or instruction to the competent authorities. The intellectual and physical perpetrators\* accomplices and concealers\* of the crimes of forced disappearance of a person, as well as any attempt to commit such offense, shall be punished in accordance with law.

**Article 46:** Everyone is entitled to respect for his or her physical, mental and moral integrity, therefore:

(1) No person shall be subjected to penalties, tortures, cruelty, inhuman or degrading treatment. Every victim of torture or cruel, inhumane or degrading treatment effected or tolerated by agents of the State has the right to rehabilitation.

(2) Any person deprived of liberty shall be treated with respect due to the inherent dignity of the human being.

(3) No person shall be subjected without his or her freely given consent to scientific experiments or medical or laboratory examinations, except when such person's life is in danger, or in any other circumstances as may be determined by law.

(4) Any public official who, by reason of his official position, inflicts mistreatment or physical or mental suffering on any person or instigates or tolerates such treatment, shall be punished\* in accordance with law.

Article 47: A person's home and any private premise are inviolable. They may not be forcibly entered except by court order, to prevent the commission of a crime or carry out the decisions handed down by the courts in accordance with law, respecting human dignity in all cases. Any health inspections carried out in accordance with law shall be performed only after notice from the officials\* ordering or carrying it out.

**Article 48:** The secrecy and inviolability of private communications in all forms are guaranteed. The same may not be interfered with except by order of a competent court, with observance of applicable provisions of law and preserving the secrecy of the private issues unrelated to the pertinent proceedings.

**Article 49:** All judicial and administrative actions shall be subject to due process, therefore:

(1) Legal assistance and defense are inviolable rights at all stages and levels during the investigation and proceeding. Every person has the right to be notified of the charges for which he or she is being investigated, to have access to the evidence and to be afforded the necessary time and means to conduct his or her defense. Any evidence obtained in violation of due process shall be null and void. Any person declared guilty shall have the right to appeal, except in the cases established by this Constitution and by the law.

(2) Any person shall be presumed innocent until proven otherwise.

(3) Every person has the right to be heard in proceedings of any kind, with all due guarantees and within such reasonable time limit as may be legally determined, by a competent, independent and impartial court established in advance. Anyone who does not speak Spanish or is unable to communicate verbally is entitled to an interpreter.

(4) Every person has the right to be judged by his or her natural judges of ordinary or special competence, with the guarantees established in this Constitution and by law. No person shall be put on trial without knowing the

identity of the party judging him or her, nor be adjudged by exceptional courts or commissions created for such purpose.

(5) No person shall be required to confess guilt or testify against himself or herself or his or her spouse or partner, or any other relative within the fourth degree of consanguinity or the second degree of affinity. A confession shall be valid only if given without coercion of any kind.

(6) No person shall be punished for acts or omissions not defined under preexisting laws as a crime, offense or infraction.

(7) No person shall be placed on trial based on the same facts for which such person has been judged previously.

(8) Every person shall request from the State the restoration or remediation of a legal situation adversely affected by unwarranted judicial errors, and unjustified delay or omissions. The foregoing is without prejudice to the right of the individual\* to seek to hold the magistrate\* or judge\* personally liable, and that of the State to take action against the same.

**Article 50:** Everyone shall freely transit by any means throughout the national territory, to change his or her domicile and residence, to leave and return to the Republic, to move his or her goods or belongings within the country and to bring his or her goods into or remove them from the country, subject only to such limitations as may be prescribed by law. In cases involving the granting of a concession, the law shall provide for the circumstances in which an alternate route must be provided. Venezuelans\* shall enter the country without need for authorization of any kind. No act of the Public Power may establish against Venezuelans\* the penalty of banishment from the national territory.

**Article 51:** Everyone has the right to petition or make representations before any authority or public official\* concerning matters within their competence, and to obtain a timely and adequate response. Whoever violates this right shall be punished in accordance with law, including the possibility of dismissal from office.

**Article 52:** Everyone has the right to assemble for lawful purposes, in accordance with law. The State is obligated to facilitate the exercise of this right.

**Article 53:** Everyone has the right to meet publicly or privately, without obtaining permission in advance, for lawful purposes and without weapons. Meetings in public places may be regulated by law.

**Article 54:** No person shall be subjected to slavery or servitude. Traffic of persons, in particular women, children\* and adolescents, in any form, shall be subject to the penalties prescribed by law.

**Article 55:** Every person has the right to protection by the State, through the citizen safety organs regulated by law, from situations that affect or constitute a threat, vulnerability or risk to the physical integrity of individuals, their properties, the enjoyment of rights or the Fulfillment of duties. Participation by citizens\* in programs for purposes of prevention, citizen safety and emergency management shall be regulated by a special law. The State's security corps shall respect the human dignity and rights of all persons. The use of weapons or toxic substances by police and security officers shall be limited by the principles of necessity, convenience, opportunity and proportionality in accordance with law.

**Article 56:** Every person has the right to his own name, to the surnames of his father and mother, and to know the identity of the latter. The State guarantees the right to investigate maternity and paternity. 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 their biological identity, in accordance with law. Such documents shall not contain any mention classifying the parental relationship.

**Article 57:** Everyone has the right to express freely his or her thoughts, ideas or opinions orally, in writing or by any other form of expression, and to use for such purpose any means of communication and diffusion, and no censorship shall be established. Anyone making use of this right assumes full responsibility for everything expressed. Anonymity, war propaganda, discriminatory messages or those promoting religious intolerance are not permitted. Censorship restricting the ability of public officials\* to report on matters for which they are responsible is prohibited.

**Article 58:** Communications are free and plural, and involve the duties and responsibilities indicated by law. Everyone has the right to timely, truthful and impartial information, without censorship, in accordance with the principles of this Constitution, as well as the right to reply and corrections when they are directly affected by inaccurate or offensive information. Children\* and adolescents have the right to receive adequate information for purposes of their overall development.

**Article 59:** The State guarantees the freedom of cult and religion. All persons have the right to profess their religious faith and cults, and express their beliefs in private or in public, by teaching and other practices, provided such beliefs are not contrary to moral, good customs and public order. The autonomy and independence of religious confessions and churches is likewise guaranteed, subject only to such limitations as may derive from this Constitution and the law. Father and Mother are entitled to have their sons and daughters receive religious education in accordance with their convictions. No one shall invoke religious beliefs or discipline as a means of evading compliance with law or preventing another person\* from exercising his or her rights.

**Article 60:** Every person is entitled to protection of his or her honor, private life, intimacy, self-image, confidentiality and reputation. The use of electronic information shall be restricted by law in order to guarantee the personal and family intimacy and honor of citizens\* and the full exercise of their rights.

**Article 61:** All persons have the right to freedom of conscience, and to express the same except those practices affecting personality or constituting criminal offense. Objections of conscience may not be invoked in order to evade compliance with law or prevent others from complying with law or exercising their rights.

#### ***Chapter IV***

## **Political Rights and Public Referenda**

### **Section One: Political Rights**

**Article 62:** All citizens\* have the right to participate freely in public affairs, either directly or through their elected\* representatives. The participation of the people in forming, carrying out and controlling the management of public affairs is the necessary way of achieving the involvement to ensure their complete development, both individual and collective. It is the obligation of the State and the duty of society to facilitate the generation of optimum conditions for putting this into practice.

**Article 63:** Suffrage is a right. It shall be exercised through free, universal, direct and secret elections. The law shall guarantee the principle of personalization of suffrage and proportional representation.

**Article 64:** All Venezuelans\* who have reached the age of 18 and are not subject to political disablement or civil interdiction are qualified to vote. In state, municipal and parish elections, the right to vote shall be extended to foreign nationals\* who have reached the age of 18 and have resided in Venezuela for more than ten years, subject to the limitations established in this Constitution and by law, and provided they are not subject to political disablement or civil interdiction.

**Article 65:** Persons who have been convicted\* of crimes committed while holding office or other offenses against public property, shall be ineligible to run for any office filled by popular vote, for such period as may be prescribed by law after serving their sentences, depending on the seriousness of the offense.

**Article 66:** Voters have the right to obtain from their public representatives, transparent and periodic accounting for their office, in accordance with the offered program.

**Article 67:** All citizens\* have the right of association for political purposes, through democratic methods of organization, operation and direction. Their governing organs and candidates\* for offices filled by popular vote, shall be selected\* by internal elections with participation of their members. No financing of associations for political purposes with State funds shall be permitted. Matters relating to the financing of and private contributions to associations for political purposes shall be regulated by law, as shall the oversight mechanisms to guarantee propriety as to the sources and handling of such funds. Law shall regulate as well, political and election campaigns, the duration thereof and spending limits with a view pursuing its democratization. Citizens\*, on their own initiative, and associations for political purposes, shall be entitled to participate in the electoral process, putting forward candidates\*. The financing of political advertising and election campaigns shall be regulated by law. The authorities of associations for political purposes shall not enter into contracts with organs in the public sector.

**Article 68:** Citizens\* have the right to demonstrate, peacefully and without weapons, subject only to such requirements as may be established by law. The use of firearms and toxic substances to control peaceful demonstrations is prohibited. The activity of police and security corps in maintaining public order shall be regulated by law.

**Article 69:** The Bolivarian Republic of Venezuela recognizes and guarantees the right of asylum and refuge. Extradition of Venezuelans\* is prohibited.

**Article 70:** Participation and involvement of people in the exercise of their sovereignty in political affairs can be manifested by: voting to fill public offices, referendum, consultation of public opinion, mandate revocation, legislative, constitutional and constituent initiative, open forums and meetings of citizens\* whose decisions shall be binding among others; and in social and economic affairs: citizen service organs, self-management, co-management, cooperatives in all forms, including those of a financial nature, savings funds, community enterprises, and other forms of association guided by the values of mutual cooperation and solidarity. The law shall establish conditions for the effective, functioning of the means of participation provided for under the present article.

## Section Two: Popular Referendum

**Article 71:** Matters of special national transcendence may be referred to a consultative referendum, on the initiative of the President\* of the Republic, taken at a meeting of the Cabinet; by resolution of the National Assembly, passed by a majority vote; or at the request of a number of voters constituting at least 10% of all voters\* registered on the national, civil and electoral registry. Matters of special state, municipal and parish transcendence may also be referred to a consultative referendum. The initiative shall be taken by the Parish Board, the Municipal Council and to the Legislative Council, by the vote of two third of its members; by the Mayor\* and the Governor\* or by a number of voters

constituting at least 10% of the total number of voters registered in the pertinent circumscription.

**Article 72:** All magistrates and other offices filled by popular vote are subject to revocation. Once half of the term of office to which an official\* has been elected has elapsed, a number of voters constituting at least 20% of the voters registered in the pertinent circumscription may extend a petition for the calling of a referendum to revoke such official's mandate. When a number of voters\* equal to or greater than the number of those who elected the official\* vote in favor of revocation, provided that a number of voters\* equal to or greater than 25% of the total number of registered voters\* have voted in the revocation election, the official's mandate shall be deemed revoked, and immediate action shall be taken to fill the permanent vacancy in accordance with the provided for in this Constitution and by law. The revocation of the mandate for the collegiate bodies shall be performed in accordance with the law. During the term to which the official\* was elected, only one petition to recall may be filed.

**Article 73:** Bills under discussion by the National Assembly shall be submitted to a referendum when at least two-thirds of the members\* of the Assembly so decide. If the referendum ends in an affirmative vote of approval, provided that the 25% of the voters\* registered\* before the Civil and Electoral Registry have concurred to the election, the bill conceded shall be enacted into law. Any international agreement, convention or treaty which might compromise the national sovereignty or transfer authority to supranational organs, may be submitted to a referendum on the initiative of the President\* of the Republic, taken at a meeting of the Cabinet by a two-thirds vote of the members\* of the Assembly or by 15% of the voters\* registered on the civil and electoral registry.

**Article 74:** Statutes whose abrogation are requested on the initiative of a number of voters constituting at least 10% of the voters registered in the civil and electoral registry, or by the President\* of the Republic taken at a meeting of the Cabinet, shall be submitted to a referendum for its abrogation in whole or in part. Decrees with the force of law issued by the President of the Republic, making use of the authority prescribed under article 236, section 8 of this Constitution, may also be submitted to an abrogatory referendum, when it is requested by a number of voters constituting at least 5% of the total number of voters registered in the civil and electoral registry. In order for the abrogatory referendum to be valid, a number of voters constituting at least 40% of the total number of voters registered in the civil and electoral registry shall be essential. It shall not be possible to submit budget laws to an abrogatory referendum, neither those establishing or modifying taxes, relating to public credit, to amnesty, the protection, guaranteeing and developing human rights, nor those which ratify international treaties. There shall not be more than one abrogatory referendum on the same matter during the same constitutional term.

## ***Chapter V***

## Social and Family Rights

**Article 75:** The State shall protect families as a natural association in society, and as the fundamental space for the overall development of persons. Family relationships are based on equality of rights and duties, solidarity, common effort, mutual understanding and reciprocal respect among family members. The State guarantees protection to the mother, father or other person acting as head of a household. Children\* and adolescents have the right to live, be raised and develop in the bosom of their original family. When this is impossible or contrary to their best interests, they shall have the right to a substitute family, in accordance with law. Adoption has effects similar to those of parenthood, and is established in all cases for the benefit of the adoptee\*, in accordance with law. International adoption shall be subordinated to domestic adoption.

**Article 76:** Motherhood and fatherhood are fully protected, whatever the marital status of the mother or father. Couples have the right to decide freely and responsibly how many children\* they wish to conceive, and are entitled to access to the information and means necessary to guarantee the exercise of this right. The State guarantees overall assistance and protection for motherhood, in general, from the moment of conception, throughout pregnancy, delivery and the puerperal period, and guarantees full family planning services based on ethical and scientific values. The father and mother have the shared and inescapable obligation of raising, training, educating, maintaining and caring for their children\*, and the latter have the duty to provide care when the former are unable to do so by themselves. The necessary and proper measures to guarantee the enforceability of the obligation to provide alimony shall be established by law.

**Article 77:** Marriage, which is based on free consent and absolute equality of rights and obligations of the spouses, is protected. A stable de facto union between a man and a woman which meets the requirements established by law shall have the same effects as marriage.

**Article 78:** Children\* and adolescents are full legal persons and shall be protected by specialized courts, organs and legislation, which shall respect, guarantee and develop the contents of this Constitution, the law, the Convention on Children's Rights and any other international treaty that may have been executed and ratified by the Republic in this field. The State, families and society shall guarantee full protection as an absolute priority, taking into account their best interest in actions and decisions concerning them. The State shall promote their progressive incorporation into active citizenship, and shall create a national guidance system for the overall protection of children\* and adolescents.

**Article 79:** Young people have the right and duty to be active participants in the development process. The State, with the joint participation of families and society, shall create opportunities to stimulate their productive transition into adult life, including in particular training for and access to their first employment, in accordance with law.

**Article 80:** The State shall guarantee senior citizens\* the full exercise of their rights and guarantees. The State, with the joint participation of families and society, is obligated to respect their human dignity, autonomy and to guarantee them full care and social security benefits to improve and guarantee their quality of life. Pension and retirement benefits granted through the social security system shall not be less than the urban minimum salary. Senior citizens\* shall be guaranteed to have the right to a proper work, if they indicate a desire to work and are capable to.

**Article 81:** Any person with disability or special needs has the right to the full and autonomous exercise of his or her abilities and to its integration into the family and community. The State, with the joint participation of families and society, guarantees them respect for their human dignity, equality of opportunity and satisfactory working conditions, and shall promote their training, education and access to employment appropriate to their condition, in accordance with law. It is recognized that deaf persons have the right to express themselves and communicate through the Venezuelan sign language.

**Article 82:** Every person has the right to adequate, safe and comfortable, hygienic housing, with appropriate essential basic services, including a habitat such as to humanize family, neighborhood and community relations. The progressive meeting of this requirement is the shared responsibility of citizens\* and the State in all areas. The State shall give priority to families, and shall guarantee them, especially those with meager resources, the possibility of access to social policies and credit for the construction, purchase or enlargement of dwellings.

**Article 83:** Health is a fundamental social right and the responsibility of the State, which shall guarantee it as part of the right to life. The State shall promote and develop policies oriented toward improving the quality of life, common welfare and access to services. All persons have the right to protection of health, as well as the duty to participate actively in the furtherance and protection of the same, and to comply with such health and hygiene measures as may be established by law, and in accordance with international conventions and treaties signed and ratified by the Republic.

**Article 84:** In order to guarantee the right to health, the State creates, exercises guidance over and administers a national public health system that crosses sector boundaries, and is decentralized and participatory in nature, integrated with the social security system and governed by the principles of gratuity, universality, completeness, fairness, social integration and solidarity. The public health system gives priority to promoting health and preventing disease, guaranteeing prompt treatment and quality rehabilitation. Public health assets and services are the property of the State and shall not be privatized. The organized community has the right and duty to participate in the making of decisions concerning policy planning, implementation and control at public health institutions.

**Article 85:** Financing of the public health system is the responsibility of the State, which shall integrate the revenue resources, mandatory Social Security contributions and any other sources of financing provided for by law. The State guarantees a health budget such as to make possible the attainment of health policy objectives. In coordination with universities and research centers, a national professional and technical training policy and a national industry to produce health care supplies shall be promoted and developed. The State shall regulate both public and private health care institutions. **Article 86:** All persons are entitled to Social Security as a nonprofit public service to guarantee health and protection in contingencies of maternity, fatherhood, illness, invalidity, catastrophic illness, disability, special needs, occupational risks, loss of employment, unemployment, old age, widowhood, loss of parents, housing, burdens deriving from family life, and any other social welfare circumstances. The State has the obligation and responsibility of ensuring the efficacy of this right, creating a universal and complete Social Security system, with joint, unitary, efficient and participatory financing from direct and indirect contributions. The lack of ability to contribute shall not be ground for excluding persons from protection by the system. Social Security financial resources shall not be used for other purposes. The mandatory assessments paid by employees to cover medical and health care services and other Social Security benefits shall be administered only for social purposes, under the guidance of the State. Any net remaining balances of capital allocated to health, education and Social Security shall be accumulated for distribution and contribution to those services. The Social Security system shall be ruled by a special organic law.

**Article 87:** All persons have the right and duty to work. The State guarantees the adoption of the necessary measures so that every person shall be able to obtain productive work providing him or her with a dignified and decorous living and guarantee him or her the full exercise of this right. It is an objective of the State to promote employment. Measures tending to guarantee the exercise of the labor rights of self employed persons shall be adopted by law. Freedom to work shall be subject only to such restrictions as may be established by law. Every employer\* shall guarantee employees\* adequate safety, hygienic and environmental conditions on the job. The State shall adopt measures and create institutions such as to make it possible to control and promote these conditions.

**Article 88:** The State guarantees the equality and equitable treatment of men and women in the exercise of the right to work. The state recognizes work at home as an economic activity that creates added value and produces social welfare and wealth. Housewives are entitled to Social Security in accordance with law.

