

ACCESS TO JUSTICE ANNUAL REPORT

The consolidation of an
authoritarian regime in Venezuela.
No parliament or the right to vote

20 50



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PRESENTATION

Access to Justice is a non-profit, private, and independent civil association, founded in 2010 and registered under the laws of Venezuela, having as its goal the defense of justice, the rule of law, the separation of powers, and judicial independence, democracy, freedom, and human rights.

In its 2020 annual report, The definitive annulment of the parliament elected in December 2015 and the right to vote, offers a contextual vision on these areas and shows how an authoritarian regime has been consolidated in the country, leaving it without Parliament or the right to vote, as a consequence of the institutional breakdown and the complex humanitarian emergency, which have afflicted it since at least 2015.

The year 2020 was marked by the COVID-19 pandemic, which affected all the nations of the world, but which, given the already existing institutional breakdown in Venezuela, the Maduro government took the opportunity to police and further militarize the country, as well as if to give the last blow to the National Assembly, democratically elected in 2015, and to the right to vote, by organizing new parliamentary elections, in which you could vote, but not elect.

After the first chapter ("Context") of its 2020 annual report, Access to Justice develops the following two topics such as repression and arbitrariness (chapter 2) and the management of the Supreme Court of Justice (chapter 3), referring to especially to their performance.

Finally, Access to Justice presents a summary of the specials published on its website during 2020, titled:

- *The Venezuelan Police Service. Between reality and perception (2000-2019)*
- *The Public Ministry in Venezuela. His performance and citizen perception (2000-2020)*
- *Link between the right of human rights. and international humanitarian law*
- *Report on the National Constituent Assembly. Its use as part of the institutional facade in Venezuela*
- *The new Venezuelan electoral system for women parliamentarians 2020*
- *Proposal for the reinstitutionalization of the administration of justice in Venezuela in a context of transition*

It should be clarified that the main purpose of Access to Justice is to be an observatory of justice, so that in all chapters of the report the role of the Judiciary Power and, especially, of the Supreme Court of Justice is analyzed, which has been an important protagonist of the events referred to in this report.

1 | CONTEXT: THE DEFINITIVE ANNULMENT OF THE PARLIAMENT ELECTED IN DECEMBER 2015 AND THE RIGHT TO VOTE

The country's institutional crisis continued in 2020 and worsened significantly. Venezuela, between 2017 and 2019, had two heads of state¹, two supreme courts², two attorneys general³, two parliaments⁴ and, in 2020, two directives of the National Assembly (AN by its acronym in Spanish)⁵.

The solution on which is the valid directive of Parliament was given by the Supreme Court of Justice (TSJ by its acronym in Spanish), specifically, its Constitutional Chamber, which, as expected, discarded the one that chose Juan Guaidó⁶, the president of that body during 2019, and validated the one chaired by deputy Luis Parra⁷.

This decision was taken, among many other irregularities, without counting the votes, which shows once again the absolute lack of independence of the court. Indeed, the directive chaired by Parra was appointed alluding to an erroneous interpretation of the Constitution and under an act of force that did not allow Juan Guaidó, president of the Parliament, to enter the hemicycle, which made it impossible to install it on January 5 as appropriate according to the Magna Carta⁸.

Even so, the AN chaired by Guaidó was elected that same afternoon outside the headquarters of the Assembly and with the votes of one hundred deputies present, which is perfectly possible in a case like the one raised⁹. However, the Supreme Court considered ignoring the current regulations and agreed with Parra and his board of directors without further evidence.

- 1 Nicolás Maduro and Juan Guaidó. See Keys on the illegitimacy of the May 20 elections, at <https://www.accesoalajusticia.org/claves-sobre-la-ilegitimidad-de-las-elecciones-del-20-de-mayo/>; January 10, 2019: formal start of a de facto government in Venezuela, at <https://accesoalajusticia.org/10-de-enero-de-2019-inicio-formal-de-un-gobierno-de-facto-en-venezuela/>; and Legality of the swearing-in of Juan Guaidó, at <https://accesoalajusticia.org/legalidad-de-la-juramentacion-de-juan-guaido/>.
- 2 The Supreme Court of Justice, located in Caracas, <http://www.tsj.gob.ve/>, and the TSJ in exile or legitimate TSJ. See Doubts and responses about the Supreme Court in exile, at <https://accesoalajusticia.org/dudas-y-respuestas-sobre-el-tsj-en-el-exilio/>.
- 3 Luisa Ortega Díaz and Tarek William Saab. The first, because his term as attorney general has not yet ended and he was unconstitutionally removed from his post by the TSJ jointly with the National Constituent Assembly in 2017 for distancing himself from the Maduro government. See: War on the prosecutor, at <https://accesoalajusticia.org/i-3-guerra-a-la-fiscal/>. The second was the new attorney general appointed in place of the first, violating the Constitution in 2017, according to the constitutional decree of August 5, 2017, published in Extraordinary Official Gazette No. 6,322 of August 5, 2017.
- 4 The National Assembly-elected in December 2015 and the National Constituent Assembly, which assumed legislative functions. See Access to Justice: The ANC has dedicated itself to attacking the AN, assuming its functions and persecuting the dissent, at <https://contrapunto.com/nacional/acceso-a-la-justicia/>.
- 5 The board, chaired by Luis Parra and the one chaired by Juan Guaidó. See Recognition of the Board of Directors of Deputy Parra and ignorance of the virtual or parallel parliament, at <https://accesoalajusticia.org/reconocimiento-de-la-junta-directiva-del-diputado-parra-y-desconocimiento-del-parlamento-virtual-o-paralelo/>.
- 6 Deputy of the opposition party Voluntad Popular, who was appointed president of the Venezuelan Parliament and interim president of the country in the absence of real elections in May 2018, when the electoral referee declared Nicolás Maduro president for the period 2020-2025. See Recognition of the board of directors of Deputy Parra and ignorance of the virtual or parallel parliament, at <https://accesoalajusticia.org/reconocimiento-de-la-junta-directiva-del-diputado-parra-y-desconocimiento-del-parlamento-virtual-o-paralelo/>.
- 7 Deputy of the National Assembly for the period 2016-2020 of the opposition party Primero Justicia, who was accused of corruption and expelled from his tent. See a dissident opponent accused of corruption to stop Guaidó, at https://elpais.com/internacional/2020/01/05/actualidad/1578255057_011758.html.
- 8 See January 5, the day that the National Assembly had an elected president and another tax, at <https://efectocuyo.com/politica/5-de-enero-el-dia-que-la-asamblea-nacional-tuvo-un-presidente-electo-y-otro-impuesto/>.
- 9 See Eight questions about what happened with the election of the AN board of directors, at <https://accesoalajusticia.org/ocho-preguntas-sobre-ocurrido-eleccion-directiva-an/>.

Through that decision of May 2020, the Constitutional Chamber also ignored its own rules: According to its ruling No. 1 of January 11, 2017, to install a new directive of Parliament without being mortally wounded by the alleged contempt¹⁰, the directive of 2016 had to remove the deputies of Amazonas, allegedly elected fraudulently, and install the National Assembly, so that it could elect a new board of directors¹¹; yet, this was not what happened with Parra.

In short, conveniently and for a brief time, the Constitutional Chamber, while the board chaired by Luis Parra was elected, considered without further explanation that there was no contempt so that on January 5, 2020, the NA could be installed and even moved to elect a board of directors without it being considered invalid¹², unlike all the previous ones as of 2017¹³.

