

# Venezuela's Constitutional Reform: Article-by-Article Summary

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The following is an article-by-article summary of the changes being proposed to Venezuela's 1999 constitution. The summary is in no way official and should only be used as an aid in making sense of the proposed constitutional reform. The official reform text is quite long (31 pages), as it includes the full text of each to be changed article, even if only one sentence or word was changed in the article. Making out what, exactly, the changes are relative to the original 1999 constitution can thus be a sometimes time-consuming and difficult task.

Venezuelans will vote on the reform on December 2nd and will do so in two blocks. Block "A" includes President Chavez's original proposal, as amended by the National Assembly, which would change 33 articles out of the 350 articles in the constitution. Also included in block A are another 13 articles introduced by the National Assembly. Block "B" includes another 26 reform articles proposed by the National Assembly. Voters may vote "Yes" or "No" on each block.

**Reform Question:** "Are you in agreement with the approval of the constitutional reform project, passed by the National Assembly, with the participation of the people, and based in the initiative of President Hugo Chavez, with its respective titles, chapters, and transitional, derogative, and final dispositions, distributed in the following blocks?"

*[Articles in italics are those proposed by the National Assembly, non-italic articles were proposed by the President.]*

## Block A

**Section II. Politico-Territorial Division of the Country:** President may declare special military and development zones, citizens have a new "right to the city."

Art. 11 - Allows the President to decree special military regions for the defense of the nation. Also, it would allow him to name military authorities for these regions in a case of emergency.

Art. 16 - Allows the president to decree, with permission from the National Assembly, communal cities, maritime regions, federal territories, federal municipalities, island districts, federal provinces, federal cities, and functional districts. Also the president may name and remove national government authorities for these territorial divisions (these do not, however, supplant the existing elected authorities in these regions).

Art. 18 - Provides a new right, the right to the city, which says that all citizens have the right to equal access to the city's services or benefits. Also names Caracas, the capital as the

“Cradle of Simon Bolivar, the Liberator, and Queen of the Warairarepano” [an indigenous name for the mountain range surrounding Caracas].

**Section III. Citizen Rights and Duties:** Voting age lowered to 16 years, gender parity in candidacies, creation of councils of popular power, social security fund for self-employed, reduction of workweek to 36 hours, recognition of Venezuelans of African descent, free university education, introduction of communal and social property.

*Art. 64 - Lowers the minimum voting age from 18 to 16 years.*

Art. 67 - Requires candidates for elected office to be set up in accordance with gender parity, reverses the prohibition against state financing of campaigns and parties, and prohibits foreign funding of political activity.

Art. 70 - Establishes that councils of popular power (of communities, workers, students, farmers, fishers, youth, women, etc.) are one of the main means for citizen participation in the government.

Art. 87 - Creates a social security fund for the self-employed, in order to guarantee them a pension, vacation pay, sick pay, etc.

Art. 90 - Reduction of the workweek from 44 hours to 36.

*Art. 98 - Guarantees freedom for cultural creations, but without guaranteeing intellectual property.*

Art. 100 - Recognition of Venezuelans of African descent, as part of Venezuelan culture to protect and promote (in addition to indigenous and European culture).

*Art. 103 - Right to a free education expanded from high school to university.*

Art. 112 - The state will promote a diversified and independent economic model, in which the interests of the community prevail over individual interests and that guarantee the social and material needs of the people. The state is no longer obliged to promote private enterprise.

Art. 113 - Monopolies are prohibited instead of merely being “not allowed.” The state has the right to “reserve” the exploitation of natural resources or provision of services that are considered by the constitution or by a separate law to be strategic to the nation. Concessions granted to private parties must provide adequate benefits to the public.

Art. 115 - Introduces new forms of property, in addition to private property. The new forms are (1) public property, belonging to state bodies, (2) direct and indirect social property, belonging to the society in general, where indirect social property is administered by the state and direct is administered by particular communities, (3) collective property, which belongs to particular groups, (4) mixed property, which can be a combination of ownership of any of the previous five forms.

**Section IV. Functions of the State:** Creation of popular power based in direct democracy, recognition of missions for alleviating urgent needs, foreign policy to pursue a pluri-polar world, devolution of central, state, and municipal functions to the popular power, guaranteed revenues for the popular power.

Art. 136 - Creates the popular power, in addition to the municipal, state, and national powers. "The people are the depositories of sovereignty and exercise it directly via the popular power. This is not born of suffrage nor any election, but out of the condition of the human groups that are organized as the base of the population." The popular power is organized via communal councils, workers' councils, student councils, farmer councils, crafts councils, fisher councils, sports councils, youth councils, elderly councils, women's councils, disables persons' councils, and others indicated by law.

Art. 141 - The public administration is organized into traditional bureaucracies and missions, which have an ad-hoc character and are designed to address urgent needs of the population.