**Article 89:** Work is a social fact and shall enjoy the protection of the State. The law shall make the necessary provisions for improving the material, moral and intellectual conditions of workers\*. In order to fulfill this duty of the State, the following principles are established:

(1) No law shall establish provisions that affect the intactness and progressive nature of labor rights and benefits. In labor relations, reality shall prevail over forms or appearances.

(2) Labor rights are unrenounceable; any action, agreement or convention involving a waiver of or encroachment upon these rights is null and void. Concessions and settlements are possible only at the end of the employment relationship, in accordance with the requirements established by law.

(3) When there are doubts concerning application or conflicts among several rules, or in the interpretation of a particular rule, that most favorable to the worker shall be applied. The rule applied must be applied in its entirety.

(4) Any measure or act on the part of an employer in violation of this Constitution is null and void, and of no effect.

(5) All types of discrimination because of political reasons, age, race, creed, sex or any other characteristic is prohibited.

(6) Work by adolescents at tasks that may affect their overall development is prohibited. The State shall protect them against any economic and social exploitation.

**Article 90:** Working hours shall not exceed eight hours per day or 44 hours per week. Where permitted by law, night work shall not exceed seven hours per day or 35 hours per week. No employer shall have the right to require employees to work overtime. An effort shall be made to reduce working hours progressively in the interest of society and in such sphere as may be determined, and appropriate provisions shall be adopted to make better use of free time for the benefit of the physical, spiritual and cultural development of workers\*. Workers are entitled to weekly time off and paid vacations on the same terms as for days actually worked.

**Article 91:** Every worker\* has the right to a salary sufficient to enable him or her to live with dignity and cover basic material, social and intellectual needs for himself or herself and his or her family. The payment of equal salary for equal work is guaranteed, and the share of the profits of a business enterprise to which workers are entitled shall be determined. Salary is not subject to garnishment, and shall be paid periodically and promptly in legal tender, with the exception of the food allowance, in accordance with law. The State guarantees workers\* in both the public and the private sector a vital minimum salary which shall be adjusted each year, taking as one of the references the cost of a basic market basket. The form and procedure to be followed, shall be established by law.

**Article 92:** All workers\* have the right to benefits to compensate them for length of service and protect them in the event of dismissal. Salary and benefits are labor obligations due and payable immediately upon accrual. Any delay in payment of the same shall bear interest, which constitutes a debt certain and shall enjoy the same privileges and guarantees as the principal debt.

**Article 93:** Stable employment shall be guaranteed by law, with provisions as appropriate to restrict any form of unjustified dismissal. Dismissals contrary to this Constitution are null and void.

**Article 94:** The liability of the natural or juridical person for whose benefit services are provided through an intermediary or contractor shall be determined by law, without prejudice to the job and severance liability of the latter. The State shall establish, through the competent organ, the liability to which employers\* in general are subject in the event of simulation or fraud for the purpose of distorting, disregarding or impeding the application of labor legislation.

**Article 95:** Workers\*, without distinction of any kind and without need for authorization in advance, have the right freely to establish such union organizations as they may deem appropriate for the optimum protection of their rights and interests, as well as the right to join or not to join the same, in accordance with law. These organizations are not subject to administrative dissolution, suspension or intervention. Workers are protected against any act of discrimination or interference contrary to the exercise of this right. The promoters\* and the members\* of the board of directors of the union enjoy immunity from dismissal from their employment for the period and on the terms required to enable them to carry out their functions. For purposes of the exercise of union democracy, the bylaws and regulations of union organizations, shall provide for the replacement of boards of directors\* and representatives by universal, direct and secret suffrage. Any union leaders\* and representatives who abuse the benefits deriving from union freedom for their personal gain or benefit shall be punished in accordance with law. Boards of directors members\* of union organizations shall be required to file a sworn statement of assets.

**Article 96:** All employees\* in both public and the private sector have the right to voluntary collective bargaining and to enter into collective bargaining agreements, subject only to such restrictions as may be established by law. The State guarantees this process, and shall establish appropriate provisions to encourage collective relations and the resolution of labor conflicts. Collective bargaining agreements cover all workers\* who are active\* as of the time they are signed, and those hired thereafter.

**Article 97:** All workers in the public and private sector have the right to strike, subject to such conditions as may be established by law.

## ***Chapter VI***

### **Culture and Educational Rights**

**Article 98:** Cultural creation is free. This freedom includes the right to invest in, produce and disseminate the creative, scientific, technical and humanistic work, as well as legal protection of the author's\* rights in his works. The State recognizes and protects intellectual property rights in scientific, literary and

artistic works, inventions, innovations, trade names, patents, trademarks and slogans, in accordance with the conditions and exceptions established by law and the international treaties executed and ratified by the Republic in this field.

**Article 99:** Cultural values are the unrenounceable property of the Venezuelan people and a fundamental right to be encouraged and guaranteed by the State, efforts being made to provide the necessary conditions, legal instruments, means and funding. The autonomy of the public administration of culture is recognized, on such terms as may be established by law. The State guarantees the protection and preservation, enrichment, conservation and restoration of the cultural tangible and intangible heritage and the historic memories of the nation. The assets constituting the cultural heritage of the nation are inalienable, not subject to distraint or to statute of limitations. Penalties and sanctions for damage caused to these assets shall be provided for by law.

**Article 100:** The folk cultures comprising the national identity of Venezuela enjoy special attention, with recognition of and respect for intercultural relations under the principle of equality of cultures. Incentives and inducements shall be provided for by law for persons, institutions and communities which promote, support, develop or finance cultural plans, programs and activities within the country and Venezuelan culture abroad. The State guarantees cultural workers inclusion in the Social security system to provide them with a dignified life, recognizing the idiosyncrasies of cultural work, in accordance with law.

**Article 101:** The State guarantees the issuance, receiving and circulation of cultural information. The communications media have the duty of assisting in the dissemination of the values of folk traditions and the work of artists, writers, composers\*, motion-picture directors\*, scientists\* and other creators\* of culture of the country. The television media shall include subtitles and translation into Venezuelan sign language for persons with hearing problems. The terms and modalities of these obligations, shall be established by law.

**Article 102:** Education is a human right and a fundamental social duty; it is democratic, free of charge and obligatory. The State assumes responsibility for it as an irrevocable function of the greatest interest, at all levels and in all modes, as an instrument of scientific, humanistic and technical knowledge at the service of society. Education, is a public service, and is grounded on the respect for all currents of thought, to the end of developing the creative potential of every human being and the full exercise of his or her personality in a democratic society based on the work ethic value and on active, conscious and joint participation in the processes of social transformation embodied in the values which are part of the national identity, and with a Latin American and universal vision. The State, with the participation of families and society, promotes the process of civic education in accordance with the principles contained in this Constitution and in the laws.

**Article 103:** Every person has the right to a full, high-quality, ongoing education under conditions and circumstances of equality, subject only to such limitations as derive from such persons own aptitudes, vocation and aspirations. Education is obligatory at all levels from maternal to the diversified secondary level. Education offered at State institutions is free of charge up to the undergraduate university level. To this end, the State shall make a priority investment in accordance with United Nations recommendations. The State shall create and sustain institutions and services sufficiently equipped to ensure the admission process, ongoing education and program completion in the education system. The law shall guarantee equal attention to persons with special needs or disabilities, and to those who have been deprived of liberty or do not meet the basic conditions for admission to and continuing enrollment in the education system. The contributions of private individuals to public education programs at the secondary and university levels shall be tax deductible in accordance with the pertinent law.

**Article 104:** Persons of recognized good moral character and proven academic qualifications shall be placed in charge of education. The State shall encourage them to remain continuously up to date, and shall guarantee stability in the practice of the teaching profession, whether in public or private institutions, in accordance with this Constitution and the law, with working conditions and a standard of living commensurate with the importance of their mission. Admissions, promotion and continued enrollment in the education system shall be provided for by law, and shall be responsive to evaluation criteria based on merit, to the exclusion of any partisan or other nonacademic interference.

**Article 105:** The professions requiring a degree and the conditions that must be met to practice them, including, professional organization membership, shall be determined by law.

**Article 106:** Every natural or juridical person, subject, to demonstration of its ability and provided it meets at all times the ethical, academic, scientific, financial, infrastructure and any other requirements that may be established by law, shall be permitted to found and maintain private educational institutions under the strict inspection and vigilance of the State, with the prior approval of the latter.

**Article 107:** Environmental education is obligatory in the various levels and modes of the education system, as well as in informal civil education. Spanish, Venezuelan geography and history and the principles of the Bolivarian thought shall be compulsory courses at public and private institutions up to the diversified cycle level.

**Article 108:** The communications media, public and private, shall contribute to civil education. The State guarantees public radio and television services and library and computer networks, with a view to permitting universal access to information. Education centers are to incorporate knowledge and application of

new technologies and the resulting innovations, in accordance with such requirements as may be established by law to this end.

**Article 109:** The State shall recognize the autonomy of universities as a principle and status that allows teachers\*, students\* and graduates from its community, to devote themselves to the search for knowledge through research in the fields of science, humanistic and technology, for the spiritual and material benefit of the Nation. Autonomous universities shall adopt their own rules for their governance and operation and the efficient management of their property, under such control and vigilance as may be established by law to this end. Autonomy of universities is established in the planning, organization, preparation and updating of research, teaching and extension programs. The inviolability of the university campus is established. Experimental national universities shall attain their autonomy in accordance with law.

**Article 110:** The State recognizes as being in the public interest science, technology, knowledge, innovation and the resulting applications, and the necessary information services, the same being fundamental instruments for the country's economic, social and political development, as well as for national sovereignty and security. To promote and develop these activities, the State shall allocate sufficient resources and shall create a national science and technology system in accordance with law. The private sector shall contribute with resources as well. The State shall guarantee the enforcement of the ethical and legal principles that are to govern research activities in science, humanism and technology. The manners and means of fulfilling this guarantee shall be determined by law.

**Article 111:** All persons have a right to sports and recreation as activities beneficial to individual and collective quality of life. The State assumes responsibility for sports and recreation as an education and public health policy, and guarantees the resources for the furtherance thereof. Physical education and sports play a fundamental role in the overall education of childhood and adolescents. Instruction in the same is obligatory at all levels of public and private education up to the diversified cycle, with such exceptions as may be established by law. The State guarantees full attention to athletes\* without discrimination of any kind, as well as support for high-level competitive sports and evaluation and regulation of sports organizations in both the public and the private sector, in accordance with law. Incentives and inducements shall be established. for the persons, institutions and communities that promote athletes and develop or finance sports activities, plans and programs in the country.

## ***Chapter VII***

### **Economic Rights**

**Article 112:** All persons may devote themselves freely to the economic activity of their choice, subject only to the limitations provided for in this Constitution and

those established by law for reasons of human development, security, health, environmental protection or other reasons in the social interest. The State shall promote private initiative, guaranteeing the creation and fair distribution of wealth, as well as the production of goods and services that meet the needs of the populace, freedom of work, enterprise, commerce, industry, without prejudice to the power of the State to promulgate measures to plan, rationalize and regulate the economy and promote the overall development of the country.

**Article 113:** Monopolies shall not be permitted. Any act, activity, conduct or agreement of private individuals\* which is intended to establish a monopoly or which leads by reason of its actual effects to the existence of a monopoly, regardless of the intentions of the persons involved, and whatever the form it actually takes, is hereby declared contrary to the fundamental principles of this Constitution. Also contrary to such principles is abuse of a position of dominance which a private individual, a group of individuals or a business enterprise or group of enterprises acquires or has acquired in a given market of goods or services, regardless of what factors caused such position of dominance, as well as in the event of a concentration of demand. In all of the cases indicated, the State shall be required to adopt such measures as may be necessary to prevent the harmful and restrictive effects of monopoly, abuse of a position of dominance and a concentration of demand, with the purpose of protecting consumers and producers\* and ensuring the existence of genuine competitive conditions in the economy. In the case of the exploitation of natural resources which are the property of the Nation or the providing of services of a public nature, on an exclusive basis or otherwise, the State shall grant concessions for a certain period, in all cases ensuring the existence of adequate consideration or compensation to serve the public interest.

**Article 114:** Economic crime, speculation, hoarding, usury, the formation of cartels and other related offenses, shall be punished severely in accordance with law.

**Article 115:** The right of property is guaranteed. Every person has the right to the use, enjoyment, usufruct and disposal of his or her goods. Property shall be subject to such contributions, restrictions and obligations as may be established by law in the service of the public or general interest. Only for reasons of public benefit or social interest by final judgment, with timely payment of fair compensation, the expropriation of any kind of property may be declared.

**Article 116:** Confiscation of property shall not be ordered and carried out, but in the cases permitted by this Constitution. As an exceptional measure, the property of natural or legal persons of Venezuelan or foreign nationality who are responsible for crimes committed against public patrimony may be subject to confiscation, as may be the property of those who illicitly enriched themselves under cover of Public Power, and property deriving from business, financial or any other activities connected with unlawful trafficking in psychotropic and narcotic substances.

**Article 117:** All persons shall have the right of access to goods and services of good quality, as well as to adequate and non-misleading information concerning the contents and characteristics of the products and services they consume, to freedom of choice and to fair and dignified treatment. The mechanisms necessary to guarantee these rights, the standards of quality and quantity for goods and services, consumer protection procedures, compensation for damages caused and appropriate penalties for the violation of these rights shall be established by law.

**Article 118:** The right of workers and the community to develop associations of social and participative nature such as cooperatives, savings funds, mutual funds and other forms of association is recognized. These associations may develop any kind of economic activities in accordance with the law. The law shall recognize the specificity of these organizations, especially those relating the cooperative, the associated work and the generation of collective benefits. The state shall promote and protect these associations destined to improve the popular economic alternative.

### ***Chapter VIII***

#### **Rights of Native People**

**Article 119:** The State recognizes the existence of native peoples and communities, their social, political and economic organization, their cultures, practices and customs, languages and religions, as well as their habitat and original rights to the lands they ancestrally and traditionally occupy, and which are necessary to develop and guarantee their way of life. It shall be the responsibility of the National Executive, with the participation of the native peoples, to demarcate and guarantee the right to collective ownership of their lands, which shall be inalienable, not subject to the law of limitations or distraint, and nontransferable, in accordance with this Constitution and the law.

**Article 120:** Exploitation by the State of the natural resources in native habitats shall be carried out without harming the cultural, social and economic integrity of such habitats, and likewise subject to prior information and consultation with the native communities concerned. Profits from such exploitation by the native peoples are subject to the Constitution and the law.

**Article 121:** Native peoples have the right to maintain and develop their ethnical and cultural entity, world view, values, spirituality and holy places and places of cult. The State shall promote the appreciation and dissemination of the cultural manifestations of the native peoples, who have the right to their own education, and an education system of an intercultural and bilingual nature, taking into account their special social and cultural characteristics, values and traditions.

**Article 122:** Native peoples have the right to a full health system that takes into consideration their practices and cultures. The State shall recognize their

traditional medicine and supplementary forms of therapy, subject to principles of bioethics.

**Article 123:** Native peoples have the right to maintain and promote their own economic practices based on reciprocity, solidarity and exchange; their traditional productive activities and their participation in the national economy, and to define their priorities. Native peoples have the right to professional training services and to participate in the preparation, implementation and management of specific training programs and technical and financial assistance services to strengthen their economic activities within the framework of sustainable local development. The State shall guarantee to workers belonging to native peoples the enjoyment of the rights granted under labor legislation.

**Article 124:** Collective intellectual property rights in the knowledge, technologies and innovations of native peoples are guaranteed and protected. Any activity relating to genetic resources and the knowledge associated with the same, shall pursue collective benefits. The registry of patents on this ancestral knowledge and these resources is prohibited.

**Article 125:** Native peoples have the right to participate in politics. The State shall guarantee native representation in the National Assembly and the deliberating organs of federal and local entities with a native population, in accordance with law.

**Article 126:** Native peoples, as cultures with ancestral roots, are part of the Nation, the State and the Venezuelan people, which is one, sovereign and indivisible. In accordance with this Constitution, they have the duty of safeguarding the integrity and sovereignty of the nation. The term people in this Constitution shall in no way be interpreted with the implication it is imputed in international law.

## ***Chapter IX***

### **Environmental Rights**

**Article 127:** 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. Everyone has the right, individually and collectively, to enjoy a safe, healthful and ecologically balanced life and environment. The State shall protect the environment, biological and genetic diversity, ecological processes, national parks and natural monuments, and other areas of particular ecological importance. The genome of a living being shall not be patentable, and the field shall be regulated by the law relating to the principles of bioethics. It is a fundamental duty of the State, with the active participation of society, to ensure that the populace develops in a pollution-free environment in which air, water, soil, coasts, climate, the ozone layer and living species receive special protection, in accordance with law.

**Article 128:** The State shall develop a zoning policy taking into account ecological, geographic, demographic, social, cultural, economic and political realities, in accordance with the premises of sustainable development, including information, consultation and male/female participation by citizens. An organic law shall develop the principles and criteria for this zoning.

**Article 129:** Any activities capable of generating damage to ecosystems must be preceded by environmental and socio-cultural impact studies. The State shall prevent toxic and hazardous waste from entering the country, as well as preventing the manufacture and use of nuclear, chemical and biological weapons. A special law shall regulate the use, handling, transportation and storage of toxic and hazardous substances. In contracts into which the Republic enters with natural or juridical persons of Venezuelan or foreign nationality, or in any permits granted which involve natural resources, the obligation to preserve the ecological balance, to permit access to, and the transfer of technology on mutually agreed terms and to restore the environment to its natural state if the latter is altered, shall be deemed included even if not expressed, on such terms as may be established by law.

## ***Chapter X***

### **Duties**

**Article 130:** Venezuelans\* have the duty to honor and defend their native land symbols and cultural values and to guard and protect the sovereignty, nationhood, territorial integrity, self determination and interests of the nation.

**Article 131:** Everyone has the duty to comply with and obey this Constitution and the laws and other official acts promulgated by the organs of Public Power.

**Article 132:** Everyone has a duty to fulfill his or her social responsibilities and participate together in the political, civic and community life of the country, promoting and protecting human rights as the foundation of democratic coexistence and social peace.

**Article 133:** Everyone has the duty to contribute toward public expenditures by paying such taxes, assessments and contributions as may be established by law.

**Article 134:** Everyone, in accordance with law, has the duty to perform such civilian or military service as may be necessary for the defense, preservation and development of the country, or to deal with situations involving a public calamity. No one shall be subjected to forcible recruitment. Everyone has the duty of rendering its services in the electoral functions assigned to them by law.

**Article 135:** The obligations incumbent upon the State in accordance with this Constitution and the law, in fulfillment of the States commitments to the general welfare of society, do not preclude the obligations which, by virtue of solidarity,

social responsibility and humanitarian assistance, are incumbent upon private individuals according to their abilities. Appropriate provisions shall be enacted by law to compel the Fulfillment of these obligations in those cases in which such compulsion is necessary. Those aspiring to practice any profession have a duty to perform community service for such period, in such place and on such terms as may be provided for by law.