The fact that the National Assembly, including that of Parra, remained in contempt seemed to be ratified by the Supreme Court itself during a pandemic, when, being practically paralyzed, it proceeded to appoint the rectors of the National Electoral Council (CNE by its acronym in Spanish) for the fifth time in twenty-one years of Chavismo, usurping once again the functions of Parliament¹⁴. This occurred even though he had advanced with the respective procedure, to the point of having appointed a Nominations Committee, and he only needed to comply with the procedure for nominations of candidates for the position of rectors.

Of all the times that the Supreme Court appointed the CNE, this was the most irregular, among other aspects, because it acted as judge and party since it appointed two of its members as main rectors: Indira Alfonzo, who served as president of the Electoral Chamber and vice-president of the TSJ, she was named president of the electoral body; and Gladys Gutiérrez, magistrate of the Constitutional Chamber. With this, the principles of independence, autonomy, and transparency of article 294 of the Constitution were disregarded¹⁵.

- 10 See 8 basic notions about the contempt of the National Assembly, at <https://accesoalajusticia.org/8-nociones-basicas-sobre-el-desacato-de-la-asamblea-nacional/>.
- 11 See Contempt of the National Assembly for the incorporation of the deputies of the Amazon state, at: <https://accesoalajusticia.org/desacato-de-la-an-por-la-incorporacion-de-los-diputados-por-el-estado-amazonas-suspendidos/>.
- 12 See judgment of the Constitutional Chamber No. 1 of January 13, 2020, For the first time in four years the Supreme Court does not accuse the AN of being in contempt, at <https://accesoalajusticia.org/por-primera-vez-cuatro-anos-tsj-no-acusa-an-estar-desacato/>, and sentence of the Constitutional Chamber No. 65 of May 26, 2020, Recognition of the board of directors of Deputy Parra and ignorance of the virtual or parallel parliament, at <https://accesoalajusticia.org/reconocimiento-de-la-junta-directiva-del-diputado-parra-y-desconocimiento-del-parlamento-virtual-o-paralelo/>.
- 13 See The judicial viacrucis of the deputies of Amazonas, at <https://accesoalajusticia.org/el-viacrucis-judicial-de-los-diputados-de-amazonas/>.
- 14 See ruling of the Constitutional Chamber No. 68 of June 5, 2020 Legislative omission of the AN in the appointment of the members of the CNE, at <https://accesoalajusticia.org/omision-legislativa-de-la-an-en-la-designacion-de-los-integrantes-del-cne/>; Judgment of the Constitutional Chamber No. 69 of June 10, 2020, I urge the National Assembly to submit applications for the appointment of the CNE, at <https://accesoalajusticia.org/exhorto-a-la-asamblea-nacional-a-presentar-postulaciones-para-el-nombramiento-del-cne/>, <https://accesoalajusticia.org/omision-legislativa-de-la-an-en-la-designacion-de-los-integrantes-del-cne/>; Judgment of the Constitutional Chamber No. 70 of June 12, 2020, unconstitutional appointment of the CNE rectors by the Supreme Court, at <https://accesoalajusticia.org/designacion-inconstitucional-de-los-rectores-del-cne-por-el-tsj/>; and TSJ appoints CNE express, at <https://accesoalajusticia.org/tsj-nombra-a-cne-expres/>; and judgment of the Constitutional Chamber No. 83 of August 7, 2020, unconstitutional appointment of Leonardo Morales as main rector and vice president of the CNE by the Supreme Court, at <https://accesoalajusticia.org/designacion-inconstitucional-de-leonardo-morales-como-rector-principal-y-vicepresidente-del-cne-por-el-tsj/>.
- 15 See Did TSJ authorize three of its magistrates to hold two public positions simultaneously? At <https://accesoalajusticia.org/tsj-autorizo-a-tres-magistradas-a-tener-dos-cargos-publicos-simultaneamente/>.

Hereafter, not until long ago, the same TSJ began to intervene in the opposition and pro-government parties, imposing new directives on them with people related to the Maduro govern meant¹⁶. It also authorized other awnings not registered with the CNE for having been outlawed at some point by the highest court¹⁷, all to create an opposition tailored to the upcoming parliamentary elections¹⁸. For its part, the CNE also intervened in a party, New Vision for my Country (Nuvipa by its acronym in Spanish)¹⁹.

In this context, the Supreme Court authorized the CNE to legislate, more specifically, to change the Organic Law of Electoral Processes (LOPRE by its acronym in Spanish)²⁰, when that power corresponds exclusively to the National Assembly unless it decides to empower the President of the Republic to do so.

The new rules issued by the CNE did not respect the constitutional electoral system. These were the following²¹:

- The number of seats in Parliament was increased by 66%, from 167 to 277, in violation of article 186 of the Constitution²².
- The proportion of deputies to be elected nominally was reduced from 70% to 48% (133), while the number of those who are proportionally elected increased to 52% (148)²³.

- 16 Judgment of the Constitutional Chamber No. 71 of June 15, 2020, Suspension of the national leadership of the political organization Acción Democrática, at <https://accesoaljusticia.org/suspension-de-la-direccion-nacional-de-la-organizacion-con-fines-politicos-accion-democratica/>; Judgment of the Constitutional Chamber No. 72 of June 16, 2020, Suspension of the national leadership of the organization for political purposes Movimiento Primero Justicia, at <https://accesoaljusticia.org/suspension-de-la-direccion-nacional-de-la-organizacion-con-fines-politicos-movimiento-primero-justicia/>; Judgment of the Constitutional Chamber No. 77 of July 7, 2020, Suspension of the national leadership of the organization for political purposes, Voluntad Popular, at <https://accesoaljusticia.org/suspension-de-la-direccion-nacional-de-la-organizacion-con-fines-politicos-voluntad-popular/>; Judgment of the Electoral Chamber No. 19 of July 20, 2020, Judicial intervention to the organization for political purposes Republican Movement (MR), at <https://accesoaljusticia.org/intervencion-judicial-a-la-organizacion-con-fines-politicos-movimiento-republicano-mr/>; Judgment of the Constitutional Chamber No. 119 of August 18, 2020, Judicial intervention to the organization for political purposes Unified Tendencies Party to Achieve Organized Revolutionary Action Movement (TUPAMARO), at <https://accesoaljusticia.org/intervencion-judicial-a-la-organizacion-con-fines-politicos-partido-tendencias-unificadas-para-alcanzar-movimiento-de-accion-revolucionaria-organizada-tupamaro/>; Judgment of the Constitutional Chamber No. 122 of August 21, 2020, Judicial intervention of the political organization Patria Para Todos (PPT), at <https://accesoaljusticia.org/intervencion-judicial-de-la-organizacion-con-fines-politicos-patria-para-todos-ppt/>; Judgment of the Constitutional Chamber No. 127 of September 2, 2020, Intervention of the organization for political purposes Acción Ciudadana En Positivo (ACEP), at <https://accesoaljusticia.org/intervencion-de-la-organizacion-con-fines-politicos-accion-ciudadana-en-positivo-acep/>.
- 17 The party board for women parliamentarians 2020, at <https://accesoaljusticia.org/el-tablero-partidista-para-las-parlamentarias-2020/>; Judgment of the Constitutional Chamber No. 124 of August 25, 2020, Enabling the organization for political purposes Red Flag (BR) to participate in the parliamentary elections, at <https://accesoaljusticia.org/habilitacion-de-la-organizacion-con-fines-politicos-bandera-roja-br-para-participar-en-las-elecciones-parlamentarias/>; Judgment of the Constitutional Chamber No. 125 of August 25, 2020, Enabling the organization for political purposes Compromiso País (Compa) to participate in the parliamentary elections, at <https://accesoaljusticia.org/habilitacion-de-la-organizacion-con-fines-politicos-compromiso-pais-compa-para-participar-en-las-elecciones-parlamentarias/>; Judgment of the Constitutional Chamber No. 126 of August 26, 2020, Enabling the organization for political purposes Movement of National Integrity-UNIDAD (MIN-UNIDAD), at <https://accesoaljusticia.org/habilitacion-de-la-organizacion-con-fines-politicos-movimiento-de-integridad-nacional-unidad-min-unidad/>.
- 18 See Razia of political parties in Venezuela, at <https://accesoaljusticia.org/razia-de-partidos-politicos-en-venezuela/>.
- 19 <https://cronica.uno/en-nuvipa-afinan-estrategia-legal-y-politica-para-enfrentar-intervencion-del-cne/>
- 20 See judgment of the Constitutional Chamber No. 68; TSJ orders the illegitimate CNE to change the «best electoral system in the world», at <https://accesoaljusticia.org/tsj-ordena-al-ilegitimo-cne-cambiar-el-mejor-sistema-electoral-del-mundo/>; and 10 keys on the electoral system approved by the CNE's irrito, <https://accesoaljusticia.org/10-claves-sobre-el-sistema-electoral-aprobado-por-el-irrito-cne/>
- 21 See EThe new electoral system for Women Parliamentarians 2020, at <https://accesoaljusticia.org/wp-content/uploads/2020/10/Nuevo-sistema-electoral-venezolano-para-las-parlamentarias-2020.pdf>.

