

# EXECUTIVE SUMMARY

## ANNUAL REPORT ON ACCESO A LA JUSTICIA

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

# 2015



## Context

1. In 2020, the country's institutional crisis continued and worsened significantly. Thus, in addition to having two heads of state, two supreme courts, two attorneys general, and two parliaments, in 2020 Venezuela had two directives from the National Assembly (AN by its acronym in Spanish). The first was headed by deputy Juan Guaidó, who was recognized as interim president by more than fifty countries; and the second by deputy Luis Parra, which was validated by the Constitutional Chamber of the Supreme Court of Justice (TSJ by its acronym in Spanish).
2. The Constitutional Chamber endorsed Parra's board of directors, without caring that it had not been able to prove that he had the necessary votes for his election. Even so, the TSJ maintained its thesis of contempt of the AN, by assuming in July 2020 the task of appointing the members of the National Electoral Council (CNE by its acronym in Spanish), despite the fact that Parliament had already appointed a Nominations Committee.
3. 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: Gladys Gutiérrez, magistrate of the Constitutional Chamber, and Indira Alfonzo, the magistrate, and president of the Electoral Chamber, as well as vice president of the TSJ.
4. In 2020, the TSJ also began to intervene in opposition and pro-government parties, imposing new directives on them with people related to the Maduro government. It also empowered other awnings not registered with the CNE for having been outlawed at some point by the highest court, all with the aim of creating an opposition tailored to the parliamentary elections that were held in December of that year. For its part, the CNE also intervened in a party, *Nueva Visión para mi País* (Nuvipa).
5. The TSJ also authorized the CNE to legislate to modify the current electoral system. Thus, the number of seats in Parliament was increased by 66%, which went from 167 to 277, violating article 186 of the Constitution. The proportion of deputies to be elected nominally was also reduced from 70% to 48% (133), while the number of those who are proportionally elected was increased to 52% (148) and 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. Lastly, the way in which indigenous communities choose their representatives before the AN was altered.
6. Throughout the electoral campaign, the Maduro government threatened citizens to vote with phrases like this: «He who does not vote does not eat. For those who do not vote, there is no food. He who does not vote, he does not eat; a quarantine is applied there». Despite these threats, the majority of citizens abstained. The electoral referee himself acknowledged that only 30.5% of the electoral roll participated in the legislative elections of December 6.

7. The results of the elections were as follows: 69.34% of the national list vote in favor of the *Gran Polo Patriótico* alliance (government party and related parties), while the distribution of the "opposition" vote was as follows: 6.95% in favor of *Acción Democrática*; 4.56% for *El Cambio*; 4.43% for the *Avanzada Progresista / Movimiento Ecológico / Cambiemos* alliance; 4.18% for the *Primero Venezuela / Voluntad Popular / Venezuela Unida* alliance; and 2.82% for *Copei*, among others; while the *Partido Comunista de Venezuela* (PCV), outside the Chavista bloc, obtained 2.73% of the votes.
8. 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 277), while the opposition that participated there awarded 20 and 1 to the Chavista dissidence (PCV).

## Repression and arbitrariness

9. During the pandemic, the situation of repression and arbitrariness in the country worsened significantly, since a state of alarm was decreed that, in fact, implied a state of siege that made it difficult to move from one municipality to another, even within the same city. To control citizens, the military and police took over the streets and installed checkpoints between municipalities, which brought great arbitrariness and corruption.
10. In this context, there was a crisis in the supply of gasoline caused by the bankruptcy of *Petróleos de Venezuela* (PDVSA) and international sanctions. The government responded by stopping subsidizing fuel and applying harsh rationing that left regions without it. The authorities did not make provisions to guarantee fuel to agricultural producers, health workers, and the chronically ill, hindering the right to transit, trade, health, and life.
11. In addition, the Maduro government launched a strong crackdown in 2020 against anyone who spoke out about corruption due to the gasoline shortage, as well as anyone who reported on COVID-19, or even about the state of public hospitals, whose humanitarian emergency situation was even more evident with the pandemic.
12. Additionally, as the world was affected by COVID-19, and as each country's attention focused on addressing its own situation, the Maduro government felt freer than ever to attack the few relatively democratic spaces that remained in the world. country, such as non-governmental organizations (NGOs).
13. In a matter of weeks, the Government issued a resolution 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, which established that international NGOs of a humanitarian nature must obtain a certificate in Venezuela in order to function. 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 of foreign NGOs in the special registry, alleging alleged foreign interference.

14. The second rule in this regard came from the Superintendency of 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 in the country to implement «measures that strengthen the procedures, mechanisms and technological systems that allow monitoring business or financial operations carried out by NGOs».
15. The harassment actions were not limited to legal measures, but later there were police raids, among others, in the organizations *Alimenta la Solidaridad* and *Caracas Mi Convive*; their bank accounts were frozen and there was an arrest warrant against their directors.