#### TITLE IV

## PUBLIC POWER

### *Chapter 1*

## Fundamental Provisions

### Section One: General Provisions

**Article 136:** Public Power is distributed among Municipal Power, that of the States Power and National Power. National Public Power is divided into Legislative, Executive, Judicial, Citizen and Electoral. Each of the branches of Public Power has its own functions, but the organs charged with exercising the same shall cooperate with one another in attaining the ends of the State.

**Article 137:** The Constitution and the law shall define the authorities of the organs, which exercise Public Power, and the activities carried on by such organs shall be subject to the same.

**Article 138:** An usurped authority is of no effect, and its acts are null and void.

**Article 139:** The exercise of Public Power gives rise to individual liability for abuse or misapplication of power, or for violation of this Constitution or the law.

**Article 140:** The State shall be financially liable for any damages suffered by private individuals to any of their property or rights, provided the harm is imputable to the functioning of Public Administration.

### Section Two: Public Administration

**Article 141:** Public Administration is at the service of the citizen\* and is based on the principles of honesty, participation, expeditiousness, efficacy, efficiency, transparency, accountability and responsibility in the performance of public functions, being fully subject to the law and to the right.

**Article 142:** Autonomous institutions can be created only by law. Such institutions, as well as public interests in foundations or organs of any nature, shall be subject to State Control in such form as may be established by law.

**Article 143:** Citizens\* have the right to be informed by Public Administration, in a timely and truthful manner, of the status of proceedings in which they have a direct interest, and to be apprised of any final decisions adopted in the matter. Likewise, they have access to administrative files and records, without prejudice to the limits acceptable in a democratic society in matters relating to internal and external security, criminal, investigation and the intimacy of private life, in accordance with law regulating the matter of classification of documents with contents which are confidential or secret. No censorship of public officials\* reporting on matters for which they are responsible shall be permitted.

### Section Three: Public Functions

**Article 144:** Statutes governing public functions shall be enacted by law, with rules concerning entering, promotion, transfers, suspension and removal of employees\* of Public Administration, and will provide for their incorporation into Social Security. The duties and requirements that are to be met by public employees\* in the exercise of their official functions shall be determined by law.

**Article 145:** Public officials or employees serve the state, and not any partisan interest. Their appointment and removal shall not be determined based on political affiliation or orientation. A person who is in the service of the Municipalities, the States, the Republic, or any other State public or private juridical persons, shall not be permitted to enter into a contract of any kind with them, either directly or through any interposed person, or as representative of another, with such exceptions as may be established by law.

**Article 146:** Positions in the organs of Public Administration are to be filled by career personnel. Exceptions are those elected by popular vote, those whose holders may be appointed and removed freely, those contracted\* for, laborers\* in the service of Public Administration and any others determined by law. Engagement of public officials\* to fill career positions shall be by public competition, based on principles of honesty, capability and efficiency. Promotion shall be governed by scientific methods based on the merit system, and transfer, suspension and removal shall depend on performance.

**Article 147:** In order for paid public positions to be filled, it is necessary that the pertinent compensation be provided for in the pertinent budget. Public Administration salary scales shall be established by regulation, in accordance with law. The pertinent organic law may establish reasonable limits on the compensation earned by national, state and municipal public officials\*. The national law shall establish the pension or retirement system for national, state and municipal public officials\*.

**Article 148:** No one shall be permitted to hold more than one paid public position, except in the case of academic, temporary, care-giving or teaching positions, as determined by law. Acceptance of a second position not included among the exceptions stated in this article shall imply resignation from the first, except in the case of substitutes, as long as they do not permanently replace the regular holder of the position concerned. No one shall be permitted to enjoy more than one set of pension or retirement benefits, except in the cases expressly determined by law.

**Article 149:** Public officials\* shall not be permitted to accept employment, honors or rewards from foreign governments without authorization from the National Assembly.

#### Section Four: Contracts in the Public Interest

**Article 150:** Entering into contracts in the national public interest shall require the approval of the National Assembly in those cases in which such requirement is determined by law. No contract in the municipal, state or national public interests determined shall be entered into with foreign States or official entities, or with companies not domiciled in Venezuela, or transferred to any of the same, without the approval of the National Assembly. In contracts in the public interest, the law may demand certain conditions as to nationality, domicile or other matters, or require special guarantees.

**Article 151:** In the public interest contracts, unless inapplicable by reason of the nature of such contracts, a clause shall be deemed included even if not expressed, whereby any doubts and controversies which may raise concerning such contracts and which cannot be resolved amicably by the contracting parties, shall be decided by the competent courts of the Republic, in accordance with its laws and shall not on any grounds or for any reason give rise to foreign claims.

#### Section Five: International Relations

**Article 152:** The international relations of the Republic serve the ends of the State as a function of the exercise of sovereignty and the interests of the people; they are governed by the principles of independence, equality between States, free self-determination and nonintervention in their internal affairs, the peaceful resolution of international conflicts, cooperation, respect of human rights and solidarity among peoples in the struggle for their liberation and the welfare of humanity. The Republic shall maintain the finest and most resolute defense of these principles and democratic practices in all international organs and institutions.

**Article 153:** The Republic shall promote, and encourage Latin American and Caribbean integration, in the interest of advancing toward the creation of a community of nations, defending the region's economic, social, cultural, political and environmental interests. The Republic shall have the power to sign

international treaties that implement and coordinate efforts to promote the common development of our nations, and to ensure the welfare of their peoples and the collective security of their inhabitants. To these ends, the Republic may transfer to supranational organizations, through treaties, the exercise of the necessary authorities to carry out these integration processes. In its policies of integration and union with Latin America and the Caribbean, the Republic shall give privileged status to relations with other American countries, striving to make this a common policy throughout our Latin America. Provisions adopted within the framework of integration agreements shall be regarded as an integral part of the legal order in force, and shall be applicable directly and with priority over internal legislation.

**Article 154:** Treaties agreed to by the Republic must be approved by the National Assembly prior to their ratification by the President\* of the Republic, with the exception of those which seek to perform or perfect pre-existing obligations of the Republic, apply principles expressly recognized by the Republic, perform ordinary acts in international relations or exercise powers expressly vested by law in the National Executive.

**Article 155:** In the international agreements, treaties and conventions entered into by the Republic, a clause shall be inserted whereby the parties agree to resolve by peaceful means recognized under international law or agreed upon in advance between them, where this is the case, any controversies that may arise between them in connection with its interpretation or implementation, if not inappropriate and if it is permitted by the procedure to be followed in entering into the treaty, agreement or convention.

## ***Chapter 11***

### Competence of National Public Power

**Article 156:** Is of the competence of the National Public Power:

- (1) The international policy and actions of the Republic.
- (2) Defense and supreme vigilance of the general interests of the Republic, public peace keeping and the proper enforcement of the laws throughout the national territory.
- (3) The flag, coat of arms, national anthem, holidays, decorations and honors of a national nature.
- (4) Naturalization, admission, extradition and expulsion of foreign nationals\*.
- (5) Identification services.
- (6) The national police.

(7) National security, defense and development.

(8) The organization and governance of the National Armed Forces.

(9) The governance of risk and emergency management.

(10) The organization and governance of the Capital District and the federal dependencies.

(11) Regulation of central banking, the monetary system, foreign currency, the financial and capital market system and the issuance and mintage of currency.

(12) The creation, organization, collection, administration and control of taxes on income, inheritances, donations and other related areas, capital, production, value added, hydrocarbons and mines; duties on the importing and exporting of products and services; taxes on the consumption of liquor, alcohol and other products containing alcohol, cigarettes and other tobacco products; and any other taxes, assessments and revenues not expressly assigned by this Constitution and the law to the States and Municipalities.

(13) Legislation to guarantee the coordination and harmony of the various different taxing powers and define principles, parameters and limitations, especially for purposes of determining the tax rates and aliquot parts for state and municipal taxes, and to create specific funds that ensure inter-territorial solidarity.

(14) The creation and organization of land taxes or taxes on rural properties and on real estate transactions, the collection and oversight of which is the responsibility of the Municipalities, in accordance with this Constitution.

(15) The governance of foreign trade and the organization and governance of customs.

(16) The governance and management of mines and hydrocarbons, the governance of vacant lands and the conservation, development and exploitation of forests, soil, water and other elements of the country's natural wealth.

The National Executive shall not grant mining concessions for an indefinite period. The law shall establish an economic system of special financial assignments for the benefit of States within whose territory the assets mentioned in this section are located, without prejudice to the possibility of also establishing special appropriations for the benefit of other States.

(17) The system of legal weights and measures and quality control.

(18) National censuses and statistics.

(19) The establishing, coordination and unification of technical standards and procedures for engineering, architectural and city planning projects, and city planning/zoning legislation.

(20) Public works in the national interest.

(21) The macroeconomic, financial and fiscal policies of the Republic.

(22) The governance and organization of the Social Security System.

(23) National policy and legislation in the fields of health, housing, food safety, the environment, waters, tourism, zoning and shipping.

(24) National education and health policies and services.

(25) National policies for agricultural, livestock, fisheries and forest production.

(26) The national transportation and shipping system and air, overland, ocean, river and lake transportation of a national nature; ports, airports and their infrastructure.

(27) The national highway and railway systems.

(28) Governance of postal and telecommunications services, as well as governance and management of the electromagnetic spectrum.

(29) General governance of residential public utility services, including in particular electricity, drinking water and gas.

(30) Management of border policy with an overall vision of the country, such as to permit a Venezuelan presence and the maintenance of territory and sovereignty in these areas.

(31) The organization and administration of justice at the national level, as well as the Office of General Prosecutor and the People Defender.

(32) Legislation in the fields of constitutional guarantees, rights and duties; civil, mercantile, criminal, penological, procedural and private international law; election law; expropriation in the public interest or in the interest of society; public credit; intellectual, artistic and industrial property; cultural and archaeological heritage; agriculture; immigration and population; native people and the territories they occupy; labor, Welfare and Social Security; animal and vegetable hygiene; notarial and public record offices; banks and insurance; lotteries, racetracks and betting in general; organization and functioning of the organs of National Public Power and other organs and institutions at the national level; and all matters of national competence in general.

(33) Any other matters which the present Constitution may assign to National Public Power, or which by their nature or type come under its competence.

**Article 157:** The National Assembly, by a majority vote of its members, shall have the power to delegate to the States or Municipalities certain matters under national competence, in order to promote decentralization.

**Article 158:** Decentralization, as a national policy, must add depth to democracy, bring power closer to the people and creating optimum conditions both for the exercise of democracy and for the effective and efficient Fulfillment of government commitments.

### ***Chapter 111***

## **State Public Power**

**Article 159:** The States are politically equal and autonomous organs with full juridical personality, and are obligated to maintain the independence, sovereignty and integrity of the nation and to comply with and enforce the Constitution and the laws of the Republic.

**Article 160:** A Governor is in charge of the government and administration of each State. A Governor\* must be a Venezuelan\* over the age of 25 who is not a member of the clergy. The Governor\* shall be elected for a term of four years by a majority vote. The Governor\* can be re-elected to an additional term only immediately and only once.

**Article 161:** Governors\* shall give a yearly public accounting to the State Comptroller for their office, and shall submit a report on the same to the Legislative Council and the Public Policy Planning and Coordination Council.

**Article 162:** Legislative Authority shall be exercised in each State by a Legislative Council-consisting of no more than fifteen and at least seven members, who shall proportionally represent the population of the State and the Municipalities. The Legislative Council shall have the following powers:

- (1) To legislate matters within state competence.
- (2) Pass the state's Budget Law.
- (3) Any others vested in it by this Constitution or by the law.

The requirements for being a member of the Legislative Council, the obligation to give a yearly accounting and immunity within the territorial jurisdiction, shall be governed by the rules established by this Constitution for deputies\* of the National Assembly, insofar as applicable. State legislators\* shall be elected for a

four-year term, being eligible for reelection for only two terms. The organization and functioning of the Legislative Council shall be regulated by the national law.

**Article 163:** Each State shall have a Comptroller's Office which shall enjoy structural and operating autonomy. The State Comptroller's Office shall exercise, in accordance with this Constitution and in accordance with law, control, vigilance and auditing authority over state revenues, expenses and assets, without prejudice to the scope of the functions of the Office of the General Comptroller of the Republic. This body shall act under the direction and responsibility of a Comptroller\*, whose qualifications to serve in this position shall be determined by law, guaranteeing his capability and independence, as well as the neutrality of his appointment, which shall be by public competition.

**Article 164:** Is of the States exclusive competence:

- (1) Promulgating their Constitution to organize public authority, in accordance with the provisions of this Constitution.
- (2) Organization of their Municipalities and other local organs and the territorial and political divisions between them, in accordance with this Constitution and in accordance with law.
- (3) Management of their assets and investment and management of their resources, including those deriving from transfers, subsidies or special assuagements from National Power, and those assigned to them as a share of national tax revenues.
- (4) Organization, collection, control and administration of their own taxes, in accordance with provisions of national and state law.
- (5) The governance and exploitation of non-metallic minerals that are not reserved to National Power, as well as salt deposits and oyster beds, and the management of vacant lands within their jurisdiction, in accordance with law.
- (6) Organization of the police and determination of the branches of this service to be assigned to municipal jurisdiction, in accordance with applicable national legislation.
- (7) Creation, organization, collection, control and management in the fields of sealed paper and tax documentary stamps.
- (8) Creation, governance and organization of state public services.
- (9) Construction, preservation, management and exploitation of overland travel routes within the states.

(10) Conservation, management and exploitation of national expressways and highways, as well as ports and airports in commercial use, in coordination with the National Executive.

(11) Any matters not placed, in accordance with this Constitution, under national or municipal jurisdiction.

**Article 165:** Matters involving concurrent competence shall be regulated by laws enacted by National Power and implementation laws passed by the States. This legislation shall be guided by the principles of interdependence, coordination, cooperation, shared responsibility and subordination. The States shall decentralize and transfer to the Municipalities the state services and powers which the Municipalities are capable of exercising, as well as management of the associated resources, in the areas in which concurrent jurisdiction exist as between these two levels of Public Power. The transfer mechanisms shall be regulated by the legal system of the State concerned.

**Article 166:** In each state, a Public Policy Planning and Coordination Council shall be created, chaired by the Governor\* and having as members the Mayors\*, the state directors\* of the various ministries and representatives of the legislators\* elected by the State to the National Assembly, as well as representatives from the Legislative Council, the municipal councils\* and organized communities, including native communities where they exist. This Council shall function and be organized as determined by law.

**Article 167:** Are revenues of the States:

(1) Those deriving from their property and the management of their assets.

(2) Charges for the use of their goods and services, fines and penalties, and any charges allocated to them.

(3) Proceeds from the sale of State-owned commodities.

(4) The resources to which they are entitled by virtue of constitutional revenue share (situado constitucional).

The revenue share is equivalent to up to 20% of total ordinary revenues as estimated annually by the National Treasury, which is to be distributed among the States and the Capital District as follows: 30% of the aforementioned percentage in equal shares, and the remaining 70% in proportion to the population of each of such entities. During each fiscal year, the States must invest at least 50% of the amount to which they are entitled by way of revenue share. During each fiscal year, the Municipalities of each State shall be entitled to at least 20% of the revenue share and of all other ordinary revenues of the State corresponding.

(1) In the event of changes in the revenues of the National Treasury that require an adjustment to the National Budget, the constitutional revenue share shall be adjusted in the same proportion.

(2) Principles, rules and procedures with a view to ensure the proper and efficient use of the resources deriving from the constitutional revenue share and the share of the Municipalities therein shall be established by law.

(3) Any other taxes, charges and special contributions that may be allocated to them by national law for the purpose of helping to develop the state treasuries. Laws creating or transferring tax revenues to the States may offset these allocations by means of changes in the other revenue categories indicated in this article, in order to preserve inter-territorial fairness. The percentage of estimated ordinary national revenues allocated to the constitutional revenue share shall be no less than 15% of estimated ordinary revenues, taking into account the financial position and sustainability of the National Public Treasury, without neglecting the ability of the state administrative authorities to provide adequately for the services for which they are responsible.

(4) Resources deriving from the Inter-territorial Compensation Fund and from any other transfer, subsidy or special appropriation, as well as those allocated to them as a share of national tax revenues, in accordance with the pertinent law.

#### ***Chapter IV***

## **Municipal Public Power**

**Article 168:** Municipalities constitute the primary political unit in the organization of the nation, and enjoy artificial personality and autonomy within the limits prescribed by the Constitution and the law.

Municipal autonomy includes:

(1) Election of municipal authorities.

(2) Management of affairs within the scope of its competence.

(3) Creation, collection and investment of its revenues.

The actions of a Municipality within the scope of its competence shall be carried out by incorporating citizen participation into the process of defining and managing public affairs and monitoring and evaluating the results achieved, in an effective, sufficient and timely manner, in accordance with law. The actions of Municipalities may be contested only before the courts of competent jurisdiction, in accordance with the Constitution and the law.

**Article 169:** The organization of Municipalities and other local entities shall be governed by this Constitution, by the rules established by national organic laws to implement constitutional principles, and by such provisions of law as may be enacted by the States in accordance with the aforementioned. Legislation enacted to implement constitutional principles relating to Municipalities and other local entities shall establish various structures for the organization, governance and administration of the same, including as regards the determination of their powers and resources, taking into account conditions relating to population, economic development, ability to generate their own tax revenues, geographical location, historical and cultural elements and other relevant factors. In particular, such legislation shall establish the options for organizing the system of local administration and government that shall be adopted by Municipalities with native populations. In all cases, the municipal structure shall be democratic and consistent with the inherent nature of local government.

**Article 170:** Municipalities shall be permitted to associate in commonwealths, or to agree among themselves or with other territorial political divisions on the creation of types of intergovernmental associations for purposes in the public interest relating to matters within their competence. The rules concerning the grouping of two or more Municipalities into districts shall be determined by law.

**Article 171:** When two or more Municipalities belonging to the same federal organ have economic, social and physical relations that give the group the characteristics of a metropolitan area, they may organize themselves as metropolitan districts. The organic law enacted for the purpose shall guarantee the democratic and participatory character of the metropolitan government and shall establish its functional competence, as well as its tax, financial and control regime. It shall also ensure that the Municipalities have adequate participation in the entities of the metropolitan government, and shall indicate the manner in which the public consultations that are to decide upon affiliation of the Municipalities with the metropolitan district. Various regimes may be established by law for the organization, governance and administration of the metropolitan district, taking into account population conditions, economic and social development, geographical location and other factors of importance. In all cases, the delegation of competence for each metropolitan district shall take into account these conditions.

**Article 172:** The state Legislative Council, after a favorable decision by public consultation of the affected population, shall define the boundaries of the metropolitan district and shall organize the same in accordance with the provisions of the national organic law, determining which metropolitan powers are to be assumed by the governmental organs of the pertinent metropolitan district. When the Municipalities wishing to form a metropolitan district belong to different federal entities, the creation and organization of the same shall be the responsibility of the National Assembly.