- An additional mechanism called the "national list" was created, something that does not exist in any Venezuelan legal instrument; and through which 48 deputies are chosen.
- How indigenous communities choose their representatives before the AN was altered.

What caused the most scandal were the rules for the indigenous population, through the Special Regulation to Regulate the Election of the Indigenous Representation in the 2020 National Assembly, contained in resolution No. 200630-0024 of June 30, 2020²⁴, which establishes that the deputies would be elected not directly, but through spokespersons²⁵, elected in general assemblies by show of hands, that is, without respecting the universal, secret and direct vote provided for in article 63 of the Constitution. Although due to the controversy generated, said regulations were partially modified²⁶, the decision that the choice of deputies should be of the second degree was maintained.

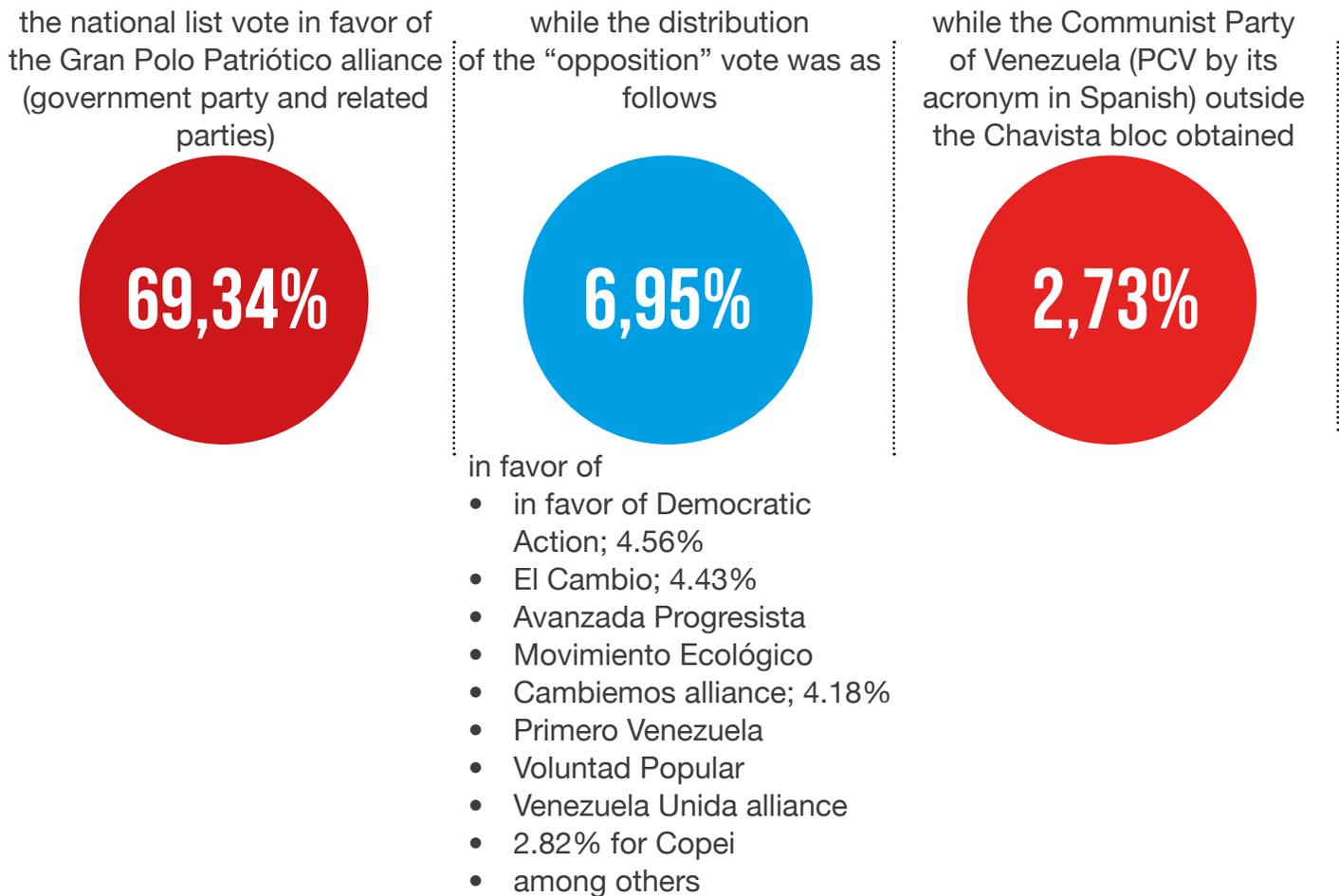
Additionally, the indigenous peoples did not maintain the demand that there should be an equal number of male and female candidates, which is another gesture that discriminates against them from the rest of Venezuelans²⁷.

Finally, during the year, attention was drawn to how the regime threatened citizens to go to vote²⁸, and phrases like this were said: « He who does not vote, does not eat. For those who do not vote, there is no food. He who does not vote does not eat; a quarantine is applied there»²⁹. Even in the face of threats, Venezuelans for the most part did not come out to vote.