*Art. 152 - Venezuela's foreign policy is directed towards creating a pluri-polar world, free of hegemonies of any imperialist, colonial, or neo-colonial power.*

*Art. 153 - Strengthening of the mandate to unify Latin America, so as to achieve what Simon Bolivar called, "A Nation of Republics."*

Art. 156 - Specifies the powers of the national government, adding powers that are spelled out in earlier and in later articles in greater detail. New powers of the national government include the ordering of the territorial regime of states and municipalities, the creation and suspension of federal territories, the administration of branches of the national economy and their eventual transfer to social, collective, or mixed forms of property, and the promotion, organization, and registering of councils of the popular power.

*Art. 157 - The national assembly may attribute to the bodies of the popular power, in addition to those of the federal district, the states, and the municipalities, issues that are of national government competency, so as to promote a participatory and active democracy (instead of promoting decentralization, as was originally stated here).*

Art. 158 - The state will promote the active participation of the people, restoring power to the population (instead of decentralizing the state).

Art. 167 - States' incomes are increased from 20% to 25% of the national budget, where 5% is to be dedicated to the financing of each state's communal councils.

Art. 168 - Municipalities are obligated to include in their activities the participation of councils of popular power.

Art. 184 - Decentralization of power, by its transfer from state and municipal level to the communal level, will include the participation of communities in the management of public enterprises. Also, communal councils are defined as the executive arm of direct democratic citizen assemblies, which elect and at any time may revoke the mandates of the communal council members.

Art. 185 - The national government council is no longer presided over by the Vice-President, but by the President. Its members are the President, Vice-President(s), Ministers, and Governors. Participation of mayors and of civil society groups is optional now. Previously the federal governmental council (as it was called) was responsible for coordinating policies on all governmental levels. Now it is an advisory body for the formulation of the national development plan.

**Section V. Organization of the State:** President may name secondary vice-presidents as needed, presidential term extended and limit on reelection removed, may re-organize internal politico-territorial boundaries, and promotes all military officers.

Art. 225 – The president may designate the number of secondary vice-presidents he or she deems necessary. Previously there was only one Vice-President.

Art. 230 – Presidential term is extended from six to seven years. The two consecutive term limit on presidential reelection is removed.

Art. 236 – New presidential powers as specified in other sections of the reform are listed here, which include the ordering and management of the country’s internal political boundaries, the creation and suspension of federal territories, setting the number and naming of secondary vice-presidents (in addition to the first vice-president), promote all officers of the armed forces, and administrate international reserves in coordination with the Central Bank.

Art. 251 – Adds detail to the functioning of the State Council, which advises the president on all matters.

Art. 252 – Composition of the State Council changed to include the heads of each branch of government: executive, judiciary, legislature, citizen power, and electoral power. The president may include representatives of the popular power and others as needed. Previously the council included five representatives designated by the president, one by the National Assembly, one by the judiciary, and one by the state governors.

*Art. 272 – Removal of the requirement for the state to create an autonomous penitentiary system and places the entire system under the administration of a ministry instead of states and municipalities. Also, removes the option of privatizing the country’s penitentiary system.*

**Section VI. Socio-Economic System:** Weakening of the role of private enterprise in the economic system, possible better treatment of national businesses over foreign ones, no privatization any part of the national oil industry, taxation of idle agricultural land, removal of central bank autonomy.

*Art. 299 – The socio-economic regimen of the country is based on socialist (among other) principles. Instead of stipulating that the state promotes development with the help of private initiative, it is to do so with community, social, and personal initiative.*

Art. 300 – Rewording of how publicly owned enterprises should be created, to be regionalized and in favor of a “socialist economy”, instead of “decentralized.”

Art. 301 – Removal of the requirement that foreign businesses receive the same treatment as national businesses, stating that national businesses may receive better treatment.

Art. 302 – Strengthening of the state’s right to exploit the country’s mineral resources, especially all those related to oil and gas.

*Art. 303 – Removal of the permission to privatize subsidiaries of the country’s state oil industry that operate within the country.*

Art. 305 – If necessary, the state may take over agricultural production in order to guarantee alimentary security and sovereignty.

Art. 307 – Strengthening of the prohibition against *latifundios* (large and idle landed estates) and creation of a tax on productive agricultural land that is idle. Landowners who engage in the ecological destruction of their land may be expropriated.

Art. 318 – Removal of the Central Bank’s autonomy and foreign reserves to be administrated by the Central Bank together with the President.

Art. 320 – The state must defend the economic and monetary stability of the country. Removal of statements on the bank’s autonomy.

Art. 321 – Removal of the requirement to set up a macro-economic stabilization fund. Instead, every year the President and the Central Bank establish the level of reserves necessary for the national economy and all “excess reserves” are assigned to a special development and investment fund.

**Section VII. National Security:** Armed forces to be anti-imperialist, reserves to become a militia.

Art. 328 – Armed forces of Venezuela renamed to “Bolivarian Armed Force.” Specification that the military is “patriotic, popular, and anti-imperialist” at the service of the Venezuelan people and never at the service of an oligarchy or of a foreign imperial power, whose professionals are not activists in any political party (modified from the prohibition against all political activity by members of the military).