**Article 173:** A Municipality shall have the power to create parishes on such terms as may be determined by law. The legislation enacted to implement constitutional principles relating to the organization of Municipalities shall establish the premises and conditions for the creation of other local entities within the territory of the Municipality, as well as the resources that shall be available to them, depending on the functions assigned to them, including their share in the Municipality's own revenues. Their creation shall take into account neighborhood or community initiative, in order to provide for the decentralization of the administration of the Municipality, citizen participation and the providing of better public services. In no event shall parishes be assumed to be the only possible divisions, or to be required divisions, of the territory of a Municipality.

**Article 174:** The Mayor\* shall be in charge of the government and administration of a municipality, and shall also be the head of civil government. A Mayor\* must be Venezuelan, over the age of 25 and not a member of the clergy. The Mayor\* shall be elected for a term of four years by majority vote, and may be re elected immediately and once only, to an additional term.

**Article 175:** The legislative function in a Municipality is vested in the Council, made up of council members\* elected in the manner established in this Constitution, in such number and on such terms of eligibility as may be determined by law.

**Article 176:** The Office of the Municipal Comptroller shall be in charge of control, vigilance and auditing of municipal revenues, expenses and property, as well as transactions relating to the same, without prejudice to the scope of the attributions of the Office of the General Comptroller, and the official in charge of the office shall be the Municipal Comptroller\*, designated by the Council through a public competition to guarantee the capability and ability of the person designated\* to hold this office, on the terms established by law.

**Article 177:** Principles, residence requirements and conditions, prohibitions, grounds for disqualification and conflicts of interest for the candidacy and exercise of the functions of mayors and councilmen members\* may be established by national law.

**Article 178:** A Municipality has competence to govern and administrate its interests, as well as over the management of those matters which are assigned to it by this Constitution and national laws as regards local life, in particular the ordering and promotion of economic and social development, the equipping and providing of household public utility services, the application of policy with respect to these matters on a basis of fairness, justice and social interest content, according with delegation established on law related to this matter, the promotion of participation and improvement, in general, of living conditions in the community, in the following areas:

(1) Territorial zoning and city planning matters; historic heritage; housing in the interest of society; local tourism; parks and gardens; plazas; bathing and other recreational areas; civil architecture, nomenclature and public ornament.

(2) Urban roadways; circulation and ordering of vehicular and pedestrian traffic on municipal thoroughfares; urban public passenger \* transportation services.

(3) Public spectacles and commercial advertising, to the extent pertinent to specific municipal interests and purposes.

(4) Protection of the environment and cooperation with environmental sanitation efforts; urban and household sanitation, including cleaning, waste collection and treatment and civil protection.

(5) Healthiness and primary health care; services for the protection of infants and children, adolescents and senior citizens; preschool education; family services to integrate the disabled into the development of the community; cultural and sports activities and facilities. Prevention and protective services; surveillance and control of property and activities relating to matters within municipal competency.

(6) Drinking water services, electricity and gas for household use, sewers. channeling and disposal of wastewater; cemeteries and funeral services.

(7) Small claims courts, neighborhood prevention and protection and municipal police services, in accordance with applicable national legislation.

(8) Any others with which Municipalities may be charged under the Constitution and by law. The actions that Municipalities have the power to take within the scope of their competence are without prejudice to national and state competence as defined by law in accordance with the Constitution.

**Article 179:** Municipalities shall have the following revenues:

(1) Those deriving from their capital assets, including the proceeds from their common lands and other property.

(2) Charges for the use of their goods or services; administrative charges for licenses or authorizations; taxes on economic activities in the areas of industry, business and services, or those of similar kind, with the limitations established in this Constitution; taxes on urban real property, vehicles, public shows, games and lawful wagering; advertising and commercial publicity; and, the special tax on increased property values generated by changes in use or intensity of exploitation from which they benefit because of zoning plans.

(3) The rural territorial tax or tax on rural estates; sharing in the tax on improvements and other national and state taxes, in accordance with the laws creating such taxes.

(4) Those deriving from the constitutional revenue share and other national or state transfers or subsidies.

(5) The proceeds from fines and penalties imposed within the scope of their competence, or delegated to them.

(6) Such others as may be determined by law.

**Article 180:** The taxing power that is vested in Municipalities is different from and independent of the regulatory powers over certain fields or activities conferred by this Constitution or laws on National or State Authority. Immunities from the taxing power of Municipalities in favor of other territorial political entities extend only to public sector juridical persons created by such organs, and not to concession holders or other parties entering into contracts with the administrative arm of National or State government.

**Article 181:** Municipal common lands are inalienable and not subject to the law of limitations. Title to them can be conveyed only subject to compliance with the formalities provided for under municipal ordinances and under the circumstances provided for thereunder, in accordance with this Constitution and such laws as may be promulgated to develop the principles contained herein. Ownerless land located within the urban area of towns in a municipality is municipal common land, without prejudice to legitimate and validly constituted rights of third parties. Vacant land located within the urban area also becomes common land. However, this does not include land which is part of native communities. The mechanism for converting other public land into common land shall be established by law.

**Article 182:** The Local Public Planning Council is hereby created, presided over by the Mayor\* and consisting of municipal Council members, Chairpersons\* of Parish Boards and representatives of neighborhood organizations and other organized social groups, in accordance with such provisions as may be established by law.

**Article 183:** States and Municipalities shall not have the power to:

(1) Create customs authorities or import, export or transit duties on domestic or foreign goods, or on other revenue sources under national competence.

(2) Tax consumer goods before the same are marketed within their territory.

(3) Prohibit the consumption of goods produced outside their territory, nor tax the same differently from those produced within their territory. States and

Municipalities have the power to tax agriculture, livestock, fishing and forest activities only at the times, in the manner and to the extent permitted by national laws.

**Article 184:** Open and flexible mechanisms shall be created by law to cause the States and Municipalities to decentralize and transfer to communities and organized neighborhood groups services the latter manage and demonstrate the ability to provide, promoting:

(1) The transfer of services in the areas of health, education, housing, sports, culture, social programs, the environment, maintenance of industrial areas, maintenance and upkeep of urban areas, neighborhood prevention and protective services, construction of works projects and providing of public services. To this end, they shall have the power to enter into agreements, whose content shall be guided by the principles of interdependence, coordination, cooperation and shared responsibility.

(2) Participation by communities and citizens\*, through neighborhood associations and nongovernmental organizations, in the formulation of investment proposals for presentation before the state and municipal authorities in charge of preparing the pertinent investment plans, as well as participation in the execution, evaluation and control of works projects, social programs and public services within their jurisdiction.

(3) Participation in economic processes, stimulating manifestations of the social economy, such as cooperatives, saving funds, mutual funds and other forms of association.

(4) Participation by workers\* and communities in the running of public sector business enterprises, through self-management and joint management methods.

(5) Creation of community service enterprises, organizations and cooperatives as mechanisms to generate employment and social Welfare, providing for their permanent existence through the design of policies whereby these groups are given means of participating.

(6) Creation of new decentralized organs at the parish, community, ward and neighborhood levels, with a view to guaranteeing the principle of shared responsibility in the public administration of local and state governments, and developing process of self-management and joint management in the administration and control of state and municipal public services.

(7) Participation by communities in activities to establish closer ties with penal institutions and ties between the latter and the general population.

## ***Chapter V***

# The Federal Council on Government

**Article 185:** The Federal Council on Government is the organ charged with planning and coordination of policies and actions to develop the process of decentralization and transfer of powers from National Authority to the States and Municipalities. It shall be presided over by the Executive Vice-President\* and shall consist of the Cabinet ministers, the Governors\*, one Mayor\* from each State and representatives of organized society, in accordance, with law. The Federal Council on Government shall have a Secretariat made up of the Executive Vice-President\*, two Ministers\*, three Governors\* and three Mayors\*. The Federal Council on Government shall have a dependency known as the Inter territorial Compensation Fund, intended for the purpose of financing public investments with a view to promoting the balanced development of regions, cooperation and complement among the development policies and initiatives of the various public territorial entities, and in particular supporting the providing of works projects and services in regions and communities with relatively low levels of development. The Federal Council on Government, based on regional unbalances, shall discuss and approve annually the resources to be allocated to the Inter-territorial Compensation Fund and the priority investment areas to which these resources are to be applied.

## TITLE V

# ORGANIZATION OF NATIONAL PUBLIC AUTHORITY

## *Chapter 1*

# National Legislative Power

## Section One: General Provisions

**Article 186:** The National Assembly shall consist of Deputies\* elected\* in each of the federal entities by universal, direct, personalized and secret ballot with proportional representation, using a constituency base of 1.1 % of the total population of the country. Each federal organ shall also elect three additional deputies\*. The native peoples of the Bolivarian Republic of Venezuela shall elect three deputies\* in accordance with the provisions established under election law, respecting the traditions and customs thereof. Each deputy\* shall have an alternate\* elected\* by the same process.

**Article 187:** It shall be the function of the National Assembly:

(1) To legislate in matters of national competence and as to the functioning of the various branches of National Power.

(2) To propose amendments to and revisions of the Constitution, on the terms established in this Constitution.

(3) To exercise control functions over the government and the National Public Administrative, on the terms established in this Constitution and by law. Evidence obtained during the exercise of this function shall have probative value on such terms as may be established by law.

(4) To organize and promote citizen participation in matters within its competence.

(5) To order amnesties.

(6) To discuss and approve the national budget and any bill relating to the taxation system and to public credit.

(7) To authorize appropriations in addition to the budget.

(8) To approve the general guidelines for the national economic and social development plan to be submitted by the National Executive during the third quarter of the first year of each constitutional term.

(9) To authorize the National Executive to enter into contracts in the national interest, in the cases established by law. To authorize contracts in the municipal, state and national public interest, with foreign States, or official entities or with companies not domiciled in Venezuela.

(10) To vote resolutions of censure against the Executive Vice President\* and Ministers\*. A censure motion shall be debated only two days after being submitted to the Assembly, which shall have the power to decide by a three fifths vote that the censure shall include the removal from office of the Executive Vice-President\* or the Minister\* concerned.

(11) To authorize the operation of Venezuelan military missions abroad or foreign military missions within the country.

(12) To authorize the National Executive to dispose of nonpublic real property owned by the Nation, with such exceptions as may be established by law.

(13) To authorize public officials\* to accept positions, honors or rewards from foreign governments.

(14) To authorize the appointment of the General Attorney of the Republic\* and the Heads of Permanent Diplomatic Missions.

(15) To confer the honors of the National Pantheon on illustrious Venezuelans\* who have rendered eminent services to the Republic, after 25 years have elapsed

since the death of such persons; this decision may be made upon a recommendation from the President\* of the Republic, two thirds of the State Governors\*, all of the rectors of the National Universities.

(16) To tend that the interests and autonomy of the States are upheld.

(17) To authorize the departure of the President\* of the Republic from the territory of the Nation, when such absence is to last longer than five consecutive days.

(18) To approve by law any international treaties or agreements entered into by the National Executive, with the exceptions set forth in the present Constitution.

(19) To enact its own internal regulations and apply such sanctions as may be provided for thereunder.

(20) To pass on the qualifications of its members and take notice of their resignation. The temporarily separation of a deputy\* from his or her office, shall only be decided by a two thirds vote of those present.

(21) To organize its own internal security service.

(22) To pass and implement its budget of expenditures, taking into account the country's financial limitations.

(23) To implement resolutions concerning its own administrative organization and functioning.

(24) Any others indicated in this Constitution or by law.

**Article 188:** To be elected to the office of deputy of the National Assembly, a person must:

(1) Be Venezuelan by birth, or by naturalization with 15 years of residence within the territory of Venezuela.

(2) Be over the age of 21 years.

(3) Have resided for four consecutive years in the organ from which he or she is elected, prior to such election.

**Article 189:** The following shall not be eligible for the office of deputy\*:

(1) The President\* of the Republic, the Executive Vice-President Ministers\*, the Secretary\* of the Office of the President of the Republic and the Chairpersons\* and Directors of Autonomous Institutes and State owned enterprises, until three months after leaving such offices.

(2) Governors\* and government secretaries of the States or the Capital District, until three months after permanently leaving such offices.

(3) Municipal state or national, Autonomous Institutes or State-owned enterprises, officers\* when the election is taking place in the jurisdiction in which such officer serves, except in the case of a temporary care-providing, teaching or academic position. The pertinent organic law may provide for the ineligibility of other officers\*.

**Article 190:** Deputies\* of the National Assembly shall not be proprietors\*, administrators\* or directors\* of business enterprises that enter into contracts with public sector juridical persons, so that they shall have no private beneficial interest in dealing with it. When matters involving financial conflicts of interest come up for discussion, the affected members of the National Assembly shall be required to abstain from the pertinent vote.

**Article 191:** Deputies\* of the National Assembly shall not be permitted to accept or hold public employment positions without giving up their investiture, except in teaching, academic, temporary and care-giving positions, and provided the employment is not intended to be full-time.

**Article 192:** Deputies\* of the National Assembly shall hold office for a term of five years, with eligibility for re-election to no more than one additional term.

## Section Two: Organization of the National Assembly

**Article 193:** The National Assembly shall appoint ordinary and special Standing Committees. The Standing Committees, which shall be no more than 15 in number, shall relate to sectors of national activity. The National Assembly shall also have the power to create Committees of temporary nature for purposes of research and study, all of the foregoing in accordance with the applicable Regulations. The National Assembly shall have the power to create or abolish Standing Committees by the favorable vote of two thirds of the members of the Assembly.

**Article 194:** The National Assembly shall elect among its members one President\* and two Vice-Presidents\*, as well as one Secretary\* and an Undersecretary\*, not member of the Assembly, for a term of one year. The Regulations shall establish the methods for filling temporary and permanent vacancies.

**Article 195:** While the Assembly is in recess, a Delegated Committee consisting of the President\*, the Vice-President\* and the Presidents\* of the Standing Committees shall be in session.

**Article 196:** The following are powers of the Delegated Committee:

- (1) To call the National Assembly into extraordinary session, when the importance of any matter so demands.
- (2) To authorize the President of the Republic to leave the territory of Venezuela.
- (3) To authorize the National Executive to order additional appropriations.
- (4) To designate temporary Committees consisting of members of the Assembly.
- (5) To execute investigations functions ascribed to the Assembly.
- (6) By a two thirds vote of its members, to authorize the National Executive to create, modify or suspend public services in the event of a proven emergency.
- (7) Any others established by the Constitution or by law.

### Section Three: Deputies\* of the National Assembly

**Article 197:** Deputies\* of the National Assembly, are obligated to work on a full-time basis for the benefit of the people's interest, and to stay in constant contact with their constituents\*, heeding these opinions and suggestions and keeping them informed about its individual and Assembly Management. They shall render in an annual accounting of its management to the constituents\* in the jurisdiction from which they were elected, and shall be subject to recall by referendum as provided for under this Constitution and the applicable law.

**Article 198:** A Deputy\* of the National Assembly who is recalled shall not be eligible for any public elective office during the following term of office.

**Article 199:** Deputies\* of the National Assembly are not liable for votes and opinions expressed in the performance of their official functions. They shall be answerable to voters\* and to the legislative entity only as provided for under the Constitution and Regulations.

**Article 200:** Deputies\* of the National Assembly shall enjoy immunity in the exercise of their functions from the time of their installation until the end of their term or resignation. Only the Supreme Tribunal of Justice shall have competence over any crimes may be charged as committed by members of the National Assembly, and only the Supreme Tribunal of Justice, subject to authorization in advance from the National Assembly, shall have the power to order their arrest and prosecution. In the case of a flagrant offense committed by a legislator\*, the competent authority shall place such legislator\* under house arrest and immediately notify the Supreme Tribunal of Justice of such event. Public officials\* who violate the immunity of members of the National Assembly shall incur criminal liability and shall be punished in accordance with law.

**Article 201:** Deputies\* are representatives of the people and of the States taken together, they are not subject to mandates or instructions, but only to their own consciences. Their vote in the National Assembly is personal.

#### Section Four: Passage of Laws

**Article 202:** The law is an act enacted by the National Assembly in legislative session. Laws that contain a systematic set of norms regulating a particular field may also be referred to as codes.

**Article 203:** Organic Laws are those designated as such by this Constitution, those enacted to organize public powers or developing constitutional rights, and those which serve as a normative framework for other laws. Any bill for the enactment of an organic law, except in the case of those defined as such in the Constitution itself, must first be accepted by the National Assembly, by a two thirds vote of the members\* present, before the beginning of debate on the bill. This qualifying vote shall also apply to the process of amending organic acts. Laws defined by the National Assembly as organic acts shall be sent, prior to promulgation, to the Constitutional Division of the Supreme Tribunal of Justice for a ruling on the constitutionality of their organic status. The Constitutional Division shall reach a decision within ten days of receipt of the communication. If the Constitutional Division rules that the law is not organic, such the law shall lose the organic status. Enabling laws are those enacted by a three fifths vote of the members of the National Assembly to establish the guidelines, purposes and framework for matters that are being delegated to the President of the Republic, with the rank and force of a law. Enabling law is to set the period for the exercising thereof. The initiative for introducing legislation belongs to:

- (1) The National Executive Power.
- (2) The Delegated Committee and the Standing Committees.
- (3) Members\* of the National Assembly, at least three in number.
- (4) The Supreme Tribunal of Justice, in the case of laws relating to judicial procedures and organization.
- (5) Citizen Power, in the case of laws relating to the organs comprising the same.
- (6) Electoral Power in the case of laws relating to electoral matters.
- (7) The voters\*, in a number at least equivalent to 0.1% of all permanently registered voters.
- (8) The State Legislative Council, in the case of laws relating to the States.

**Article 205:** The discussion of bills submitted by citizens\* in accordance with the provisions of the preceding article shall be initiated no later than the regular legislative session following that during which the bill was introduced. If debate does not begin within such period, the bill must be submitted for approval by referendum in accordance with law.

**Article 206:** The States must be consulted by the National Assembly, through the State Legislative Council, when legislation in matters relating to them is being considered. The mechanisms for consultation of citizens and other institutions by the Council with respect to such matters shall be established by law.

**Article 207:** To be enacted into law, every bill shall be debated twice, on different days, following the rules established in this Constitution and the pertinent regulations. Once the bill is approved, the President\* of the National Assembly shall declare the law enacted.

**Article 208:** During the first debate, the statement of legislative intent shall be considered and the objectives, scope and viability of the same shall be evaluated in order to determine the appropriateness of the law, and the articles shall be discussed. Upon approval at the first debate, the bill shall be sent to the Committee directly concerned with the subject matter of the law. If the bill relates to several Standing Committees, a mixed committee shall be designated to conduct a study and prepare a report. Committees studying bills shall report the bill out within no more than 30 consecutive days.

**Article 209:** Once the bill has been reported out of committee, the second debate on the bill shall begin, being conducted article by article. If the bill is approved without amendment, it shall be enacted into law. However, if amended it shall be returned to the Committee concerned for inclusion of the amendments by such Committee within no more than 15 consecutive days; once read the new version of the bill at a plenary session of the National Assembly, it shall decide as appropriate by majority vote on any articles as to which a discrepancy exists, and on any other articles relating thereto. Once the discrepancy has been resolved, the President shall declare the bill enacted into law.