- 22 The Constitution establishes in its article 186 the following:
« The National Assembly will be made up of deputies elected or elected in each federal entity by universal, direct, personalized, and secret vote with proportional representation, according to a population base of one point one percent of the total population of the country. Each federal entity will also elect three deputies. The indigenous peoples of the Bolivarian Republic of Venezuela will elect three deputies under the provisions of the electoral law, respecting their traditions and customs. Each deputy will have a substitute or a substitute, chosen or chosen in the same process».
- According to article 186 of the Constitution, the number of legislators should be more or less equal to that of today: 167, and if there is any variation, it should be not upwards but downwards, due to the massive exodus of Venezuelans. And even if there were more population and not less, it could not be more than two deputies, as in fact, it has been happening in recent years. Indeed, 165 legislators were elected in the 2010 parliamentary elections and 167 in 2015.
- 23 Under the previous electoral system, 70% of the deputies of the National Assembly were nominally elected; that is, through the so-called personalized vote; and the remaining 30% through lists to ensure proportionality. This in light of the provisions of articles 9, 10, and 11 of the LOPRE. The seats corresponding to the nominal suffrage were awarded to the candidates who obtained the majority of the votes and those on the list, taking into account the total votes obtained by each formation or alliance.
- 24 Published in the Electoral Gazette of the Bolivarian Republic of Venezuela No. 953 dated July 27, 2020.
- 25 This means that the spokesmen choose the deputies; the indigenous people lose this right to direct vote and can only elect spokespersons.
- 26 Resolution no.200814-032, available at: http://www.cne.gob.ve/web/normativa_electoral/elecciones/2020/asamblea_nacional/documentos/normas_especiales_aprobadas/resolucion_que_levanta_parcialmente_la_sancion_y_modifica_el_reglamento_especial_para_regular_la_eleccion_de_la_representacion_indigena_en_la_asamblea_nacional_2020.pdf.
- 27 This consists of: «requiring the nomination of candidates in a formula of 50% for each sex; and if this is not possible, a band will be applied that will have a minimum of 40% and a maximum of 60% for each sex; applicable to all the modalities established for this election: nominal, regional lists and national award lists. And through the automated system, guarantee that the application is carried out sequentially to ensure the joint and alternate form» (http://www.cne.gob.ve/web/sala_prensa/noticia_detallada.php?id=3810 y http://www.cne.gob.ve/web/normativa_electoral/elecciones/2020/asamblea_nacional/documentos/paridad_de_genero/proyecto_de_paridad_de_genero.pdf).
- However, as already indicated, this does not apply to the indigenous population without any explanation from the electoral body about the reason for their exclusion from this regulation.
- 28 See Calls and threats of dismissal: Venezuelan government pressures its workers to vote, at <https://fr.reuters.com/article/idLTAKBN1AE0GY-OUSLD>.
- 29 See Venezuela: « He who does not vote, does not eat » at <https://www.elmundo.es/internacional/2020/11/30/5fc54328fc6c83306a8b45bf.html>.

According to the Maduro government, «the call has been assumed by the people and they have gone to vote quickly, [the electoral process] is so fast that people vote and leave, there is no chance for people to gather»³⁰, but rather these statements show that there was almost no participation.

In this sense, the electoral body declared that 30.5% of the electoral roll voted³¹. The results were:



The most relevant of these figures is that the Chavista alliance was overrepresented, since with 69.34% of the votes it obtained 91.34% of the seats in Parliament (253 of a total of 277 deputies), while the opposition 20 deputies were awarded; the PCV 1 deputy, to which were added, 3 indigenous deputies³².

30 See Cilia Flores: There are no crowds thanks to the "fast" electoral system, at <https://venepress.net/cilia-flores-no-hay-aglomeraciones-gracias-al-rapido-sistema-electoral/>.

31 See CNE presented the Second Bulletin corresponding to the 2020 Parliamentary Elections, at http://www.cne.gob.ve/web/sala_prensa/noticia_detallada.php?id=3895.

32 See It rises to more than 6 million votes election of the 6D, with 75% of the National List for the Revolution, at <https://www.vtv.gob.ve/cne-segundo-boletín-6d-elecciones-parlamentarias/> and <https://www2.cne.gob.ve/an2020> and National Electoral Council, National Assembly 2020, <https://www2.cne.gob.ve/an2020>

2 | REPRESSION AND ARBITRARINESS

During the pandemic, the country's situation of repression and arbitrariness worsened significantly, since a state of alarm was decreed³³, which implied a state of siege, so that it was difficult to move from one municipality to another, even within the same city³⁴.

To control citizens, the military and police took over the streets and installed checkpoints between municipalities, which brought great arbitrariness and corruption.

To this was added that the country entered a gasoline supply crisis due to the bankruptcy of the national oil industry³⁵ and the impact of international sanctions³⁶, for which the Maduro government took the opportunity to ration fuel and almost stop subsidizing it, which, taking into account the public spending that this represents, makes sense, but in the regions, it practically did not supply gasoline, except for regimen officials³⁷.

This led to the militarization of gasoline pumps, or even in some cases, they began to be controlled by «collectives»³⁸, without guaranteeing that agricultural producers, humanitarian organizations, private sector health officials, and others related could obtain it, not even people with disabilities, chronic diseases, such as kidney patients in need of dialysis, which prevented their circulation and put their lives at risk³⁹.

In addition, the Maduro government launched strong repression in 2020 against anyone who spoke out about the corruption that exists due to the gasoline shortage, as well as against anyone who reported on COVID-19⁴⁰, or even about the state of public hospitals⁴¹, whose humanitarian emergency was even more evident with the pandemic.

Additionally, as the world was affected by COVID-19, and as each country's attention was focused on addressing its situation, the Maduro government felt more freewheeling than ever to attack the few relatively democratic spaces that remained in the country, such as non-governmental organizations (NGOs). Thus, with the parliamentary elections approaching, he issued two resolutions.

33 Decree No. 4,160 by which a state of alarm is declared throughout the national territory due to the coronavirus (COVID-19), published in the Official Gazette of the Bolivarian Republic of Venezuela No. 6,519 extraordinary of March 13, 2020 See 10 questions and answers about the state of alarm, in: <https://accesoaljusticia.org/10-preguntas-respuestas-sobre-estado-alarma-covid-19/>.

34 See COVID-19 in Venezuela: the perfect excuse to reinforce Maduro's police and military control, at <https://accesoaljusticia.org/covid-19-en-venezuela-la-la-excusa-perfecta-para-reforzar-el-control-policial-y-militar-de-maduro/>.

35 See What about gasoline? At <https://transparencia.org.ve/que-pasa-con-la-gasolina/>.

36 See Special Report | Economic sanctions against Venezuela: consequences, humanitarian crisis, alternatives, and humanitarian agreement, at <https://provea.org/trabajos-especiales/informe-especial-las-sanciones-economicas-contra-venezuela-consecuencias-crisis-humanitaria-alternativas-y-acuerdo-humanitario/>.

37 See Venezuela: the regions rebel against Nicolás Maduro, at <https://www.elespectador.com/noticias/el-mundo/las-regiones-se-rebelan-contra-nicolas-maduro-por-falta-de-gasolina/>.

38 See Armed civilians or groups intend to regulate the filling of gasoline in service stations, at <https://www.eluniversal.com/venezuela/77648/civiles-armados-o-colectivos-pretenden-regular-llenado-de-gasolina-en-estaciones-de-servicio>; and Chavista, military and guerrilla groups took over the fuel business in Venezuela: «Each one runs service stations on the border» <https://www.infobae.com/america/venezuela/2020/10/23/colectivos-chavistas-militares-y-guerrilleros-se-apropiaron-del-negocio-del-combustible-en-venezuela-cada-uno-maneja-estaciones-de-servicio-en-la-frontera/>.

39 See In Zulia the pandemic and the lack of gasoline bring kidney patients closer to death, at <https://cronica.uno-en-el-zulia-la-pandemia-y-la-falta-de-gasolina-acercan-mas-a-la-muerte-a-los-pacientes-renales/>.

40 See Without the right to health in a pandemic, at <https://accesoaljusticia.org/sin-derecho-a-la-salud-en-pandemia/> and Doctors and nurses in Venezuela are detained and threatened after protesting for lack of supplies, at <https://www.france24.com/es/20200809-venezuela-medicos-enfermeras-amenaza-covid19>.

41 See Without the right to health in a pandemic, at <https://accesoaljusticia.org/sin-derecho-a-la-salud-en-pandemia/> and Doctors and nurses in Venezuela are detained and threatened after protesting for lack of supplies, in <https://www.france24.com/es/20200809-venezuela-medicos-enfermeras-amenaza-covid19>.