## Management of the Justice System

16. In the first chapters of the report, it is clear that a de facto State governs in Venezuela, increasingly consolidated not only by the increase in the militarization and policing of society but also because the authorities of the State powers, as stated explained in the 2019 report, entitled the consolidation of a de facto State in Venezuela, they have not been elected 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 AN, joined the list of de facto powers in 2020, as its legitimate directive was unknown and another was imposed on it, as explained in the first chapter of the report.
17. To the above, we must add the almost absolute absence of functioning of the justice administration system in 2020, as shown by the resolutions of the Supreme Court that practically declare the paralysis of the Judiciary due to COVID-19 from March 16 to March 30 September 2020.
18. The action of the Supreme Court denotes the little importance of private activity and the citizen under the Maduro government, since the Constitution, in its article 26, is clear in ordering the State to offer citizens a «free, accessible justice, impartial, suitable, transparent, autonomous, independent, responsible, equitable and expeditious, without undue delay, without unnecessary formalities or replacements». For its part, article 2 of the Organic Law of States of Exception clearly stipulates that «the decree that declares the states of exception does not interrupt the operation of the Public Powers».
19. After almost half a year closed, the registries and notaries began to open progressively and with limitations, as well as the courts, some of which began to operate with semi-virtual procedures. 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 Hugo Chávez period, both are 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 region.

20. In 2020, opacity continued to reign in the Supreme Court, as the body continued not to present its annual report. The last time it did so was in 2012. In 2020, accountability was again limited to the speeches given 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 absent. such as the number of judges who were appointed and removed by the Judicial Commission.
21. In his speech, the president of the Supreme Court made reference to the management figures regarding cases entered and files decided in the Supreme Court chambers, but not in the courts. The lack of accountability with rigorous statistics represents a clear violation of the Organic Law of the Supreme Court and the Law of the Justice System and hinders social control.
22. The opacity in the Supreme Court is no longer limited to accountability, but in the last three years, it has spread to other areas. The highest court does not publish the text of certain sentences, especially those of political content, and even decides cases through press releases. In addition, its website was offline from 2020 until May, and from October, for a good period of time, it was accessible only by the state internet service (ABA), which in many areas of the country no longer works. It was also blocked to the outside.
23. Despite the fact that the Constitution, in its article 255, orders the holding of competitive examinations to adjudicate the positions of judges, since 2004 they have not been carried out as envisaged. Although in 2016, the Plenary Chamber of the Supreme Court approved the Rules of Evaluation and Opposition Competition for Admission and Promotion to the Judicial Function in order to regulate the competitions of judges, they only allow those who are already within the judiciary. These rules do not foresee that civil society is part of the process for the selection of judges, although the Constitution requires it.
24. Since 2017, the TSJ has not reported 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) and in that of the Independent International Mission for the Determination of Facts on the Bolivarian Republic of Venezuela of the September 15, 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 removed without any procedure.
25. The OHCHR has denounced that the judges of the lower courts do not make their decisions according to the arguments, evidences or evidence 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 field of criminal law.
26. The alignment of justice with the Executive Power was evident in the 2021 judicial opening act, when the president of the Supreme Court, Magistrate Maikel Moreno, not only congratulated the Government of Maduro for handling the pandemic but also supported the AN dominated

by *Chavismo* for starting a new process of national dialogue. However, he issued the following warning: «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 taking over the country must be sanctioned according to the law. Those who allied 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, the arbitrator to judge their actions. There can be no reconciliation without forgiveness and there is no forgiveness without justice».

## Specials

27. In 2020, *Acceso a la Justicia* published six special reports. The first is The Venezuelan Police Service. Between reality and perception (2000-2019), in which data on victimization, complaint, and perception of the work of police agencies were presented, obtained in sampling investigations carried out by the *Observatorio Venezolano de Violencia* (OVV) in the last five years, and with the results of investigations on registered violent mortality and security operations, also carried out by this organization.
28. The second was the report The Public Ministry in Venezuela. Its performance and citizen perception (2000-2020), in which data on the perception that citizens have of the agency's work are presented, which were obtained in six household surveys by sampling of national coverage carried out by the OVV in the decade 2010-2020.
29. Link between the right of international human rights and international humanitarian law is the third report published by *Acceso a la Justicia* in 2020. This was intended to show that both branches of law are linked.
30. Report on the National Constituent Assembly. Its use as part of the institutional facade in Venezuela was the fourth report published in 2020; in it, it is made clear that the questioned body only sought to neutralize the AN dominated by the opposition and not to draft any Constitution, as mandated by the Magna Carta.
31. The new Venezuelan electoral system for women parliamentarians 2020 was the fifth report published, and it was sent to the Inter-American Commission on Human Rights (IACHR). It was intended to make it clear that the legislative elections were tailored to the interests of the Government.
32. The sixth and last report was Proposal for the reinstitutionalization of the administration of justice in Venezuela in a context of transition, which 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 democracy.

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