**Article 210:** Debate on bills still pending at the end of a legislative session may be continued during the next regular session or during a special session.

**Article 211:** During the process of debating and approval of bills, the National Assembly or Standing Committees shall consult the other organs of the State, the citizenry and organized society to hear their opinion about the same. The following shall have the right to speak during debates on proposed laws: the Cabinet Ministers\*, as representatives of the Executive Power; such justice of the Supreme Tribunal of Justice as the latter may designate, to represent the Judicial Power; such representative of Citizen Power as may be designated by the Republican Ethic Council; the members\* of the Electoral Authority; the States, through a representative designated by the State Legislative Council; and the

representatives of organized society, on such terms as may be established by the Regulations of the National Assembly.

**Article 212:** The text of laws shall be preceded by the following phrase: "The National Assembly of the Bolivarian Republic of Venezuela hereby Decrees":

Article 213: Once the law has been enacted, it shall be promulgated in duplicate with the final language as approved during the debates. Both copies shall be signed by the President\*, the two Vice Presidents\* and the Secretary\* of the National Assembly, with the date of final approval. One of the copies of the law shall be sent by the President\* of the National Assembly to the President of the Republic for purposes of promulgation.

**Article 214:** The President\* of the Republic shall promulgate the law within a ten day period following the date on which the President\* receives it. During this period the President\* may, by Cabinet Ministers resolution with statement of grounds, ask the National Assembly to amend any of the provisions of the law or rescind its approval of part or all of it. The National Assembly shall decide by majority vote of those deputies present on the matters raised by the President\* of the Republic, and then shall send the law back to him for promulgation. The President\* of the Republic must proceed to promulgate the law within five days of receipt, without the possibility of new objections. When the President\* of the Republic considers that the law or any of its articles is unconstitutional, he shall be required to request a ruling from the Constitutional Division of the Supreme Tribunal of Justice, within the ten day period allowed the President for promulgating the law. The Supreme Tribunal of Justice shall reach a decision within 15 days of receipt of the communication from the President of the Republic. If the Tribunal declines to rule the provisions referred to it unconstitutional or fails to reach a decision within the aforementioned period, the President of the Republic must promulgate the law within five days of the Tribunal's decision or the expiration of such term.

**Article 215:** The law shall be promulgated upon publication with the order of "fulfillment" in the Official Gazette of the Republic.

**Article 216:** When the President\* of the Republic fails to promulgate the law on the terms indicated above, the President\* and the two Vice Presidents\* of the National Assembly shall proceed to promulgate it, without prejudice to such liability as the President\* of the Republic may incur by reason of his omission.

**Article 217:** The point at which the approving law of an international treaty, agreement or convention must be promulgated shall be left to the discretion of the National Executive, in accordance with international practices and the convenience of the Republic.

**Article 218:** Laws are repealed by other laws and are abrogated by referendum, subject to the exceptions established in this Constitution. Laws may be amended

in whole or in part. A law that is amended in part shall be published in a single text that incorporates the amendments passed.

## Section Five: Procedures

**Article 219:** The first regular legislative session of the National Assembly shall begin, without advance notice, on January fifth of each year or on the first subsequent day possible, and shall continue until August 15. The second session shall begin on September 15 or the first subsequent day possible, and shall end on December 15.

**Article 220:** The National Assembly shall meet in special sessions to take up the matters on the agenda contained in the notice of the meeting, and any related matters. A special session may also consider any matters declared urgent by a majority vote of the members.

**Article 221:** The requirements and procedures for the establishment and other sessions of the National Assembly, and for the functioning of its Committees, shall be determined by the Regulations. In no case may a quorum be less than an absolute majority of the members\* of the National Assembly.

**Article 222:** The National Assembly shall be empowered to exercise its control function by means of the following mechanisms: parliamentary questions, investigations, questions, authorizations and parliament's approvals as provided for in this Constitution and by law, and any other mechanism that may be established by laws and their associated Regulations. In exercising parliamentary control, the National Assembly shall have the power to make a finding of political liability on the part of public officials\* and call on Citizen Power to initiate the appropriate action to enforce such liability.

**Article 223:** The Assembly or its Committees shall have the power to conduct such investigations as they may deem appropriate in matters within their competence, in accordance with the Regulations. All public officials\* are obligated, subject to the penalties established by law, to appear before such Committees and provide the same with any information and documents they may require in order to carry out their functions. Private citizens are also subject to this obligation, without prejudice to the rights and guarantees embodied in this Constitution.

**Article 224:** The exercise of the power of investigation does not affect the powers of other public authorities. Judges\* shall be obligated to take evidence as commissioned by National Assembly and its Committees.

## *Chapter 11*

# National Executive Power

## Section One: President\* of the Republic

**Article 225:** Executive Power is exercised by the 'President\* of the Republic, the Executive Vice-President\*, the Cabinet Ministers\* and other officials as determined by this Constitution and by law.

**Article 226:** The President\* of the Republic is the Head of State and of the National Executive, in which latter capacity he directs the action of the government.

**Article 227:** In order to be elected President\* of the Republic, it is necessary to be Venezuelan\* by birth, with no other nationality, to be more than 30 years of age, not a member of the clergy and not subject\* to any conviction by final judgment, as well as meeting fulfill other requirements prescribed in this Constitution.

**Article 228:** The election of the President\* of the Republic shall be by universal suffrage by direct and secret ballot, in accordance with law. The candidate\* who has received a majority of the valid votes cast shall be proclaimed elected\*.

**Article 229:** A person holding the office of Executive Vice-President\*, Minister\* or Governor\*, or Mayor\* as of the date he announces his candidacy or at any time between such date and that of the Presidential election shall not be eligible for election to the office of President of the Republic.

**Article 230:** The presidential term is six years. The President\* of the Republic may be re-elected, immediately and once only, to an additional term.

**Article 231:** The candidate elected\* shall take office as President\* of the Republic on January 10 of the first year of his constitutional term, by taking an oath before the National Assembly. If for any supervening reason, the person elected President\* of the Republic cannot be sworn in before the National Assembly, he shall take the oath of office before the Supreme Tribunal of Justice.

**Article 232:** The President\* of the Republic is responsible for his acts and for fulfilling the duties and obligations inherent to such position. Is obligated to endeavor the guarantee of the rights and liberties of Venezuelans\*, as well as the independence, integrity, sovereignty and defense of the Republic. The declaration of states of exception does not modify the principle of the President\* of the Republic's responsibility nor that of the Executive Vice President\* or the Cabinet Ministers\*, in accordance with this Constitution and law.

**Article 233:** The President of the Republic\* shall become permanently unavailable to serve by reason of any of the following events: death; resignation; removal from office by decision of the Supreme Tribunal of Justice; permanent physical or mental disability certified by a medical board designated by the Supreme Tribunal of Justice with the approval of the National Assembly;

abandonment of his position, duly declared by the National Assembly; and recall by popular vote. 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 the President\* of the Republic becomes permanently unavailable to serve during the first four years of this constitutional term of office, 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 Executive Vice-President\* shall take charge of the Presidency of the Republic. In the cases describes above, the new President\* shall complete the current constitutional term of office. If the President becomes permanently unavailable to serve during the last two years of his constitutional term of office, the Executive Vice-President\* shall take over the Presidency of the Republic until such term is completed.

**Article 234:** A President of the Republic\* who becomes temporarily unavailable to serve shall be replaced by the Executive Vice-President\* for a period of up to 90 days, which may be extended by resolution of the National Assembly for an additional 90 days. If the temporarily unavailability continues for more than 90 consecutive days, the National Assembly shall have the power to decide by a majority vote of its members whether the unavailability to serve should be considered permanent.

**Article 235:** The absence of the President\* of the Republic from the territory of Venezuela requires authorization from the National Assembly or the Delegated Committee, when such absence continues for a period exceeding five consecutive days.

Section Two:

## The President of the Republic

**Article 236:** The following are attributions and duties of the President\* of the Republic:

- (1) To comply with and enforce this Constitution and the law.
- (2) To direct the activity of the Government.
- (3) To appoint and remove the Executive Vice-President\* and the Cabinet Ministers\*.
- (4) To direct the international relations of the Republic and sign and ratify international treaties, agreements or conventions.

- (5) To direct the National Armed Forces in his capacity as Commander in Chief, exercise supreme hierarchical Authority over the same and establish their contingent.
- (6) To exercise supreme command over the National Armed Forces, promote their officers at the rank of colonel\* or naval\* captain\* and above, and appoint them to the positions exclusively reserved to them.
- (7) To declare states of exception and order the restriction of guarantees in the cases provided for under this Constitution.
- (8) To issue executive orders having the force of law, subject to authorization in advance by an enabling act.
- (9) To call special sessions of the National Assembly.
- (10) To issue regulations for the application of laws, in whole or in part, without altering the spirit, purpose and reason for being of the laws.
- (11) To administer the National Public Treasury.
- (12) To negotiate national loans.
- (13) To order extraordinary budget item in addition to the budget, subject to authorization in advance from the National Assembly or the Delegated Committee.
- (14) To enter into contracts in the national interest, subject to this Constitution and applicable laws.
- (15) To designate, subject to prior authorization from the National Assembly or the Delegated Committee, the Attorney-General\* of the Republic and the heads\* of the permanent diplomatic missions.
- (16) To designate and remove those officials\* whose appointment is made subject to his discretion by this Constitution or the applicable law.
- (17) To address reports or special messages to the National Assembly, either in person or through the Executive Vice-President\*.
- (18) To formulate the National Development Plan and, subject to approval in advance from the National Assembly, direct the implementation of the same.
- (19) To grant pardons.
- (20) To determine the number, organization and competence of the Ministries and other organs comprising the National Public Administrative Branch, as well

as the organization and functions of the Cabinet Ministers, within the principles and guidelines set forth in the pertinent organic law.

(21) To dissolve the National Assembly in the case contemplated by this Constitution.

(22) To call reference in the cases provided for under the present Constitution.

(23) To call and preside over meetings of the National Defense Council.

(24) Any others vested in the President\* under this Constitution and law.

The President\* of the Republic shall exercise during a meeting of the Cabinet Ministers the attributions indicated under items (7), (8), (9), (10), (12), (13), (14), (18), (20), (21) and (22) above, and any others which may be conferred upon him by law for exercise in the same manner. In order to be valid, the acts of the President of the Republic, with the exception of those indicated under items (3) and (5), must be countersigned by the Executive vice-president\* and the Minister or Ministers\* concerned.

**Article 237:** Annually, within the first ten days following to installation of the National Assembly, in ordinary session, the President\* of the Republic, shall present personally to the Assembly a message by which will render account of the political, economic, social and administrative aspects of its administration during the past year.

### Section Three: Executive Vice- President\*

**Article 238:** The Executive Vice-President\* is a direct subordinate of and works closely with the President\* of the Republic in the latter's capacity as Head of the National Executive. The Executive Vice-President\* must meet the same requirements prescribes for eligibility for the office of President\* of the Republic, and must not be related to the latter by either blood or marriage.

**Article 239:** The following are powers of the Executive Vice-President\*:

(1) To cooperate with the President\* of the Republic in directing the actions of the government.

(2) To coordinate the National Public Administration in accordance with President\* of the Republic's instructions.

(3) To propose to the President\* of the Republic the appointment and removal of Ministers\*.

(4) To preside over the Cabinet, subject to authorization in advance from the President\* of the Republic.

(5) To coordinate relations between the National Executive and the National Assembly.

(6) To preside over the Federal Government Council.

(7) To appoint and remove, in accordance with law, those national government officials\* for whose designation no other authority has been made responsible.

(8) To replace the President\* of the Republic when the latter is temporarily unavailable.

(9) To exercise such powers as may be delegated to him by the President of the Republic\*.

(10) Any other powers assigned to him under the Constitution and the law.

**Article 240:** Passage of a motion to censure the Executive Vice President\*, by vote of at least two-thirds of the members of the National Assembly, automatically involves his removal from office. The removed official\*, shall not be eligible to serve as Executive Vice President\* or Minister\*, for the remainder of the current presidential term of office. The third removal of an Executive Vice-President\*, during the same presidential term of office as a consequence of motions of censure, authorizes the President of the Republic\*, to dissolve the National Assembly. The dissolution order includes the calling of elections to form a new legislature within 60 days of the dissolution of the old. The Assembly cannot be dissolved during the final year of its constitutional term of office.

**Article 241:** The Executive Vice-President\* is accountable for his acts, in accordance with this Constitution and the law. Section Four: Ministers\* and the Cabinet of Ministers

**Article 242:** Ministers\* are direct dependencies of the President\* of the Republic, and when assembled together with the latter and with the Executive Vice-President\*, they comprise the Cabinet of Ministers. The President\* of the Republic shall preside over meetings of the Cabinet of Ministers, but he shall have the power to authorize the Executive Vice President\* to preside over the same when he is unable to attend. Decisions made must be ratified by the President\* of the Republic. The Executive Vice-President\* and the Ministers who took part are jointly and severally accountable for decisions of the Cabinet of Ministers, with the exception of those who placed on record an adverse or negative vote.

**Article 243:** The President\* of the Republic shall have the power to appoint Ministers\* of State, who, in addition to participating in the Cabinet of Ministers, shall advise the President\* of the Republic and the Executive Vice President\* concerning the matters assigned to them.

**Article 244:** A Minister\* is required to be of Venezuelan nationality and more than 25 years of age, with the exceptions established in this Constitution. Ministers\* are responsible for their actions in accordance with this Constitution and in accordance with law, and shall submit to the National Assembly, within the first 60 days of each year, a sufficient and reasoned annual report on their stewardship during the past year, in accordance with law.

**Article 245:** Ministers\* have the right to speak before the National Assembly and the Committees thereof. They have the right to take part in debates in the National Assembly, without the right to vote.

**Article 246:** The approbation of a vote of censure against a Minister\* by at least a three fifths vote of the members\* present in the National Assembly, shall result in the Minister's\* removal from office. The removed official\* shall be barred from serving as a Minister\* or Executive Vice-President\* for the remainder of that presidential term.

Section Five:

## General Attorney of the Republic

**Article 247:** The Office of the General Attorney of the Republic advises, defends and represents in and out of court the property interests of the Republic, and must be consulted for purposes of approval of contracts in the national public interest. The pertinent organic law shall determine the organization, competence and functioning of this office.

**Article 248:** The Office of the General Attorney of the Republic shall be in the charge and under the direction of the General Attorney' of the Republic, with the assistance of other officials as determined by the pertinent organic law.

**Article 249:** The General Attorney of the Republic must meet the same conditions required in order to serve as a justice of the Supreme Tribunal of Justice. Shall be appointed by the President\* of the Republic, with the authorization of the National Assembly.

**Article 250:** The General Attorney\* of the Republic shall attend and have the right to speak at meetings of the Cabinet of Ministers.

Section Six: Council of State

**Article 251:** The Council of State is the highest consultative organ of the Government and the National Public Administration. It shall be charged with making policy recommendations in the national interest with regard to matters recognized by the President\* of the Republic as being of particular importance

and requiring the Council's opinion. The pertinent law shall determine its functions and powers.

**Article 252:** The Council of State shall be presided over by the Executive Vice President\*, and shall be also integrated by five members designated by the President\* of the Republic; one representative designated by the National Assembly; one representative designated by the Supreme Tribunal of Justice and One State Governor\* designated by all of the States chief executives jointly.

### ***Chapter III***

## **Judicial Power and Justice System**

### **Section One: General Provisions**

**Article 253:** The power to administer justice emanates from the citizens\* and is exercised in the name of the Republic by Authority of law. The organs comprising the Judicial Power are charged with dealing with all cases and matters within their competence, through such procedures as may be determined by the laws, and with carrying out or causing the execution of their judgments. The justice system consists of the Supreme Tribunal of Justice, such other courts as may be determined by law, the Office of Public Prosecutions, the Public Defender's Office, criminal investigation organs, judicial assistants and officials\*, the penitentiary system, alternative means of justice, citizens\* participating in the administration of justice in accordance with law and attorneys\* at law admitted to practice.

**Article 254:** The Judicial Power is autonomous, and the operating, financial and administrative autonomy of the Supreme Tribunal of Justice is hereby established. To this end, in the national general budget a variable annual amount at least equivalent to 2% of the ordinary national budget shall be allocated to the justice system in order to enable it to function effectively; such amount shall not be reduced or modified without authorization in advance from the National Assembly. The Judicial Power is not authorized to establish any charges or tariffs, nor to demand any payment for its services.

**Article 255:** Appointment to a judicial position and the promotion of judges shall be carried out by means of public competitions to ensure the capability and excellence of the participants, with selection by the juries of the judicial circuits, in such manner and on such terms as may be established by law. The appointment and swearing in of judges shall be the responsibility of the Supreme Tribunal of Justice. Citizen participation in the process of selecting and designating judges\* shall be guaranteed by law. Judges\* shall be removed or suspended from office only through the procedures expressly provided for by law. Measures shall be taken by law to promote the professionalism of judges\*, and the universities shall cooperate to this end, organizing their corresponding law

schools curricula to specialized studies in judicial practice. Judges are personally liable, on such terms as may be determined by law, for unjustified omissions, delay or errors, for substantial failure to observe the rules of procedure, for denial of justice, for partiality and for the criminal offenses of bribery and prevarication in office.

**Article 256:** In order to guarantee impartiality and independence in the exercise of their official functions, magistrates\*, judges\*, prosecutors\* in the Office of Public Prosecutions and public defenders, from the date of their appointment until they leave office, shall not be permitted, otherwise than by exercising their right to vote, to engage in partisan political, professional association, trade union or similar activism; nor to engage in private activities for profit which are incompatible with their official functions, either directly or through any interposed person; nor to perform any other public functions, with the exception of educational activities. Judges\* shall not be permitted to form associations among themselves

**Article 257:** Procedure represents a fundamental instrument for the administration of justice. Procedural laws shall provide for the simplification, uniformity and efficiency of legal formalities, and shall adopt expeditious, oral and public procedures. Justice shall not be sacrificed because of the omission of nonessential formalities.

**Article 258:** Justice of peace in communities shall be organized by law. Justices\* of peace shall be elected by universal suffrage, directly and by secret ballot, in accordance with law. The law shall encourage arbitration, conciliation, mediation and any other alternative means for resolving conflicts.

**Article 259:** Competence over contentious administrative law proceedings shall be vested in the Supreme Tribunal of Justice and such other courts as may be determined by law. Organs with jurisdiction in the field of contentious administrative law are competent to nullify general or individual administrative acts contrary to law, including cases of power deviation; to order the payment of sums of money and reparations for damages for whose causation the Administration is responsible; to deal with claims arising from the providing of public services; and to rule as necessary to restore the legal position of parties harmed by administrative actions.