The first, issued by the Minister of Interior, Justice and Peace together with the Minister of Foreign Relations, in Official Gazette No. 41,994 of October 27, 2020, established that international humanitarian NGOs must obtain a certificate in Venezuela to be able to function, even if it is through other NGOs domiciled in the country⁴².

Article 8 of the resolution states that registration in the Special Automated Registry of Non-Resident Non-Governmental Organizations (Regong by its acronym in Spanish) may be denied «for reasons of public order and sovereignty, evidenced by the information provided». This represents a blank check that allows the authorities to arbitrarily deny the registration or extension of foreign NGOs in the special registry, relying on the concepts of public order and sovereignty, the latter concept that can be an excuse for not registering an international organization humanitarian aid or even a national one, for alleged foreign "interference". In fact, under this argument, the Venezuelan State, through the Supreme Court, has evaded its constitutional obligation to comply with human rights treaties signed by Venezuela or decisions of international organizations for the protection of human rights, such as those of the Inter-American Court of Humans Rights⁴³.

Likewise, the resolution orders the groups to indicate a fixed address or an identified representative in the country that can be consulted by government agencies (Articles 3 & 12) and limits their activity, by restricting it to « international assistance and cooperation within the framework of the Humanitarian Response Plan with an Overview of Needs of the United Nations» (article 2.1).

In addition, it is important to highlight the text of article 12 of the resolution, which empowers government officials (Legal Consultancy of the Ministry of Foreign Affairs) to «make the necessary visits to the organization's headquarters in Venezuela, or that of its representative, previously notified, with the purpose of on-site verification regarding the concordance of the facts reported to the registry», which may give rise to covert raids under the euphemism of «visits».

The second resolution came from the Superintendency of the Institutions of the Banking Sector of Venezuela (Sudeban by its acronym in Spanish), through circular number SIB-DSB-CJ-OD-06524 of November 20, 2020, ordering the banks and other financial institutions of the country to implement «measures that strengthen procedures, mechanisms and technological systems that allow monitoring business or financial operations carried out by NGOs»⁴⁴.

42 See New special registry of NGOs not domiciled in the country: another blow against civil society, at <https://accesoalajusticia.org/nuevo-registro-especial-de-ong-no-domiciliadas-en-el-pais-otro-golpe-contr-la-sociedad-civil/>.

43 See Venezuela turns its back on the Inter-American Court, at https://www.bbc.com/mundo/noticias/2011/10/111018_venezuela_leopoldo_lopez_corte_interamericana_tsj_jp and Venezuela's break with the regional human rights court is «an affront to the victims» at <https://www.amnesty.org/es/latest/news/2012/09/ruptura-venezuela-corte-regional-ddhh-afrenta-victimas/>.

44 See Maduro orders to monitor the bank accounts of Venezuelan NGOs, at <https://accesoalajusticia.org/maduro-manda-a-vigilar-las-cuentas-bancarias-de-las-ong-venezolanas/>.

This new measure is part of the systematic plan for suffocation and harassment designed against NGOs by the Maduro government to put an end to the few remaining democratic spaces in the country and jeopardize the functioning of these organizations.

It is not surprising that a few days after these resolutions, the organizations Alimenta la Solidaridad and Caracas Mi Convive were harassed, their bank accounts frozen, and their headquarters raided by the National Police against Corruption, including the house of the director and founder of the first organization, Roberto Patiño⁴⁵.

The government narrative of disqualification of NGOs in 2020 was not limited to the verb and soon moved to actions; The then constituent Diosdado Cabello⁴⁶ even threatened to pass a law to sanction international financing from the new National Assembly in 2021⁴⁷.

45 See They raid the house of the parents of Roberto Patiño, director of Alimenta la Solidaridad and freeze bank accounts of the organization, at <https://cronica.uno/allanan-la-casa-de-los-padres-de-roberto-patino-director-de-alimenta-la-solidaridad-y-congelan-cuentas-bancarias-de-la-organizacion/>.

46 Part of the National Constituent Assembly, an illegitimate and unconstitutional body, was installed in August 2017 to replace the AN, among other reasons

47 See Diosdado Cabello threatens NGOs with "applying the full weight of the law to them" upon reaching the AN at <https://efectococuyo.com/politica/cabello-amenaza-a-ong-con-aplicarles-todo-el-peso-de-la-ley-al-llegar-a-la-an/>.

3 | MANAGEMENT OF THE JUSTICE SYSTEM

In the previous sections, the presence of a de facto State was clear, increasingly consolidated in the country, not only due to the increase in the militarization and policing of society but also because the authorities of the State powers⁴⁸, as explained in The Access to Justice 2019 report, The consolidation of a de facto state in Venezuela⁴⁹, have not been chosen or designated as established by the corresponding norms or the most basic principles of the rule of law and democracy. The only legitimate and constitutional public power that remained, the National Assembly (AN), joined the list of de facto powers in 2020, as its legitimate leadership was unknown and another was imposed on it, as explained in the first chapter of this report.

To this is added, the almost absolute absence of functioning of the justice administration system in 2020, as demonstrated by the resolutions of the Supreme Court of Justice (TSJ), declaring the almost absolute paralysis of the Judiciary due to COVID-19 from March 16 until September 30, 2020⁵⁰.

Undoubtedly the pandemic can justify this type of measure, but the justice service cannot be paralyzed almost completely as it happened in the country for almost seven months, including registries and notaries.

The foregoing denotes the little importance that private activity and the citizen have for the Maduro Government, since the Constitution, in its article 26, is clear in ordering the State to offer citizens a «free, accessible, impartial, suitable justice, transparent, autonomous, independent, responsible, equitable and expeditious, without undue delay, without formalities or useless replacements». For its part, article 2 of the Organic Law of States of Exception stipulates that «the decree that declares the states of exception does not interrupt the operation of the Public Powers».

The truth is that after a half-year they began to gradually open registers and notaries with limitations, as well as courts, some of which operated with semi-virtual procedures⁵¹.

48 See 2019 Annual Report: The consolidation of a state of fact in Venezuela, at <https://accesoalajusticia.org/wp-content/uploads/2020/06/INFORME-ANUAL-DE-ACCESO-A-LA-JUSTICIA-2019.pdf>.

49 See 2019 Annual Report: The consolidation of a state of fact in Venezuela, at <https://accesoalajusticia.org/wp-content/uploads/2020/06/INFORME-ANUAL-DE-ACCESO-A-LA-JUSTICIA-2019.pdf>.

50 See: Resolution No. 2020-0001 of March 20, 2020, at <https://accesoalajusticia.org/suspension-del-despacho-de-tribunales-desde-el-16-de-marzo-hasta-el-13-de-abril-de-2020/>; Resolution No. 2020-0002 of April 13, 2020, at <https://accesoalajusticia.org/se-prorroga-por-30-dias-el-plazo-establecido-en-la-resolucion-n-001-2020/>, resolution n° 2020-0003 of May 13, 2020, at <https://accesoalajusticia.org/se-prorroga-por-30-dias-el-plazo-establecido-en-la-resolucion-n-002-2020/>; rResolution No. 2020-0004 of June 17, 2020, at <https://accesoalajusticia.org/se-prorroga-por-30-dias-el-plazo-establecido-en-la-resolucion-n-003-2020/>; Resolution No. 2020-0005 of July 14, 2020, at <https://accesoalajusticia.org/se-prorroga-por-30-dias-el-plazo-establecido-en-la-resolucion-n-004-2020/>; Resolution No. 2020-0006 of August 12, 2020, at <https://accesoalajusticia.org/se-prorroga-por-30-dias-el-plazo-establecido-en-la-resolucion-n-005-2020/>; nd resolution No. 2020-0007 of October 1, 2020, at <https://accesoalajusticia.org/prorroga-del-plazo-establecido-en-la-resolucion-n-006-2020/>; Access to Justice and the Venezuelan Observatory of Prisons demand the reactivation of justice in the country, at <https://accesoalajusticia.org/acceso-a-la-justicia-y-el-observatorio-venezolano-de-prisiones-exigimos-la-reactivacion-de-la-justicia-en-el-pais/>.