Art. 329 – Addition of the term “Bolivarian” to each of the branches of the military and renaming of the reserves to “National Bolivarian Militia.”

**Section VIII. Constitutional changes:** Signature requirements increased for citizen-initiated referenda to modify the constitution.

*Art. 341 – Increase in the signature requirement for citizen-initiated constitutional amendments from 15% to 20% of registered voters.*

*Art. 342 – Increase in the signature requirement for citizen-initiated constitutional reforms from 15% to 25% of registered voters.*

*Art. 348 – Increase in the signature requirement for citizen-initiated constitutional assembly from 15% to 30% of registered voters.*

## **Block “B”**

**Section III. Citizen Rights and Duties:** Non-discrimination based on sexual orientation and health, increase in signature requirements for citizen-initiated referenda, primary home protected from expropriation.

*Art. 21 – Inclusion of prohibition against discrimination based on sexual orientation and on health.*

*Art. 71 - Increase in the signature requirement for citizen-initiated consultative referenda from 10% to 20% of registered voters.*

*Art. 72 - Increase in the signature requirement for citizen-initiated recall referenda from 20% to 30% of registered voters. Also, voter participation set at minimum 40% (previously no minimum was set, other than that at least as many had to vote for the recall as originally voted for the elected official).*

*Art. 73 - Increase in the signature requirement for citizen-initiated approbatory referenda from 15% to 30% of registered voters.*

*Art. 74 - Increase in the signature requirement for citizen-initiated rescinding referenda from 10% to 30% of registered voters. In the case of law decrees, increased from 5% to 30% of registered voters.*

*Art. 82 - Protection of primary home from confiscation due to bankruptcy or other legal proceedings.*

*Art. 109 - Equal voting rights for professors, students, and employees in the election of university authorities.*

**Section IV. Functions of the State:** State and local comptrollers appointed by national Comptroller General, political divisions determined on a national instead level.

*Art. 163 - State comptrollers are to be appointed by the national Comptroller General, not the states, following a process in which organizations of popular power nominate candidates.*

*Art. 164 - State powers are specified in accordance with other articles of the reform. States can no longer organize the politico-territorial division of municipalities, but only coordinate these.*

*Art. 173 - Political divisions within municipalities are to be determined by a national law, instead of being in the power of the municipalities. The creation of such divisions is to attend to community initiative, with the objective being the de-concentration of municipal administration.*

*Art. 176 - The municipal comptroller is to be appointed by the national Comptroller General, not the municipalities, following the nomination of candidates by the organizations of popular power.*

**Section V. State organization:** Councils of popular power participate in the nomination of members of the judiciary, citizen, and electoral powers, procedures for removing members of these branches specified more explicitly.

*Art. 191 - National Assembly deputies who the president has called to serve in the executive may return to the National Assembly to finish their term in office once they stop working in the executive. Previously they lost their seat in the assembly.*

*Art. 264 - Specifies that Supreme Court judges are to be named by a majority of the National Assembly, instead of being left to a law. Also, in addition to civil society groups related to the law profession, representatives of the popular power are to participate in the*

*nomination process.*

*Art. 265 – Supreme Court judges may be removed from office by a simple majority vote of the National Assembly, instead of a two-thirds majority and an accusation by the citizen power.*

*Art. 266 – Adds the ability of the Supreme Court to rule on the merits of court proceedings against members of the National Electoral Council, in addition to its ability to do so in the case of all other high-level government officials.*

*Art. 279 – Includes representatives of popular power councils for the nomination of Attorney General, Comptroller General, and Human Rights Defender. Also, specifies that each of these may be removed by a majority of the National Assembly, instead of leaving the issue to a separate law and a ruling from the Supreme Court.*

*Art. 289 – Adds to the Comptroller General’s powers the ability to name state and municipal comptrollers.*

*Art. 293 – Removes the National Electoral Council’s responsibility to preside over union elections.*

*Art. 295 – Inclusion of representatives from the Popular Power in the nomination process of members to the National Electoral Council. Specifies that members may be chosen by a majority of National Assembly members, instead of a two-thirds majority. Election of electoral council members is supposed to be staggered now, where three are elected and then halfway through their 7-year term, the other two are to be elected.*

*Art. 296 – Members of the National Electoral Council may be removed by a majority of National Assembly members, without the need of a prior ruling from the Supreme Court.*

**Section VIII. Constitutional exceptions:** Right to information no longer guaranteed during state of emergency, emergencies to last as long as the conditions that caused it.

*Art. 337 – Change in states of emergency, so that the right to information is no longer protected in such instances. Also, the right to due process is removed in favor of the right to defense, to no forced disappearance, to personal integrity, to be judged by one’s natural judges, and not to be condemned to over 30 years imprisonment.*

*Art. 338 – States of alert, emergency, and of interior or exterior commotion are no longer limited to a maximum of 180 days, but are to last as long as conditions persist that motivated the state of exception.*

*Art. 339 – The Supreme Court’s approval for states of exception is no longer necessary, only the approval of the National Assembly.*

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