**Article 260:** The legitimate authorities of the native peoples shall have the power to apply within their territorial competence levels of administration of justice based on their ancestral traditions and affecting their members only, in accordance to their own rules and proceedings, provided the same are not contrary to this Constitution, law and public order. The manner in which this special competence shall be coordinated with the national judicial system shall be determined by law.

**Article 261:** Military criminal jurisdiction is an integral part of the Judicial Power, and its judges\* shall be selected by a competitive process. Its sphere of competence, organization and modes of operation shall be governed by the accusatory system and in accordance with the Organic Code of Military Justice. The commission of common crimes, human rights violations and violations of humanity rights shall be judged by the courts of the ordinary jurisdiction. Military courts jurisdiction is limited to offenses of a military nature. Insofar as not provided for in this Constitution, special jurisdiction and the competence, organization and functioning of the courts shall be regulated by law.

## Section Two: Supreme Tribunal of Justice

**Article 262:** The Supreme Tribunal of Justice shall sit in plenary session and in Constitutional, Political/Administrative, Electoral, Civil Appeal, Criminal Appeal, and Social Appeal Divisions, whose composition and competence shall be determined by the pertinent organic act. The Social Division shall encompass matters relating to appeals involving agrarian matters, labor matters and minors.

**Article 263:** To be a justice\* of the Supreme Tribunal of Justice, a person must:

- (1) Have Venezuelan nationality by birth.
- (2) Be recognized as an honorable citizen\*.
- (3) Be a jurist of recognized competence; enjoy a good reputation; have a minimum of 15 years experience practicing law and have a post graduate degree in law, or have at least 15 years experience as a university professor of law, having obtained the rank of full professor; or be or have been a superior court judge in the specialty of the division for which he is a candidate, having been a sitting judge for at least 15 years and gained recognized prestige in the performance of his duties.
- (4) Any other requirements established by law.

**Article 264:** The justices of the Supreme Tribunal of Justice shall be elected for a single term of 12 years. The election procedure shall be determined by law. In all cases, candidates may be proposed to the Judicial Nominations Committee either on their own initiative or by organizations involved in the field of law. After hearing the opinion of the community, the Committee shall carry out a pre selection to be submitted to the Citizen Power, which shall carry out a second pre selection to be submitted to the National Assembly, which shall carry out the final selection. Citizens\* may file objections to any of the candidates\*, for cause, with the Judicial Nominations Committee or the National Assembly.

**Article 265:** Justices\* of the Supreme Tribunal of Justice may be removed by the National Assembly by a qualified two-thirds majority of the members, after granting the interested party a hearing; in cases involving serious misconduct

already characterized as such by the Citizen Power, on such terms as may be established by law.

**Article 266:** The following are powers of the Supreme Tribunal of Justice:

- (1) To exercise constitutional jurisdiction in accordance with title VIII of this Constitution.
- (2) To rule as to whether or not there are grounds for impeaching the President\* of the Republic or whomever may be acting in that capacity, and if so, to retain competence of the proceedings, subject to the approval of the National Assembly, until the final judgment.
- (3) To rule as to whether or not there are grounds for impeaching the Vice President\* of the Republic; members\* of the National Assembly or the Supreme Tribunal of Justice itself, Ministers\*; the General Attorney\*; General Prosecutor\*; General Comptroller\* of the Republic; the People Defender\*; Governors\*; general officers\* and naval admirals of the National Armed Forces; or the heads of Venezuelan diplomatic missions; and, if so, to refer the record to the General Prosecutor of the Republic or whomever is acting in his capacity, where appropriate, and if the offense charged is a common crime, the Supreme Tribunal of Justice shall retain competence of the matter until a final judgment is handed down.
- (4) To resolve any administrative controversies that may arise between the Republic, any State, Municipality or other public entity, when the other party is also one of these same organs, except in the case of a controversy between Municipalities belonging to the same State, in which case competence may be vested by law in another court.
- (5) To declare null and void, in whole or in part, regulations and other general or individual administrative actions of the National Executive Branch, where appropriate.
- (6) To take competence of motions for declaratory judgment on the content and application of legal texts, on the terms contemplated by law.
- (7) To decide competence conflicts between courts, whether ordinary or special, when there is no higher or common court shared by both in the hierarchical order.
- (8) To take jurisdiction of appeals for violations of law.
- (9) Such others as may be vested in it by law.

The powers indicated under (1) shall be exercised by the Constitutional Division; those indicated under (2 ) and (3), in Plenary Session; and those indicated under

(4) and (5), by the Political/Administrative Division. The remaining powers shall be exercised by the various divisions as provided for under this Constitution and by law.

### Section Three: Governance and Administration of the Judicial Power

**Article 267:** The Supreme Tribunal of Justice is charged with the direction, governance and administration of the Judicial Power and inspection and vigilance of the courts of the Republic and the public defenders' offices. The Supreme Tribunal is also charged with preparing and implementing its own budget and that of the Judicial Power. Jurisdiction over judicial discipline shall be vested in such disciplinary courts as may be determined by law. The discipline system for magistrates\* and judges\* shall be based in the Venezuelan Judge's\* Code of Ethics to be promulgated by the National Assembly. Disciplinary proceedings shall be public, oral and expeditious, in accordance with due process, subject to such terms and conditions as may be established by law. In order to exercise these powers, the Supreme Tribunal in plenary session shall create an Executive Department of the Judiciary, with its various regional offices.

**Article 268:** The autonomy and organization, functioning, discipline and fitness of service of public defenders shall be provided for by law, in order to ensure the efficiency of the service and guarantee career benefits for public defenders.

**Article 269:** The organization of judicial circuits and the creation and competence of regional courts and tribunals shall be regulated by law in such manner as to promote the administrative and jurisdictional decentralization of the Judicial Power.

**Article 270:** The Committee on Judicial Nominations is a body charged with advising the Judicial Power on the selection of candidates\* for designation as justices of the Supreme Tribunal of Justice. In addition, it shall advise the judicial electoral colleges on the election of judge,\* of disciplinary jurisdiction. The Committee on Judicial Nominations shall be made up of representatives of the various sectors of society, in accordance with such provisions as may be established by law.

**Article 271:** Extradition of foreign nationals responsible for capital deslegitimization, drug, and international organized crime offenses, as well as crimes against the public patrimony of other States and against human rights, shall in no case be denied. Judicial proceedings for the purpose of punishing offenses against human rights or public patrimony, or drug trafficking, shall not be barred by the statute of limitations. Likewise, subject to court order, assets deriving from the activities relating to these offenses shall be confiscated. Proceedings pertaining to the aforementioned offenses shall be public, oral and expeditious, with respect for due process, the competent judicial authorities being authorized to order the necessary preventive precautionary measures

against assets belonging to the defendant or persons interposed by the latter, in order to provide a guarantee for their possible civil liability.

**Article 272:** The State guarantees a penitentiary system such as to ensure the rehabilitation of inmates\* and respect for their human rights. To this end, penitentiary establishments shall have areas for work, study, sports and recreation, shall operate under the direction of professional penologists with academic credentials, and will be ruled by decentralized administration by state or municipal governments; they may be subject to privatization arrangements. In such establishments, an open regimen shall be preferred, as well as the model of custodial agricultural colonies. In all cases punishment formulas without restriction of freedom shall be applied with preference to measures that restrict freedom. The State shall create the essential institutions to provide post-penitentiary assistance for the reinsertion of the inmate\* into society and shall encourage the creation of an autonomous penitentiary institution with personnel of an exclusively technical nature.

## ***Chapter IV***

# **Citizen Power**

## **Section One: General Provisions**

**Article 273:** Citizen Power is exercised by the Republican Ethics Council, consisting of the People Defender\*, the General Prosecutor\* and the General Comptroller of the Republic. The organs of Citizen Power are the People Defender's Office, the Office of Public Prosecutions and the Office of the General Comptroller of the Republic, one of whose heads shall be designated by the Republican Ethics Council as its Chairman for a one-year term of office, with the possibility of re-election. Citizen Power is independent and its organs enjoy operating, financial and administrative autonomy. To this end, from the general State budget it shall be allocated a variable annual budget appropriation. Its organization and operation shall be established by organic act. **Article 274:** The organs exercising Citizen Power are charged, in accordance with this Constitution and with the law, with preventing, investigating and punishing actions that undermine public ethics and administrative morals; to see to sound management and legality in the use of public property, and fulfillment and application of the principle of legality in all of the State's administrative activities, as well as to promote education as a process that helps create citizenship, together with solidarity, freedom, democracy, social responsibility and work.

**Article 275:** The representatives of the Republican Ethic Council shall issue to the authorities or officials\* of the National Public Administrative warnings as to breaches in the fulfillment of their legal duties. If these warnings are not heeded, the Republican Ethics Council shall have the power to impose the penalties established by law. In the event of contempt, the Chairman of the Republican

Ethics Council shall submit a report to the organ or dependency to which the public official or employee concerned is attached, in order that such body or dependency to take the proper corrective action, in accordance to the case without prejudice to such penalties as may be applicable in accordance with law.

**Article 276:** The Chairman\* of the Republican Ethic Council and the heads of the organs comprising Citizen Power shall submit an annual report before a plenary session of the National Assembly. They shall likewise submit reports whenever asked by the National Assembly to do so. Both the regular and the special reports are to be published.

**Article 277:** All officials\* of the National Public Administrative are obligated, subject to such penalties as may be established by law, to cooperate on an urgent priority basis with representatives\* of the Republican Ethics Council in connection with the latter's investigations. The Council shall have the power to ask them for such statements and documents as it may deem necessary in order to perform its functions; this includes any documents that may have been classified or catalogues as confidential or secret in accordance with law. In all cases, Citizen Power shall release information contained in confidential or secret documents only through such procedures as may be established by law.

**Article 278:** The Republican Ethic Council shall promote all types of teaching activities designed to contribute to the understanding and study of this Constitution; love for the native land, civic and democratic virtues and the transcendental values of the Republic; and observance of and respect for human rights.

**Article 279:** The Republican Ethic Council shall convene a Citizen Power nomination Evaluating Committee, which shall be made up of a group of representative s from various sectors of society, and shall conduct public proceedings resulting in the provision of a list of three candidates from each organ member of the Citizen Power to be submitted for consideration by the National Assembly, which, by a two-thirds vote of its members, shall select within 30 calendar days the member\* of the Citizen Power organ under consideration in each case. If the National Assembly has not reached an agreement by the end of this period, Electoral shall submit the list of three candidates to a public referendum. If the Citizen Power Nomination Evaluating Committee has not been convoked, the National Assembly shall proceed, within such time limit as may be determined by law, to designate the member\* of the pertinent Citizen Power organ. Members\* of Citizen Power shall be subject to removal by the National Assembly, following a ruling by the Supreme Tribunal of Justice, in accordance with the procedure established by law.

## Section Two: People Defender's Office

**Article 280:** The People Defender's Office is charged with the furtherance, defense and oversight of the rights and guarantees established under this

Constitution and international treaties on human rights, in addition to defending the legitimate, collective and diffuse interest of the citizens\*. The People Defender's Office shall act under the direction and responsibility of the People Defender\*, who shall be designated to serve for a single seven-year term. The People Defender must be a Venezuelan national over the age of 30 years, with manifest and proven competence in the field of human rights, and must meet with such requirements as to honesty, ethics and morality as may be established by law. If the People Defender is temporarily or permanently unavailable to serve, the vacancy shall be filled in accordance with applicable provisions of law.

**Article 281:** The following are functions of the People Defender:

(1) To see that the human rights provided for in this Constitution and in the international treaties, agreements and conventions on human rights ratified by the Republic are effectively respected and guaranteed, investigating either on his own initiative or at the request of any denunciation of which he or she becomes aware.

(2) To see to the proper functioning of public services; protect and defend the legitimate, collective and diffuse rights and interests of persons against arbitrary acts, abuse of authority and errors committed in the providing of such public services, filing when appropriate, any actions to demand that the State compensate parties subject to its administrative actions for any damages that may have been caused them in connection with the functioning of such public services.

(3) To file unconstitutionality actions, summary constitutional remedies, habeas corpus, habeas data and any other actions or motions necessary in order to exercise the powers indicated above, where proper in accordance with law.

(4) To urge the General Prosecutor\* of the Republic to pursue any appropriate actions or motions against public Officials\* responsible for violations of or encroachment upon human rights.

(5) To ask the Republican Ethic Council to take the appropriate measures with regard to public officials\* responsible for violations of or encroachment upon human rights.

(6) To ask the competent authority to apply appropriate corrective and punitive measures in cases involving violations of the rights of consumers and users, in accordance with law.

(7) To submit to legislative organs at the municipal, state or national levels, bills or other initiatives for the progressive protection of human rights.

(8) To protect the rights of native peoples and take such action as may be necessary to guarantee and protect such rights effectively.

(9) To visit and inspect the dependencies and establishments of State agencies, to prevent or protect human rights.

(10) To place before the appropriate organs recommendations and observations as necessary in the interest of providing optimum protection for human rights, to which end shall develop mechanisms for remaining in constant communication with national and international public and private organs for the protection and defense of human rights.

(11) To promote and implement policies for the expansion and effective protection of human rights.

(12) Such other functions as may be established by the Constitution and by law.

**Article 282:** The People Defender\* shall enjoy immunity in the exercise of his functions, and therefore shall not be subject to pursuit, arrest or prosecution for acts relating to the performance of his official functions. In any such case, exclusive competence shall be vested in the Supreme Tribunal of Justice.

**Article 283:** Matters relating to the organization and functioning of the People Defender's Office at the municipal, state, national, and special levels shall be determined by law. The activities of this Office shall be governed by the principles of gratuitous service, accessibility, dispatch, freedom from formalities, and proceeding on own initiative.

### Section Three: Office of Public Prosecutions

**Article 284:** The Office of Public Prosecutions shall be under the direction and responsibility of the General Prosecutor\* of the Republic, who shall perform his functions directly, with the assistance of such officials\* as may be determined by law. To be General Prosecutor\* of the Republic, a person must meet the same eligibility requirements that apply to justices of the Supreme Tribunal of Justice. The General Prosecutor of the Republic shall be designated for a seven year term.

**Article 285:** The following are functions of the Office of Public Prosecutions:

(1) In judicial proceedings, to guarantee respect for constitutional rights and guarantees, as well as those deriving from international treaties, agreements and conventions signed by the Republic.

(2) To guarantee the speedy trial of the judicial process, the right to previous trial and a due process.

(3) To order and direct criminal investigation of the perpetration of punishable acts, with a view to establishing that the same were committed, with all circumstances that may be relevant to stating the offense and establishing the responsibility of the perpetrators\* and other participants, as well as to secure

custody of the objects actively and passively concerned with the perpetration of the offense.

(4) To conduct on behalf of the State criminal prosecutions in those cases in which no initiative on the part of a party is required in order to initiate or continue such prosecution, with the exceptions established by law.

(5) To file any appropriate actions to hold liable public officials\* who have incurred civil, labor, military, criminal, administrative or disciplinary liability the course of their official duties.

(6) Any other functions that may be assigned to this office by the Constitution and by law.

These attributions do not discredit the exercise of any rights or actions to which private parties or other officials\* may be entitled in accordance with this Constitution and the law.

**Article 286:** Matters relating to the organization and functioning of the Office of Public Prosecutions at the municipal, state and national levels shall be determined by law, providing the appropriate measures to ensure the suitability, probity and stable tenure of the attorneys\* of the Office of Public Prosecutions. Rules to guarantee the exercise of these functions by career personnel shall also be established by law.

#### Section Four: Office of the General Comptroller of the Republic

**Article 287:** The Office of the General Comptroller of the Republic is the organ that controls, watches and audits revenues, expenses, public and national property and transactions relating to the same. It enjoys operating, administrative and organizational autonomy, and concentrates its activities on functions relating to inspection of the organs and entities under its oversight.

**Article 288:** The Office of the General Comptroller of the Republic shall be under the direction and responsibility of the General Comptroller\* of the Republic, who must be Venezuelan\*, over 30 years of age and possessed of proven ability and experience for purposes of performing the duties of the position. The General Comptroller\* of the Republic shall be designated for a seven-year term.

**Article 289:** The following are functions of the General Comptroller of the Republic:

(1) To control, make vigilance and audit public revenues, expenses and property, as well as transactions relating to the same, without prejudice to the functions vested in other organs, in the case of the States and Municipalities, in accordance with law.

(2) To control the public debt, without prejudice to the functions vested in other organs, in the case of the States and Municipalities, in accordance with law.

(3) To inspect and audit the public-sector, organs, entities and juridical persons subject to his control, conduct audits, order the opening of investigations into irregularities against public patrimony, as well as order measures, raising objections and applying administrative penalties as appropriate, in accordance with law.

(4) To call on the General Prosecutor\* of the Republic to file the appropriate legal actions with regard to in actions and crimes committed against public patrimony, of which becomes aware in the course of performing his official functions.

(5) To exercise operating control and evaluate compliance with and the results of the public policies and decisions of the public-sector organs, entities and juridical persons subject to his control, as regards their revenues, expenses and property.

(6) Any other functions that may be vested in him by the Constitution and by law.

**Article 290:** Matters relating to the organization and functioning of the Office of the General Comptroller of the Republic and the national tax control system shall be determined by law.

**Article 291:** The Office of the General Comptroller of the Armed Forces is an integral part of the national control system. It shall be in charge of vigilance, control and auditing of public revenues, expenses and property allocated to the National Armed Forces and their dependencies, without prejudice to the scope and competence of the Office of the General Comptroller of the Republic. Its organization and functioning shall be determined by the pertinent law, and shall be under the responsibility of the General Comptroller\* of the Armed Forces, who shall be designated by means of a competitive process.

## ***Chapter V***

# **Electoral Power**

**Article 292:** Electoral Power is exercised by the National Electoral Council as governing body, and by the latter's subordinate organs, the National Board of Elections, the Civil Status and Voter Registration Commission and the Commission on Political Participation and Financing, with organization and functioning as established under the pertinent organic law.

**Article 293:** The following are functions of Electoral Power:

(1) To regulate election laws and resolve any doubts and unregulated areas raised by or contained in such laws.

(2) To prepare its budget, concerning which it shall handle directly with the National Assembly, and which it shall manage autonomously.

(3) To issue binding directives in the field of political and electoral advertising and financing, and impose penalties when such directives are not abided by.

(4) To declare elections null and void, either in whole or in part.

(5) Organization, administration, direction and vigilance of all acts relating to elections to fill public offices by popular vote, as well as referenda.

(6) To organize elections for labor unions, professional associations and organizations pursuing political purposes, in accordance with applicable provisions of law. Electoral Power shall also have the power to organize electoral processes for other organizations in civil society, either at their request or by order of the Electoral Division of the Supreme Tribunal of Justice. The entities, organs and organizations concerned shall cover the costs of their election processes.

(7) To maintain, organize, direct and supervise the Civil and Electoral Registry.