51 See TSJ removes justice from confinement after 7 months with measures of difficult application at <https://accesoalajusticia.org/tsj-saca-a-la-justicia-del-confinamiento-luego-de-7-meses-con-medidas-de-dificil-aplicacion/>; Resolution No. 05-2020 of the Civil Cassation Chamber, Opening and operation of the virtual office for all the courts that make up the civil jurisdiction at the national level, at <https://accesoalajusticia.org/apertura-y-funcionamiento-del-despacho-virtual-para-todos-los-tribunales-que-integran-la-jurisdccion-civil-a-nivel-nacional/>; Resolución n.° 2020-0009 de la Sala Plena: uso de medios telemáticos para notificaciones y audiencias inherentes a las fases de investigación e intermedia del Proceso Penal en los Tribunales Penales, at <https://accesoalajusticia.org/resolucion-n-2020-0009-de-la-sala-plena-uso-de-medios-telematicos-para-notificaciones-y-audiencias-inherentes-a-las-fases-de-investigacion-e-intermedia-del-proceso-penal-en-los-tribunales-pena/>; Resolution No. 2020-0009 of the Plenary Chamber: use of telematic means for

The problem in this area is that due to the lack of maintenance of the country's electrical and telecommunications infrastructure, plus its nationalization in the Chávez period⁵², it is dismantled and on the verge of total collapse, which has made it difficult to have services in line during the pandemic in the field of justice, as has happened in other countries in the region⁵³.

Since 2012, the TSJ has not published its annual management report. Its only accountability has been limited to speeches offered by its president during the opening ceremony of the judicial year, which is held at the beginning of each year, where important data has been missing, such as the number of judges who were appointed and removed by the Judicial Commission⁵⁴.

Additionally, the lack of specificity regarding the data provided in the annual speech of the Supreme Court's president, which seeks to group all the legal acts issued by the courts during a judicial process, without distinguishing between those of procedure and those that are final or that close a process, prevents, among other aspects, evaluating the true performance of the Judiciary⁵⁵. The lack of accountability with rigorous statistics represents a clear violation of the Organic Law of the Supreme Court⁵⁶ the Law of the Justice System⁵⁷, and hinders the social control of the Judicial Power.

In the last three years, this has worsened, because the Supreme Court does not publish the text of certain sentences, especially those of political content⁵⁸, or even decides cases through press releases⁵⁹. In addition, its website was offline from 2020 until May, and from October, for a good period, it was accessible only by the state internet service (ABA by its acronym in Spanish), which in many areas of the country no longer works. It is also blocked to the outside.

notifications and hearings inherent to the investigation and intermediate phases of the Criminal Process in the Criminal Courts, at <https://accesoaljusticia.org/resolucion-n-2020-0028-de-la-sala-plena-regulacion-del-uso-de-la-videoconferencia-en-los-procesos-llevados-en-la-jurisdicion-de-proteccion-de-ninos-ninas-y-adolescentes/>; Resolution No. 2020-0028 of the Plenary Chamber. Regulation of the use of videoconferencing in the processes carried out in the jurisdiction of protection of children and adolescents, at <https://accesoaljusticia.org/resolucion-n-0029-de-la-sala-plena-lineamientos-para-la-practica-de-notificaciones-electronicas-para-tribunales-de-proteccion-de-ninos-ninas-y-adolescentes-a-nivel-nacional/>, and Resolution No. 2020-0031 of the Plenary Chamber. Rules to participate in hearings electronically before the Social Cassation Chamber, at <https://accesoaljusticia.org/resolucion-n-2020-0031-de-la-sala-plena-normas-para-participar-en-audiencias-de-forma-telematica-ante-la-sala-de-casacion-social/>.

52 See The tragic legacy of expropriations and nationalizations, at <https://accesoaljusticia.org/el-tragico-legado-de-las-expropiaciones-y-nacionalizaciones/>.

53 See Organizations in the region present to the IACHR information on the challenges and obstacles to the functioning of justice systems during the pandemic, at <http://dplf.org/es/news/organizaciones-presentan-cidh-informacion-sobre-desafios-obstaculos-justicia-pandemia>.

54 Unconstitutional body of the TSJ, which is in charge of appointing and removing judges. It is made up of the presiding magistrates of one of its chambers..

55 See TSJ, Judicial Opening 2021 at <http://www.tsj.gob.ve/documents/10184/297131/Palabras+de+Apertura+de+Mag.+Maikel+Moreno+2021/bc7c6484-a79b-4b65-b8e7-c65abad98c7a> y Apertura judicial 2021: justicia paralizada en 2020, en <https://accesoaljusticia.org/apertura-judicial-2021-justicia-paralizada-en-2020/>

56 Published in Official Gazette No. 39,522 of October 1, 2010.

57 Published in Official Gazette No. 39,276 of October 1, 2009.

58 See Radiography of the Constitutional Chamber of the Supreme Court in a pandemic: opacity and service to power, at <https://accesoaljusticia.org/radiografia-de-la-sala-constitucional-del-tsj-en-pandemia-opacidad-y-servicio-al-poder/>; The Constitutional Chamber in times of pandemic: data on opacity and service to power, at <https://accesoaljusticia.org/la-sala-constitucional-en-tiempos-de-pandemia-datos-sobre-opacidad-y-servicio-al-poder/>; Deputies persecuted under the cloak of opacity, at <https://accesoaljusticia.org/diputados-perseguidos-bajo-el-manto-de-la-opacidad/>; What about the publication of the judgments by the Supreme Court?, at <https://accesoaljusticia.org/que-pasa-con-la-publicacion-de-las-sentencias-por-parte-del-tsj/>; and Habitual opacity: mayors removed without ruling from the Supreme Court, at <https://accesoaljusticia.org/opacidad-habitual-alcaldes-destituidos-sin-sentencia-del-tsj/>.

59 See <https://accesoaljusticia.org/que-valor-juridico-tienen-notas-prensa-tsj-contra-juan-gauido/>

Despite being an express mandate of the Constitution in its article 255, since 2004 there have been no public competitions to enter the judicial career. Although in 2016, the Plenary Chamber of the Supreme Court approved the Rules of Evaluation and Opposition Competition for Entry and Promotion to the Judicial Function to regulate competitions for judges⁶⁰, they only allow those who are already within the judiciary to participate. These rules do not foresee that civil society is part of the process for the selection of judges, although the Constitution requires it⁶¹.

Since 2017, the president of the Judicial Commission has failed to report on the number of courts that changed ownership. However, as was warned both in the report of September 29, 2020, of the Office of the High Commissioner for Human Rights (OHCHR)⁶² and in that of the Independent International Mission for the Determination of Facts on the Bolivarian Republic of Venezuela of the September 15⁶³, between 80% and 85% of the almost 2,200 judges in the country are provisional, accidental, or temporary, that is, they did not reach their positions through public opposition competitions but were appointed by finger by the Judicial Commission, and, therefore, they can be dismissed without any procedure.

In this sense, the OHCHR has denounced that the judges of the lower courts do not make their decisions based on the arguments, evidence, or proof presented in the trials and what the laws stipulate, but that they are limited to comply with the orders issued by the magistrates. of the Supreme Court, especially in the area of criminal law⁶⁴.

The consequence of this is the absence of independence, autonomy, and impartiality of the Venezuelan judiciary, which has facilitated the co-option and politicization of the entire justice system. Proofs of this are the statements from the president of the Supreme Court in his opening speech of the judicial year 2021, through which he made clear his alignment with the Government by congratulating Nicolás Maduro for his handling of the pandemic and inviting him to speak. on the spot to give a speech to the judges. This was something that was not common until 2012, when the then president of the TSJ, Luisa Estella Morales, invited President Hugo Chávez to speak.

Even though in his speech the president of the TSJ welcomed the initiative of the new AN, which is under total control of Chavismo, to promote a dialogue commission with all sectors, he warned:

60 For the detailed analysis of these rules: Considerations on the rules of evaluation and competition for admission and promotion to the judicial function <https://accesoalajusticia.org/consideraciones-sobre-las-normas-de-evaluacion-y-concurso-de-oposicion-para-el-ingreso-y-ascenso-a-la-funcion-judicial/>

61 See Articles 255 of the Constitution, at: <https://accesoalajusticia.org/constitucion-de-la-republica-bolivariana-de-venezuela/>.

62 See Independence of the justice system and access to justice, including violations of economic and social rights in the Bolivarian Republic of Venezuela, and the situation of human rights in the Orinoco Mining Arc region at <https://undocs.org/es/A/HRC/44/54>.

63 Report of the independent international fact-finding mission on the Bolivarian Republic of Venezuela at https://www.ohchr.org/Documents/HRBodies/HRCouncil/FFMV/A_HRC_45_33_UnofficialSpanishVersion.pdf.

64 See Bachelet denounces that in Venezuela the judges follow orders from the Supreme Court, at <https://accesoalajusticia.org/bachelet-denuncia-que-en-venezuela-los-jueces-cumplen-ordenes-del-tsj/>.

«The people of Venezuela must be certain that the dialogue mechanism will not be a curtain of impunity for those who have done so much damage to the homeland (...) those who tried to use the Legislative Power to annihilate the Republic and take over the country should be sanctioned according to the law. Those who allied themselves with foreign nations to steal the resources of all Venezuelans, block PDVSA operations and give away Citgo will find in each judge of the Judiciary an impartial but implacable arbitrator to judge their actions. There can be no reconciliation without forgiveness and there is no forgiveness without justice»⁶⁵.

These words are in contradiction with Article 36 of the Organic Law of the Judicial Power, which establishes that «Judges must refrain from expressing, and even privately insinuating, their opinion regarding the businesses that are called to fail by the Law».

To conclude, it is clear that the absence of judicial independence, especially of the Constitutional Chamber of the Supreme Court, became more evident in 2020, because, amid its great inactivity, it was very efficient⁶⁶ to pass sentences «on-demand», like those relating to parliamentary elections; endorse the state of exception, both for economic emergency and alarm, and attack or annul the National Assembly⁶⁷.

65 See TSJ, Judicial Opening 2021, at <http://www.tsj.gob.ve/documents/10184/297131/Palabras+de+Apertura+de+Mag.+Maikel+Moreno+2021/bc7c6484-a79b-4b65-b8e7-c65abad98c7a.p.11>.

66 See Radiography of the Constitutional Chamber of the Supreme Court in a pandemic: opacity and service to power, at <https://accesoalajusticia.org/radiografia-de-la-sala-constitucional-del-tsj-en-pandemia-opacidad-y-servicio-al-poder/>, and The Constitutional Chamber in times of pandemic: data on opacity and service to power, at <https://accesoalajusticia.org/la-sala-constitucional-en-tiempos-de-pandemia-datos-sobre-opacidad-y-servicio-al-poder/>

67 The TSJ against the AN issued a total of twenty-six sentences in 2020. See The TSJ vs. the AN at <https://accesoalajusticia.org/wp-content/uploads/2021/01/Cuadro-TSJ-vs-AN-2020-5.pdf>.

4 | SPECIAL

Access to Justice prepared different special reports in 2020.

4.1. The Venezuelan police service. Between reality and perception (2000-2019)⁶⁸



A general diagnosis of the Venezuelan police service was made during the period 2000-2019, showing a vision of the police' subsystem as part of the Venezuelan penal system, starting from its normative dimension until reaching its institutional operation.

This report is the product of an update made by the Venezuelan Observatory of Violence (OVV by its acronym in Spanish) of a documentary study carried out for the period 2000-2018 by Keymer Ávila (coordinator), Lissette González, Elienai González, and Carmen Jiménez, titled *Panoramic view of the police system in Venezuela (2000-2018)*, published by Access to Justice⁶⁹.

The bulk of the information presented contains the findings and analyses carried out during the 2000-2018 period, together with an update –in those cases where it has been possible– of the data for 2019.

The document was also complemented with data on victimization, complaint, and perception of the work of police agencies, obtained in sample investigations carried out by the OVV in the last five years and with results of investigations on registered violent mortality and security operations, also carried out by this organization.

Likewise, this work contains the results of the Police Violence and Lethality Survey, carried out by the OVV at the end of 2019 and the beginning of 2020. The OVV researchers for this new report published by Access to Justice were Olga Ávila, Alberto Camardiel and Roberto Briceño León.

68 See <https://accesoaljusticia.org/el-servicio-de-policia-venezolano-entre-la-realidad-y-la-percepcion-2000-2019/>.

69 See <https://accesoaljusticia.org/vision-panoramica-del-sistema-policial-en-venezuela-2000-2018/>.

4.2 The Public Ministry in Venezuela. His performance and citizen perception (2000-2020)⁷⁰



This research analyzes the performance of the Public Ministry (MP by its acronym in Spanish) during the period 2000-2019, as well as a study on the perception that people have about the work carried out by this institution (2010-2020).

This document is an update of the information contained in the *Report on the Performance of the Public Ministry (2000-2018)*, prepared by Elienai González (coordinator), Keymer Ávila, Lissette González, Carmen Jiménez, and Thais López, published by Access to Justice⁷¹. To this end, a large part of the information provided by the mentioned document is included and, in addition, the data was updated to the year 2020 when possible and new sections were added, entitled «Impunity and the incapacity of the MP» and «The non-denunciation and distrust in the MP».

This is a study based on documents in the annual reports available on the official website of the MP, as well as other unofficial sources and data provided in press conferences by representatives of the institution.

For the collection and processing of documentary data, there were some limitations such as access to information through public entities and the unstable and changing way of presenting information from year to year in the reports, which made a more complete description of the information difficult. The MP's performance and comparisons by year.

Additionally, there is data on the perception of the population, which was obtained in six household surveys by a sampling of national coverage carried out by the OVV in the decade 2010-2020.

70 See <https://accesoalajusticia.org/el-ministerio-publico-en-venezuela-su-actuacion-y-percepcion-ciudadana-2000-2020/>.

71 See <https://accesoalajusticia.org/informe-sobre-el-desempeno-del-ministerio-publico-2000-2018/>.

4.3 Link between the right of Human Rights and international humanitarian law⁷²



It is a study on the necessary connection between human rights law and international humanitarian law. This investigation was born out of Access to Justice's concern regarding the apparent separation between the two that exists in international practice, to such an extent that most humanitarian organizations act as if they were disconnected from each other.

This has become very evident in the case of the complex humanitarian emergency that Venezuela is going through, and although the country's civil society organizations have sought to manage both areas jointly due to their evident relationship, there is a tendency for some United Nations agencies to deal with issues of assistance (international humanitarian law) and protection of human rights separately.