(8) To organize the registration and enrollment of organizations pursuing a political purposes, and see that such organizations comply with the provisions governing their status, as set forth in the Constitution and law. In particular, Electoral Power shall decide on applications for the founding, renewal and cancellation of organizations for political purposes, the determination of their lawful authorities and provisional names, colors and symbols.

(9) To control, regulate and investigate the funds raised to finance organizations for political purposes.

(10) Such other functions as may be determined by law. Electoral Power organs shall guarantee the equality, reliability, impartiality, transparency and efficiency of electoral processes, as well as implementation of the personalization of suffrage and proportional representation.

**Article 294:** The organs comprising Electoral Power are governed by principles of organic independence, functional and budgetary autonomy, separation of the electoral organs from the political parties, impartiality and citizen participation, as well as decentralization of electoral administration, transparency and expeditiousness of the voting process and tallying of votes.

**Article 295:** The Election Nominations Committee for candidates\* for membership seats on the National Electoral Council shall be made up of representatives of the various different sectors of society, as provided for by law.

**Article 296:** The National Electoral Council shall consist of five members having no ties to organizations for political purposes; three of these shall be nominated by civil society, one by the schools of law and political science of the national universities, and one by the Citizen Power. The three members nominated by civil society shall have six alternates in ordinal sequence, and each of the members designated by the universities and Citizen Power shall have respectively two alternates. The National Board of Elections, the Civil Status and Voter Registration Commission and the Commission on Political Participation and Financing shall each be presided over by a member\* designated by civil society. The members\* of the National Electoral Council shall hold office for seven years and shall be elected separately: the three nominated by civil society at the beginning of each term of office of the National Assembly, and the other two halfway through such term of office. The members\* of the National Electoral Council shall be designated by a two thirds vote of the members of the National Assembly. The members of the National Electoral Council will designate their President\* among them in accordance with the Law. The members of the National Electoral Council shall be subject to removal by the National Assembly, following a ruling of the Supreme Tribunal of Justice.

**Article 297:** The contentious electoral jurisdiction shall be exercised by the Electoral Section of the Supreme Tribunal of Justice and any other Courts established by law.

**Article 298:** The law regulating electoral process shall not be in any form modified in the period between the elections day and the preceding six months.

## TITLE VI

# SOCIOECONOMIC SYSTEM

## *Chapter 1*

Socioeconomic Order and the Function of the State in the Economy Article 299: The economic regime of the Bolivarian Republic of Venezuela is based on the principles of social justice, democratization, efficiency, free competition, protection of the environment, productivity and solidarity, with a view to ensuring overall human development and a dignified and useful existence for the community. The State, jointly with private initiative, shall promote the harmonious development of the national economy, to the end of generating sources of employment, a high rate of domestic added value, raising the standard of living of the population and strengthen the economical sovereignty of the country, guaranteeing the reliability of the law; the solid, dynamic, sustainable, continuing and equitable growth of the economy to ensure a just distribution of wealth through participatory democratic strategic planning with open consultation.

**Article 300:** National laws shall establish the conditions for the creation of functionally decentralized entities to carry out social or entrepreneurial activities, with a view to ensuring the reasonable economic and social productivity of the public resources invested in such activities.

**Article 301:** The State reserves to itself the use of trade policy to protect the economic activities of public and private Venezuelan enterprises. Business enterprises, organs or persons of foreign nationality shall not be granted with regimes more advantageous than those established for Venezuelan nationals. Foreign investment is subject to the same conditions as domestic investment.

**Article 302:** The State reserves to itself, through the pertinent organic law, and for reasons of national expediency, the petroleum industry and other industries, operations and goods and services which are in the public interest and of a strategic nature. The State shall promote the domestic manufacture of raw materials deriving from the exploitation of nonrenewable natural resources, with a view to assimilating, creating and inventing technologies, generating employment and economic growth and creating wealth and well-being for the people.

**Article 303:** For reasons of economic and political sovereignty and national strategy, the State shall retain all shares of Petroleos de Venezuela, S.A. or the organ created to manage the petroleum industry, with the exception of subsidiaries, strategic joint ventures, business enterprises and any other venture established or coming in the future to be established as a consequence of the carrying on of the business of Petroleos de Venezuela, S.A.

**Article 304:** All waters are property in the Nation's public domain, essential to life and development. The necessary provisions shall be established by law to guarantee the protection, utilization, and recuperation thereof, respecting the phases of the hydrological cycle and zoning criteria.

**Article 305:** The State shall promote sustainable agriculture as the strategic basis for overall rural development, and consequently shall guarantee the population a secure food supply, defined as the sufficient and stable availability of food within the national sphere and timely and uninterrupted access to the same for consumers. A secure food supply must be achieved by developing and prioritizing internal agricultural and livestock production, understood as production deriving from the activities of agriculture, livestock, fishing and aquaculture. Food production is in the national interest and is fundamental to the economic and social development of the Nation. To this end, the State shall promulgate such financial, commercial, technological transfer, land tenancy, infrastructure, manpower training and other measures as may be necessary to achieve strategic levels of self-sufficiency. In addition, it shall promote actions in the national and international economic context to compensate for the disadvantages inherent to agricultural activity. The State shall protect the settlement and communities of non industrialized fishermen\*, as well as their

fishing banks in continental waters and those close to the coastline, as defined by law.

**Article 306:** The State shall promote conditions for overall rural development, for the purpose of generating employment and ensuring the rural population an adequate level of well-being, as well as their inclusion in national development. It shall likewise promote agricultural activity and optimum land use by providing infrastructure projects, supplies, loans, training services and technical assistance.

**Article 307:** The predominance of large land estates is contrary to the interests of society. Appropriate tax law provisions shall be enacted to tax fallow lands and establish the necessary measures to transform them into productive economic units, likewise recovering arable land. Farmers and other agricultural producers are entitled to own land, in the cases and forms specified under the pertinent law. The State shall protect and promote associative and private forms of property in such manner as to guarantee agricultural production. The State shall see to the sustainable ordering of arable land to guarantee its food producing potential. In exceptional cases, quasi-tax contributions shall be created to provide funds for financing, research, technical assistance, transfer of technology and other activities that promote the productivity and competitiveness of the agricultural sector. These matters shall be appropriately regulated by law.

**Article 308:** The State shall protect and promote small and medium-sized manufacturers, cooperatives, savings funds, family owned businesses, small businesses and any other form of community association for purposes of work, savings and consumption, under an arrangement of collective ownership, to strength the country's economic development, based on the initiative of the people. Training, technical assistance and appropriate financing shall be guaranteed.

**Article 309:** Typical Venezuelan crafts and folk industries shall enjoy the special protection of the State, in order to preserve their authenticity, and they shall receive credit facilities to promote production and marketing.

**Article 310:** Tourism is an economic activity in the national interest, and represents a high priority in the country's strategy of diversification and sustainable development. As part of the foundation of the socioeconomic regime contemplated by this Constitution, the State shall promulgate measures to guarantee the development of tourism. The State shall see to the creation and strengthening of a national tourist industry.

## ***Chapter II***

# **Tax and Monetary System**

## **Section One: Budget System**

**Article 311:** Fiscal Policy shall be governed and implemented on principles of efficiency, solvency, transparency, responsibility and fiscal balance. Fiscal Policy is to be balanced over a multiyear budget framework, in such manner that ordinary revenues shall be sufficient to cover ordinary expenses. The National Executive shall submit for enactment by the National Assembly a multiyear framework for budgeting that establishes the maximum limits of expenditures and indebtedness to be contemplated in national budgets. The characteristics of this framework, the requirements for modifying the same and the terms for carrying out the same shall be established by law. Any revenues generated by exploiting underground wealth and minerals, in general, shall be used to finance real productive investment, education and health. The principles and provisions established for national economic and financial management shall also govern that of the States and Municipalities, to the extent applicable.

**Article 312:** Public debt limits shall be set by law in accordance with a prudent level in terms of the size of the economy, reproductive investment and the ability to generate revenues to cover public debt service. In order to be valid, public credit transactions shall require a special law authorizing them, with the exceptions established under the pertinent organic law. The special law shall indicate the modalities of the transactions and authorize the appropriate budget credits in the pertinent budget law. The annual special indebtedness law shall be submitted to the National Assembly together with the budget law. The State shall not recognize any obligations other than those assumed by lawful National Authority organs in accordance with law.

**Article 313:** The economic and financial management of the State shall be governed by a budget approved annually by law. The National Executive shall submit the draft Budget Act to the National Assembly, at the time prescribed by the organic act. If the Executive Power fails for any reason to submit the budget bill within the time limit established by law, or the bill is rejected, the budget for the current fiscal year shall remain in effect. The National Assembly shall have the power to alter budget items, but shall not authorize measures leading to a decrease in public revenues or to expenses exceeding the estimated revenue amounts in the budget bill. In submitting the multiyear budget framework, the special indebtedness law and the annual budget, the National Executive Branch shall explicitly state the long-term objectives of fiscal Policy and explain how these objectives are to be achieved, in accordance with principles of responsibility and a fiscal balance.

**Article 314:** No expense of any kind shall be disbursed unless the same has been provided for in the budget law. Additional budget credit items may be ordered to cover essential unforeseen expenses or items that had not been adequately funded, only if the treasury has resources to cover the expenditure concerned; this shall be done only following a vote in favor by the Cabinet of Ministers and authorization by the National Assembly, or in its absence, by the Delegated Committee.

**Article 315:** In the annual public expense budgets at all levels of government, the specific objective to which each credit item in the budget is addressed shall be clearly established, as well as the concrete results expected and the public officials responsible for achieving these results. The latter shall be established in quantitative terms, by means of performance indicators, where this is technically possible. The Executive Power shall submit to the National Assembly within six months of the close of the fiscal year the annual accounting and budget implementation balance sheet for such fiscal year.

## Section Two: Taxation System

**Article 316:** The taxation system shall seek a fair distribution of public burdens in accordance with the taxpayer's ability to pay, taking into account the principle of progressive taxation, as well as protection of the national economy and raising the standard of living of the population, the foundation therefore being an efficient system for the collection of taxes.

**Article 317:** No tax, assessment or contribution of any kind shall be collected unless it is established by law, and no exemptions, abatements or other types of tax incentives shall be granted except as provided for by law. No tax shall have a confiscatory effect. No tax obligations payable in personal services shall be established. Tax evasion may be punished as a criminal offense, without prejudice to other penalties established by law. In case of officials\* they shall be punished double. Every tax law shall specify the interval that is to lapse before it goes into effect. In the absence of such provision, the period shall be understood as being 60 calendar days. This provision shall not restrict the extraordinary powers to be granted by the National Executive in the cases provided for by this Constitution. The national tax administration shall enjoy technical, operating and financial autonomy in accordance with legislation approved by the National Assembly, and its maximum authority shall be designated by the President\* of the Republic, in accordance with the rules laid down in the pertinent law.

## Section Three: National Monetary System

**Article 318:** The monetary competence of National Authority shall necessarily be exercised exclusively by the Venezuelan Central Bank. The fundamental objective of the Venezuelan Central Bank is to achieve price stability and preserve the internal and foreign exchange value of the monetary unit. The monetary unit of the Bolivarian Republic of Venezuela is the Bolivar. In the event a common currency is instituted within the framework of Latin American and Caribbean integration, it shall be permissible to adopt the currency provided for by a treaty signed by the Republic. The Venezuelan Central Bank is a public-law juridical person with autonomy to formulate and implement policies within its sphere of competence. The Venezuelan Central Bank shall perform its functions in coordination with general economic policy, in the interest of attaining the higher objectives of the State and the Nation. In order to provide for the adequate attainment of its objective, the functions of the Venezuelan Central Bank shall

include those of formulating and implementing monetary policy, participating in the design of and implementing foreign exchange policy, currency regulation, credit and interest rate, administrating international reserves and any others established by law.

**Article 319:** The Venezuelan Central Bank shall be governed by the principle of public responsibility, to which end it shall render an accounting of its actions, goals and the results of its policies to the National Assembly, in accordance with law. It shall also issue periodic reports on the behavior of the country's macroeconomic variables and on any other matters concerning which reports may be requested, including sufficient analysis to permit its evaluation. Failure to meet the objective and goals, without justifiable cause shall result in removal of the Board of Directors and imposition of administrative penalties, in accordance with law. The Venezuelan Central Bank shall be subject to oversight after the fact by the Office of the General Comptroller of the Republic and inspection and supervision by the public entity that supervises banking, which shall send to the National Assembly reports on the inspections it conducts. The budget of operating expenses of the Venezuelan Central Bank shall require discussion and approval by the National Assembly, and its accounts and balance sheets shall be subjected to independent audits on such terms as may be established by law.

#### Section Four: Macroeconomic Coordination

**Article 320:** The State shall promote and defend economic stability, prevent the vulnerability of the economy and see to monetary and price stability, in order to ensure the welfare of society. The ministry responsible for finance and the Venezuelan Central Bank shall contribute to the harmony between fiscal and monetary policy, thereby facilitating the attainment of macroeconomic objectives. In performing its functions, the Central Bank of Venezuela shall not be subject to directives from the National Executive and shall not be permitted to endorse or finance deficit fiscal policies. The coordinated actions of the National Executive and the Venezuelan Central Bank shall be achieved through an annual policy agreement which shall establish the final growth objectives and their repercussion on society, the external balance of payments and inflation, as regards fiscal, foreign exchange and monetary policy; as well as the levels of intermediate and instrumental variables required in order to achieve the aforementioned final objectives. This agreement shall be signed by the President\* of the Venezuelan Central Bank and the head of the ministry responsible for finance, and shall be made public at the time of approval of the budget by the National Assembly. It is the responsibility of the signers of the agreement to see that policy actions are consistent with the objectives. The aforementioned agreement shall specify the results expected and the policies and actions designed to achieve the same. The characteristics of the annual economic policy agreement and the mechanisms for submitting an accounting shall be established by law.

**Article 321:** A macroeconomic stabilization fund shall be established by law for the purpose of guaranteeing the stability of the State's expenses at the national,

regional and municipal levels, in the face of fluctuations in ordinary revenues. The operating rules for this fund shall observe the basic principles of efficiency, fairness and nondiscrimination as between the public organs contributing resources to the fund.

## TITLE VII

# NATIONAL SECURITY

## *Chapter 1*

### General Provisions

**Article 322:** National security is an essential competence and responsibility of the State, based on the overall development of the latter, and its defense is the responsibility of all Venezuelans, as well as of all public and private law natural and juridical persons within the geographical limits of Venezuela.

**Article 323:** The National Defense Council is the highest consultative organ for planning and advising the Public Power as to matters relating to the overall defense of the Nation, its sovereignty and the integrity of its geographical space. To this end, it is also charged with establishing the Nation's strategic concept. Presided over by the President of the Republic\*, it also includes the Executive Vice President\*, the President of the National Assembly, the Chief Justice\* of the Supreme Tribunal of Justice, the Chairman\* of the Republican Ethic Council and the Ministers\* of Defense, Internal Security, Foreign Relations and Planning, and any others whose participation may be deemed appropriate. The pertinent organic law shall determine the organization and attributions of the National Defense Council.

**Article 324:** Only the State shall be permitted to possess and use weapons of war; any such weapons which now exist or are manufactured in or imported into the country shall become the property of the Republic, without compensation or proceedings. The National Armed Forces shall be the institution of competence to regulate and control, in accordance with the pertinent legislation, the manufacture, importing, exporting, storage, transit, registration, control, inspection, marketing, possession and use of other weapons, munitions and explosives.

**Article 325:** The National Executive reserves the right to classify and control disclosure of matters directly relating to the planning and execution of operations concerning national security, on such terms as may be established by law.

## *Chapter II*

## Principles of National Security

**Article 326:** National security is based on shared responsibility between the State and civil society to implement the principles of independence, democracy, equality, peace, freedom, justice, solidarity, promotion and conservation of the environment and affirmation of human rights, as well as on that of progressively meeting the individual and collective needs of Venezuelans\*, based on a sustainable and productive development policy providing full coverage for the national community. The principle of shared responsibility applies to the economic, social, political, cultural, geographical, environmental and military spheres.

**Article 327:** Attention to borders is a priority matter in the enforcement and application of national security principles. To this end, a border security belt is established, with width, special economic and social regimes, settlement and utilization. shall be regulated by law, with special protection for national parks and other areas under special administrative arrangements, as well as the habitat of the native people settled in the areas concerned.

### *Chapter- III*

## The National Armed Forces

**Article 328:** The National Armed Forces constitute an essentially professional institution, with no political orientation, organized by the State to guarantee the independence and sovereignty of the Nation and ensure the integrity of its geographical space, through military defense, cooperation for the purpose of maintaining internal order and active participation in national development, in accordance with this Constitution and the law. In performing their functions, they are at the exclusive service of the Nation, and in no case at the service of any person or political partisanship. The pillars on which they are founded are discipline, obedience and subordination. The National Armed Forces consist of the Army, the Navy, the Air Force and the National Guard, which function in an integrated manner within the scope of their competence to fulfill their mission, with their own overall Social Security system, as established under the pertinent organic law.

**Article 329:** The Army, Navy and Air Force have as their essential responsibility the planning, execution and control of military operations as required to ensure the defense of the Nation. The National Guard shall cooperate in the carrying out of these operations, and shall have as its basic responsibility that of conducting operations as required to maintain internal order within the country. The National Armed Forces shall carry out activities of administrative policing and criminal investigation activities as provided for by law.

**Article 330:** Members\* of the National Armed Forces on active duty have the right to vote in accordance with law, but are not permitted to run for any office filled by popular vote, nor to participate in acts of political advertising, militancy or proselytizing.

**Article 331:** Military promotions shall be in accordance with merit, hierarchy and vacancies. They are the exclusive prerogative of the National Armed Forces, and shall be regulated by the pertinent law.

#### *Chapter IV*

### Civilian Security Organs

**Article 332:** The National Executive, in accordance with law, to maintain, and restore public order; protect citizens, homes and families; support the decisions of the competent authorities and ensure the peaceful enjoyment of constitutional guarantees and rights, shall organize:

- (1) A uniformed national police corps.
- (2) A scientific, criminal and criminological investigation corps.
- (3) A civilian fire department and emergency management corps.
- (4) A civil defense and disaster management organization.

Organs of civilian security are of civil nature and shall respect human dignity and human rights, without discrimination of any kind. The functions of the civilian security organs constitute a concurrent competence with those of the States and Municipalities, on the terms established in this Constitution and the law.

## TITLE VIII

# PROTECTION OF THE CONSTITUTION

#### *Chapter 1*

### Guarantee of the Constitution

**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.

**Article 334:** All of the judges\* of the Republic, within their respective spheres of competence and in accordance with the provisions of this Constitution and law, are obligated to ensure the integrity of the Constitution. In the event of incompatibility between the Constitution and a law or other juridical provision, the provisions of the Constitution shall prevail, being the responsibility of the courts to rule accordingly in any case, even ex officio. The Constitutional Division of the Supreme Tribunal of Justice, as court of constitutional competence, shall have the exclusive power to declare the nullity of laws and other acts of organs exercising Public Power which are issued by way of direct and immediate implementation of the Constitution or have the status of law.