In Venezuela, since the cause of the humanitarian crisis is the political fact, that is, the institutional breakdown that has generated a crisis in all areas, it is essential to understand that both branches of law, as well as the two areas of action, that of the human rights and international humanitarian law, are closely linked. Its objective is the same: the protection of the human person and his dignity.

⁷² See <https://accesoalajusticia.org/informe-vinculacion-entre-el-derecho-de-los-ddhh-y-el-derecho-humanitario-internacional/>.

4.3 Report on the National Constituent Assembly. Its use as part of the institutional facade in Venezuela⁷³



This research presents (in english⁷⁴ and spanish⁷⁵) what the National Constituent Assembly (ANC) convened by presidential decree in May 2017 has meant for Venezuelan institutions and, above all, for human rights.

Although it was intended to make an extensive scan of the constituent process, it is clear that the last process, the one of 2017, was imposed by the Executive Power to neutralize the National Assembly controlled by the opposition, elected in December 2015, which has aggravated the institutional crisis of the country and, as a consequence, the complex humanitarian emergency, derived precisely from the institutional breakdown.

It is clear from the report that the National Constituent Assembly has not only become part of a parallel institutionality but has also been incorporated as part of the repressive machinery of the Maduro regime, by directly participating in the persecution of dissidents.

73 See <https://accesoalajusticia.org/informe-sobre-la-asamblea-nacional-constituyente-su-utilizacion-como-parte-de-la-fachada-institucional-en-venezuela/>.

74 <https://accesoalajusticia.org/wp-content/uploads/2020/12/Report-on-the-National-Constituent-Assembly.-Its-use-as-part-of-the-institutional-facade-in-Venezuela.pdf>.

75 <https://accesoalajusticia.org/wp-content/uploads/2020/12/Informe-sobre-la-Asamblea-Nacional-Constituyente.-Su-utilizacion-como-parte-de-la-facha-institucional-en-Venezuela.pdf>.

4.5 The new Venezuelan electoral system for women parliamentarians 2020⁷⁶



This brief report was made before the parliamentary elections and was sent to the Inter-American Commission on Human Rights to present yet another example of the lack of independence of the Supreme Court (TSJ).

The report is in Spanish⁷⁷ and English⁷⁸, and has the following contents: the first section explains what the Venezuelan electoral system consists of according to constitutional regulations; the second indicates which changes have been promoted by the Supreme Court to achieve parliamentarians tailored to the Maduro regime, and the third refers to the new indigenous electoral system, which is also unconstitutional and alien to the most fundamental principles. basics of democracy.

⁷⁶ See <https://accesoalajusticia.org/el-nuevo-sistema-electoral-venezolano-para-las-parlamentarias-2020/>.

⁷⁷ <https://accesoalajusticia.org/wp-content/uploads/2020/10/Nuevo-sistema-electoral-venezolano-para-las-parlamentarias-2020.pdf>.

⁷⁸ <https://accesoalajusticia.org/wp-content/uploads/2020/10/The-new-Venezuelan-electoral-system-parliamentarians-2020.pdf>.

4.6 Proposal for the reinstitutionalization of the administration of justice in Venezuela in a context of transition⁷⁹



This proposal contains some key guidelines for the reinstitutionalization of the administration of justice in Venezuela in a context of transition towards the rule of law and democracy⁸⁰.

⁷⁹ See <https://accesoalajusticia.org/propuesta-para-la-reinstitucionalizacion-de-la-administracion-de-justicia-contexto-de-transicion/>.

⁸⁰ The transition can occur due to a change in the political regime, under a political agreement between the government and the opposition, but also due to a decision by the Maduro government to move towards practices that are more in line with international human rights standards.

CONCLUSIONS

As 2020 is an electoral year, specifically to elect a new Parliament, the Constitutional Chamber of the Supreme Court of Justice (TSJ), for the fifth time in twenty-one years of Chavismo, chose to appoint the rectors of the National Electoral Council (CNE) - two of them, acting magistrates - and launched a «tailored» election for the Maduro government.

In fact, he «delegated» legislative functions to the CNE by instructing it to dictate the regulations for the new parliamentary elections and to change the regulations in force on the matter, even above the Constitution. By doing this, the TSJ once again usurped the functions of the elected AN in December 2015, which has been a constant since its election with a total of 145 sentences against it⁸¹.

In parallel, the Supreme Court of Justice carried out intensive efforts to create an «opposition to the measure» by intervening in opposition political parties, including *Acción Democrática*, *Primero Justicia* y *Voluntad Popular*. Thus, in practice, the affected political organizations had *ad-hoc* directives that had control of the card when nominating their candidates, who were obviously not the legitimate ones of the organization.

Along the same lines, the TSJ intervened directives from parties that have been natural allies of the Maduro government, but that more recently showed less consensus with their policies, as is the case of *Patria Para Todos*. On the other hand, the highest court authorized other parties that did not appear in the list that the CNE published on the parties that could participate in the elections⁸².

Thus, the changes to the electoral system plus the intervention of the opposition parties yielded results widely favorable to the ruling party; Thanks to the electoral system created, with around 68% of the votes, 91% of the total number of deputies of the AN was awarded. However, such reforms contributed little to credible elections supported by the majority of the electoral roll, since only 30% went to the polls, and this according to the CNE's own figures, because in other areas the figures were lower.

On the other hand, the COVID-19 pandemic in Venezuela served as an excuse for the national government to decree a state of alarm, not to protect the population in terms of health and implement the corresponding measures, but to make use of it at ease, and without major institutional counterweights, of even more repressive and arbitrary policies.

The state of alarm led to a state of siege, at least during its first quarter, controlled by the military and police, which led to greater corruption and limitation of the fundamental rights of citizens in a country already immersed in a complex humanitarian emergency. To this complex panorama, fuel shortages were added, which in turn led to the control of service stations with groups and the military, who committed all kinds of arbitrariness and abuses of power.

81 See The TSJ vs. the AN at <https://accesoalajusticia.org/el-tsj-vs-la-an/>

82 It should be clarified that the CNE never before 2020 had published a closed list of parties authorized to participate or not in elections.

The state of alarm and its successive extensions were validated by the Supreme Court, using its wild card of contempt to obviate the necessary approval of the National Assembly, while endorsing for the fifth consecutive year the state of economic emergency; With this, the country faced the coexistence of two states of exception, possibly the only case in the world.

It should be noted that, amid the pandemic, the Government took the opportunity to attack especially the work of non-governmental organizations (NGOs), particularly those that carry out humanitarian work, by creating a specific registry to monitor and request information with wide discretion to those located abroad, but with activities in Venezuela. This attack policy included raids on various organizations. In addition, the Superintendency of Institutions of the Banking Sector (Sudeban) issued a circular to monitor the financial activity of NGOs.

For its part, the justice system was practically paralyzed from March to the end of September; to support this situation, the Supreme Court issued several resolutions. Although it half tried in July to resume its activities using virtual methods, it was difficult due to the absence of a suitable technological and electrical infrastructure.

Additionally, the opacity of the highest court increased in 2020 by ceasing to publish the full content of many of its judgments, and in the opening act of the 2021 judicial year, it continued to be transparently unaccountable as in previous years and ruled again on his support for the Maduro government.

In 2020, the United Nations (UN) published two reports, among others, on the Venezuelan justice system, which were presented to its Human Rights Council, revealing with them the absolute absence of independence, autonomy, and impartiality of the Power. Venezuelan Judicial, and especially, of the TSJ. Likewise, the UN's International Independent Facts Determination Mission on the Bolivarian Republic of Venezuela highlighted its complicity in the alleged crimes against humanity of the Maduro government.



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