**Article 335:** The Supreme Tribunal of Justice shall guarantee the supremacy and efficacy of constitutional rules and principles; it shall be the supreme and ultimate interpreter of the Constitution and shall see to the uniform interpretation and application of the same. Interpretations established by the Constitutional Division concerning the contents or scope of constitutional rules and principles are binding on the other division of the Supreme Tribunal of Justice and on all of the other courts of the Republic.

**Article 336:** The following are functions of the Constitutional Division of the Supreme Tribunal of Justice:

- (1) To declare the nullity, in whole or in part, of national laws and other acts of National Assembly with the force of law, which are in conflict with this Constitution.
- (2) To declare the nullity, in whole or in part, of state Constitutions and laws, municipal ordinances and other acts of the deliberating bodies of the States and Municipalities which are issued by way of direct and immediate implementation of the Constitution and are in conflict with the same.
- (3) To declare the nullity, in whole or in part, of acts of the National Executive with the force of law, which are in conflict with this Constitution.
- (4) To declare the nullity, in whole or in part, of acts issued by way of direct and immediate implementation of the Constitution by any other government organ exercising Public Power.
- (5) To verify, at the request of the President\* of the Republic or the National Assembly, the constitutionality of international treaties signed by the Republic, prior to ratification of the same.
- (6) To review in all cases, even ex officio, the constitutionality of decree of the President\* of the Republic decreeing states of exception.
- (7) To declare the unconstitutionality of omissions on the part of the municipal, state, national or legislatures, in failing to promulgate rules or measures essential

to guaranteeing compliance with the Constitution, or promulgating it in an incomplete manner; and to establish the time limit and, where necessary, guidelines for correcting the deficiencies.

(8) To resolve any conflicts existing between different provisions of law, and declare which of the same must prevail.

(9) To resolve constitutional controversies arising between any of the organs of Public Power.

(10) To review judgments embodying constitutional protective orders or control on the constitutionality of laws or juridical rules, handed down by the courts of the Republic, on the terms established by the pertinent organic law.

(11) Any other functions established by this Constitution or by law.

## ***Chapter 11***

### **States of Exception**

**Article 337:** The President\* of the Republic, at a meeting of the Cabinet of Ministers, shall have the power to decree states of exception. Expressly defined as such are circumstances of a social, economic, political, natural or ecological nature which seriously affect the security of the Nation, institutions and citizens\*, in the face of which the powers available to cope with such events are insufficient. In such case, the guarantees contained in this Constitution may be temporarily restricted, with the exception of those relating to the right to life, prohibition of incommunicative detention or torture, the right to due process, the right to information and other intangible human rights.

**Article 338:** A state of alarm may be declared when catastrophes, public calamities or other similar events occur, seriously endangering the security of the Nation or its citizens\*. Such state of exception shall last for up to 30 days, and may be extended for an additional 30 days. A state of economic emergency may be declared when extraordinary economic circumstances arise, such as to affect seriously the economic life of the Nation; the duration of this state of emergency shall be 60 days, with the possibility of extension for the same period. A state of internal or external commotion may be declared in the event of an internal or external conflict seriously endangering the security of the Nation, its citizens\* or its institutions. Such state of commotion shall last for up to 90 days, and may be extended for an additional 90 days. The National Assembly has the responsibility of the approval for the extension of the states of exemption. An organic law shall regulate states of exception and determine the measures that may be adopted based on them.

**Article 339:** The Decree declaring a state of exception, which shall provide for regulating the right whose guarantee is restricted, shall be submitted within eight days of promulgation for consideration and approval by the National Assembly, or Delegated Committee and for a ruling by the Constitutional Division of the Supreme Tribunal or Justice on its constitutionality. The Decree must be in compliance with the requirements, principles and guarantees established in the International Pact on Civil and Political Rights and the American Convention on Human Rights. The President\* of the Republic shall have the power to request its extension for a similar period, and the Decree shall be revoked by the National Executive or by the National Assembly or the latter's Delegated Committee prior to the indicated date of expiration upon cessation of the conditions which produced them. The declaration of a state of exception does not interrupt the functioning of the organs of the Public Power.

## TITLE IX

# CONSTITUTIONAL REFORMS

## *Chapter 1*

### Amendments

**Article 340:** The purpose of an amendment is to add to or modify one or more articles of the Constitution, without altering the fundamental structure of the same.

**Article 341:** The procedure for adopting amendments to the Constitution shall be as follows:

(1) The initiative may emanate from 15% of the citizens\* registered with the Civil and Electoral Registry, from 39% of the members of the National Assembly or from the President\* of the Republic, sitting with the Cabinet of Ministers.

(2) When the initiative emanates from the National Assembly, the amendment shall require approval by a majority of the members of that body, and shall be debated in accordance with the procedure established under this Constitution for the enactment of laws.

(3) Electoral Power shall submit the amendments to a referendum within 30 days of formally receiving the same.

(4) Amendments shall be deemed approved in accordance with the provisions of this Constitution and the law concerning the approval referendum.

(5) Amendments shall be numbered consecutively and shall be published beneath the Constitution without altering the text of the latter, but with an annotation at

the bottom of the amended article(s) of the number and date of the amendment modifying the same.

## ***Chapter 11***

# Constitutional Reform

**Article 342:** The purpose of constitutional reform is to effect a partial revision of this Constitution and replacement of one or more of the provisions hereof, without modifying the fundamental principles and structure of the text of the Constitution. The initiative for a constitutional reform emanates from the National Assembly, by resolution approved by a majority vote of the members, from the President\* of the Republic sitting with the Cabinet of Ministers, or at the request of registered voters constituting at least 15% of the total number registered with the Civil and Electoral Registry.

**Article 343:** The initiative for a constitution reform shall be processed by the National Assembly as follows:

- (1) The draft constitutional reform shall be debated for the first time during the legislative session during which it is submitted.
- (2) Second debate title by title or chapter by chapter, as applicable.
- (3) Third and last debate article by article.
- (4) The National Assembly shall approve the draft constitutional reform in a time period no latter than two years, counted since the date the reform application was submitted and approved.
- (5) The draft constitutional reform shall be approved with a two third members vote of the National Assembly.

**Article 344:** Once approved by the National Assembly, the draft constitutional reform shall be submitted to a referendum within 30 days from its approval. The referendum shall pass on the reform as a whole, but up to one third of the same may be voted on separately, if at least one third of the National Assembly so agrees, or if in the initiative for the reform, the President\* of the Republic or a number of registered voters equivalent to at least 5% of the total registered with the Civil and Electoral Registry so requests.

**Article 345:** The constitutional reform shall be declared approved if the number of affirmative votes is greater than the number of negative votes. A revised constitutional reform initiative may not be submitted during the same constitutional term of office of the National Assembly.

**Article 346:** The President\* of the Republic shall be obligated to promulgate Amendments and Reforms within ten days of their approval. If he fails to do so, the applicable provisions of this Constitution shall apply.

### ***Chapter III***

## **National Constituent Assembly**

**Article 347:** The original constituent power rests with the people of Venezuela. This power may be exercised by calling a National Constituent Assembly for the purpose of transforming the State, creating a new juridical order and drawing up a new Constitution.

**Article 348:** The initiative for calling a National Constituent Assembly may emanate from the President\* of the Republic sitting with the Cabinet of Ministers; from the National Assembly, by a two thirds vote of its members; from the Municipal Councils in open session, by a two-thirds vote of their members; and from 15% of the voters registered with the Civil and Electoral Registry.

**Article 349:** The President\* of the Republic shall not have the power to object to the new Constitution. The existing constituted authorities shall not be permitted to obstruct the Constituent Assembly in any way. For purposes of the promulgation of the new Constitution, the same shall be published in the Official Gazette of the Republic of Venezuela or in the Gazette of the Constituent Assembly.

**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.

## **SOLE DEROGATION PROVISION**

The Constitution of the Republic of Venezuela decreed on January 23, 1961 is hereby derogated. The rest of the juridical order shall remain in effect to the extent not in conflict with this Constitution.

## **TEMPORARY PROVISIONS**

**First:** The special law on the regime for the Capital District as provided for under article 18 of this Constitution shall be approved by the National Constituent Assembly, and shall preserve the territorial integrity of the State of Miranda. Pending approval of the special law, the regime provided for under the Organic Law on the Federal District and the Organic Law on the Municipal Regime shall remain in effect.

**Second:** Pending enactment of the law provided for under article 38 of this Constitution concerning the acquisition, election, renunciation and recovery of nationality, foreign individuals who, having entered and remained within the national territory legally and declared their intention of establishing their domicile in Venezuela, have a lawful means of earning a living and have resided continuously in Venezuela for two years, shall be regarded as domiciled in Venezuela. Residence shall be understood as meaning continuing presence in the country with the intention of remaining. Declarations of intent as provided for under articles 32, 33 and 36 of this Constitution shall be made in the form of an authentic instrument by the interested party, when the latter is of legal age, or by his legal representative, if he has not yet reached the age of 21.

**Third:** The National Assembly, within six months of its installation, shall pass:

(1) A partial reform of the Penal Code to include the offense of forced disappearance of persons, as provided for under article 45 of this Constitution.

(1) Pending enactment of this reform, the Inter-American Convention on the Forced Disappearance of Persons shall apply insofar as possible.

(2) An organic law on states of exception.

(3) A special law to establish the conditions and characteristics of a special regime for the Municipalities of Jose Antonio Paez and Romulo Gallegos, in the State of Apure. In the process of formulating this law, the opinions of the President\* of the Republic, the National Armed Forces, such representation as may be designated by the corresponding State and all other institutions involved in border problems shall be heard.

**Fourth:** Within one year of installation, the National Assembly shall approve:

(1) Legislation on penalties for torture, either in the form of a special law or by reforming the Penal Code.

(2) An organic law on refugees\* and asylum guarantees, consistent with the terms of this Constitution and the pertinent international treaties ratified by Venezuela.

(3) By reforming the Organic Labor Law, a new regime for the right of employees regarding severance payments as regulated in article 92 which regime shall provide for severance payments calculated in proportion to the time served and calculated according with the last salary earned, establishing a statute of limitation for this right of ten (10) years. Until such reformed law goes into effect, the seniority benefit arrangement established under the present Organic Labor Law currently in force shall temporarily remain in effect. Likewise a set of overall standards regulating the working day and promoting the progressive reduction thereof shall be included, on the terms contemplated under the International Labor Organization agreements and conventions signed by the Republic.

(4) An organic procedural labor law guaranteeing the functioning of an autonomous and specialized labor jurisdiction and protection for workers on the terms provided for in this Constitution and the law. The organic labor procedural law shall be guided by the principles of gratuitous service, expeditiousness, oral proceedings, immediacy, priority on the reality of the facts, equity and guiding authority of the judge in the proceedings.

(5) The legislation relating to the Judicial System, National Public Administration, Citizen Power, Electoral Power, tax laws, Budgeting Law, and Public Credit Law. An organic law on public defense. Until this law is passed, the Commission on the Functioning and Restructuring of the Judicial System shall be in charge of the development and effective functioning of the Autonomous Public Defender System, in order to guarantee the right to a defense.

(6) A law developing the public finances of the States, establishing, in a manner consistent with the principles and rules of this Constitution, the taxes included in the same, the mechanisms for their application and the provisions regulating them.

(7) Legislation developing the constitutional principles concerning municipal regime. In accordance with such legislation, the legislative organs of the States shall proceed to pass the normative instruments appropriate to the organizational powers assigned to them with respect to the Municipalities and other local organs, and the territorial political divisions in each jurisdiction. The existing Municipalities and parishes shall continue existing until they have been adapted to the new regime provided for under such legislation.

(8) The law by which the Venezuelan Central Bank is to be governed. Among other matters, this law shall provide for the scope of the functions and manner of organization of this entity; the functions, term of office, manner of election, removal, incompatibilities, regime and requirements for the designation of its Chairman and Directors; the accounting rules for establishing its reserves and the manner in which its profits are to be applied; the annual independent audit of accounts and balances by firms of specialists selected by the National Executive and subsequent control by the Office of the General Comptroller of the Republic regarding the legality, sincerity, opportunity, efficacy and efficiency of the administrative activity of the Venezuelan Central Bank. The law shall provide the Chairman\* and other members\* of the Board of Directors of the Venezuelan Central Bank shall represent exclusively the national interest, to which end it shall provide for public proceedings to evaluate the merits and credentials of candidates for the aforementioned positions. The law shall provide that the Executive Power shall have the power to designate no less than half of the Directors as well as the Chairman of the Venezuelan Central Bank, and shall establish the terms for participation by the Legislative Power in the designation and ratification of these authorities.

(9) A law of national police corp. This law shall establish the mechanism for the integration of terrestrial transport and transit vigilance to the national police corps.

**Fifth:** Within one year of the effective date of this Constitution, the National Assembly shall enact a reformed Organic Tax Code establishing, among other matters:

(1) Strict interpretation of tax laws and rules, bearing in mind their purpose and their economic significance, in order to eliminate ambiguities.

(2) The elimination of exceptions to the principle of non-retroactivity of the law.

(3) Expansion of the concept of imputed income, in order to provide the Tax Administration with better instruments.

(4) Elimination of the statute of limitations for serious tax offenses, which must be defined in the Organic Tax Code.

(5) Increase penalties for advisors, law firms, independent auditors and other professionals who act in complicity for the purpose of committing tax offenses, including periods of suspension from the practice of their professions.

(6) Increase penalties and the severity of the sanctions for tax evasion crimes increasing the periods for the statute of limitations.

(7) Revision of mitigating and aggravating circumstances considered in imposing penalties, in order to make them stricter.

(8) Extend the audit powers of the Tax Administration.

(9) Increase the rate of default interest in order to discourage tax evasion.

(10) Extension of the principle of solidarity to make it possible to reach the assets of Directors\* or tax advisors\* in cases they validate tax offenses.

(11) Introduction of more expeditious administrative procedures.

**Sixth:** Within two years, the National Assembly shall pass legislation on all matter relating to this Constitution. Priority shall be given to the Organic Laws on Native People, on Education, and on Borders.

**Seventh:** For purposes of article 125 of this Constitution, pending approval of the pertinent organic law, the election of native representatives\* to the National Assembly and the State and Municipal Legislative Councils shall be governed by the following nomination requirements and mechanisms:

All native organizations or communities shall have the right to nominate native candidates. It is a requirement for being a candidate to speak their native language and meet at least one of the following conditions:

- (1) Have exercised position of traditional Authority in the correspondent community.
- (2) Have an established record in the social struggle for recognition of the correspondent cultural identity.
- (3) Have taken action benefiting native people and communities.
- (4) Must belong to a legally constituted native organization that has been in existence for at least three years.

Three regions are to be established: West, consisting of the States of Zulia, Merida and Trujillo; South, consisting of the States of Amazonas and Apure; and East, consisting of the States of Bolivar, Delta Amacuro, Monagas, Anzoategui, and Sucre. Each of the states comprising the various regions shall elect one representative. The national Electoral Council shall declare elected the candidate who receives a majority of the valid votes in his region or circumscription. The native candidates shall appear on the ballot in their State or circumscription, and all of the voters in such State shall have the right to vote for them. For purposes of native representation on the State Legislative Council and on the Municipal Councils of Municipalities with a native population, the 1992 official census by the Central Statistics and Data Processing Office shall be used as a reference, and the elections shall be conducted in accordance with the rules and requirements established herein. The National Electoral Council shall guarantee compliance with the requirements set forth herein, relying on support from experts in native affairs and native organizations.

**Eighth:** Pending promulgation of the new electoral laws contemplated in this Constitution, electoral processes shall be called, organized, directed and supervised by the National Electoral Council. For the first term of office of the National Electoral Council provided for under this Constitution, all of the members shall be designated simultaneously. halfway through the term, two of the members shall be replaced in accordance with the provisions of the pertinent organic law.

**Ninth:** Pending enactment of the laws pertaining to chapter IV of title V, the Organic Law on the Office of Public Prosecutions and the Organic Law on the Office of the General Comptroller of the Republic shall remain in effect. The head of the People Defender's Office shall be designated temporarily by the National Constituent Assembly. The People Defender\* shall move forward as regards organizational structure, integration, establishing of budget and physical infrastructure, based on the powers vested in him by the Constitution.

**Tenth:** The provisions of article 167, section 4 of this Constitution concerning the obligation of the States to apply at least 50% of the constitutional revenue share to investment, shall be effective beginning January 1, 2001.

**Eleventh:** Pending enactment of national legislation governing vacant lands, the same shall continue to be administered by the National Power, in accordance with existing legislation.

**Twelfth:** The demarcation of the native habitat as referred to in Article 119 of this Constitution, shall be carried out within two years of the effective date of this Constitution.

**Thirteenth:** Until the States assume under State law the powers referred to under article 164, section 7 of this Constitution, the existing system shall remain in effect.

**Fourteenth:** Pending enactment of the legislation developing the principles embodied in this Constitution concerning municipal regime, the ordinances and other normative instruments concerning municipalities shall remain in full effect as to the matters within their competence and the separate tax competence they possess under the legal order applicable prior to adoption of this Constitution.

**Fifteenth:** Pending passage of the legislation referred to in article 105 of the Constitution, the legal order applicable prior to adoption of this Constitution shall remain in effect.

**Sixteenth:** In order to protect the nation's historical heritage, the Chronicler of the National Constituent Assembly shall coordinate all necessary mechanisms to safeguard written documents, videos, digital recordings, photographs, periodicals, audio and any other forms of documentation prepared. All these documents shall remain under the protection of the General Archives of the Nation.

**Seventeenth:** Once this Constitution has been approved, the name of the Republic shall be "Bolivarian Republic of Venezuela," as provided for under article 1. It is the obligation of authorities and institutions, both public and private, which are required to issue records, certificates or any other documents, to use the name "Bolivarian Republic of Venezuela" effective immediately. For routine matters, administrative offices shall use up their existing stationery, replacing the same progressively with conforming documentation, but in any case completing such replacement within five years. The circulation of coins minted and banknotes issued with the name "Republic of Venezuela" shall be regulated by the reform of the Venezuelan Central Bank Law contemplated under the Fourth Temporary Provision of this Constitution, with a view to make the transition to the name "Bolivarian Republic of Venezuela."

**Eighteenth:** In order to assure the application of article 113 of this Constitution, the National Assembly shall pass a law establishing an entity which shall supervise, control and inspect the effective application of such principles and the provision and rules developing them. The person presiding or directing such entity shall be appointed with the majority of the votes of the members\* of the National Assembly, with the favorable report of special commission designated from the bosom of the National Assembly for such purposes. The law shall establish the officer of the Public Administration and Judges\* in charge of evaluating and deciding controversies related to the subjects referred to under such arrangement, apply with priority and exclusive the principles regulated thereof and that they shall not apply any provision which may cause the opposite effect. The law shall regulate the concessions for public services, the benefits for the concessionaire\* and the financing of investments closely related to such public service, including upgrades and enlargement considered reasonably and approved by the competent authority.