



**Executive  
summary**

**The takeover  
of the  
Venezuelan Bar  
Associations  
2000-2020**



Acceso a la  
**Justicia**

J299786772

1. In the last two decades, the country's professional associations, specifically the bar associations, have been subject to gross attacks by the National Electoral Council (CNE) and the Supreme Court of Justice (TSJ). These attacks have sought to favor the interests of the national government and have limited and curtailed the capacities of these civil society organizations for the development of their activities, putting at risk the human right to association.
2. The loss of identity of the autonomous organizations of the civil society imposed by the national government to consolidate the concentration and centralization of power has its origin in the entry into force of the 1999 Constitution.
3. The authorities established as government policy the mutilation of civil society organizations such as professional associations, among them the bar associations, through stratagems consisting of the control of their electoral processes to annihilate their autonomy and the regime of their internal functioning.
4. The bar associations are entities regulated by the legislator through laws, in this case by the Law on Lawyers (1967). Still, they are not considered state legal persons, i.e., there is no hierarchical or supervisory control relationship with the State, much less patrimonial participation by the latter, which implies that they are not part of the state organizational structure. From the functional, financial, and political points of view, these organizations are civil society entities that enjoy full autonomy vis-a-vis the State, allowing them to freely elect their authorities (political independence) without state interference.
5. The activity of the bar associations and the professional associations, in general, is to promote the interests of certified professionals that compose them and control their members' training and activity. Therefore, the practice of each collegiate profession responds to the parameters of ethics and quality required by the society they serve.
6. Article 105 of the Constitution recognizes the existence of professional associations. However, in numeral 6 of its Article 293, the Constitution also included the obligation to periodically hold internal elections both in these instances of civil society and within political parties, unions, and professional organizations. It also established that the State must organize such processes through the Electoral Power.
7. This mandate has generated an intrusion in the private sphere of the organizations and seriously affected the freedom of association. Why? Because the members of these groups should be the ones to carry out the acts of the election of their authorities, but by requiring the intervention of the CNE (both for professional associations and unions), control by the State has been imposed in practice that restricts the existence of the affected organizations and has generated intervention mechanisms that affect their activities and even their own administration.

8. Since the CNE has the exclusive power to organize the elections of professional organizations, its recognition depends on the election of its authorities under the provisions established by the electoral body.
9. What should have been simply technical support from a State power became a control mechanism over the organizations and an effortless way to delegitimize an association simply by not renewing its authorities.
10. This constitutional provision has given rise to political parties, unions, guilds, professional associations, and other actors of the civil society, such as neighborhood associations, social clubs and sports federations began to be intervened by the state authorities, specifically by the electoral body and the TSJ.
11. This policy of intervention and control over civil organizations began to be implemented as soon as the 1999 Constitution was passed. In 2000 the CNE issued Resolution No. 000204-25, it annulling all elections carried out by any civil group after December 30, 1999, when the new Constitution came into force. Therefore, all those electoral processes that were in progress at that time became null and void under the argument that the CNE did not organize them.
12. For its part, the Electoral Chamber (SE) of the TSJ, in its judgment No. 43 of May 10, 2000, in the case of the Venezuelan Engineers Association, ruled that the CNE was the competent authority not only for the organization of elections for public offices,  

"but of all those that are held in organizations that are the expression of the popular will as a mechanism designed to guarantee the exercise of political rights and in general the protagonist participation of citizens through various modalities specified in Article 70 of the Fundamental Law".
13. Throughout the year 2000, the ES not only insisted on its criteria but also encouraged the electoral body to hinder the elections of the different organizations in the country, suspending them and even leaving without effect the electoral processes that the different sectors of the civil society carried out without its control.
14. This was the beginning of the institutional breakdown that years later would have catastrophic political, social, and economic consequences for Venezuelans and, consequently, of the consolidation of the Government's hegemonic power.
15. To the policy of harassment and persecution against any professional association, trade union, or union association initiated by the State was added the creation of labor unions with pro-government representatives whenever possible. This practice demonstrated that the intervention of the CNE was not intended to guarantee the voting of the associates but to

serve as a means of intervention in the associations, paralyzing them, intervening with them, or imposing election rules to benefit the pro-government party.

16. A review of the rulings issued by the TSJ from 2000 to 2020 reveals that it yielded around thirty decisions, coming from the Constitutional Chamber (SC) and of the SE, where the Bar Associations of Caracas, the Bar Associations of Aragua, and the Zulia States, the Federation of Venezuelan Bar Associations, and the Institute of Social Welfare of the Lawyer (Inpreabogado), became intervened after the High Court decided to suspend or annul their elections. More in detail, the interventions of the Federation of Venezuelan Bar Associations and the Institute of Social Welfare of the Lawyer (Inpreabogado) were based on the grounds that the regulations used in their electoral processes did not correspond to the precepts of the 1999 Constitution.
17. As of 2003, the CNE and the TSJ would take away from the bar associations' legitimate exercise of their political rights, committing a gross violation against their autonomy and freedom of association.
18. Between July and November 2003, the ES suspended the elections of the bar associations of Aragua, the Metropolitan District of Caracas, and the Federation of Venezuelan Bar Associations.
19. After the TSJ made clear that it would also proceed to interfere in the elections of autonomous universities and other social actors (unions and peasant organizations, social clubs, student organizations, sports federations, savings banks, etc.), the vulnerability of the autonomy of civil society organizations increased significantly.
20. The interventionism in the elections of the university sector was a remarkable fact since the year 2000 when the ES began to issue sentences systematically to hinder the elections of the autonomous universities. Under the excuse of guaranteeing the right of participation and voting, the Chamber began to reinterpret the norms of the Law of Universities (1970), as well as the electoral regulations of the Universidad de Los Andes (ULA), Universidad de Carabobo (UC) and Universidad Nacional Abierta (UNA).
21. In 2011, the Electoral Chamber, in its sentence No. 104 suspended the elections of the Central University of Venezuela (UCV) until it modified its electoral regulations to adjust them to article 34, numeral 3 of the Organic Law of Education, and establish parity between professors, students, and employees. In November of that year, the same measure was taken against the Universidad del Zulia (LUZ). Both houses of studies responded by requesting the Supreme Court to annul the regulation mentioned above.

22. In 2019, the SC ordered UCV, LUZ, UC, Universidad Nacional Experimental del Táchira (UNET), Universidad Nacional Experimental de Puerto Ordaz (Unexpo), ULA, Universidad Simón Bolívar (USB), and Universidad Centro Occidental Lisandro Alvarado (UCLA) to hold in six months the elections to renew their rector and dean authorities according to the provisions of the Organic Law of Education and not according to the provisions of the Law of Universities, as requested by the plaintiffs.
23. The SC also established that the authorities had to win in three of the five sectors specified in the Organic Law of Education and provide for a second round if no authority was elected with a clear majority. Finally, it said that if the elections were not held within the established period, the university authorities were to be appointed by the National Council of Universities, a body controlled by the National Executive.
24. With these decisions, the national government hijacked the autonomy of the universities and centralized power over the internal democracy of the university sector.
25. Besides, the national government has placed dissident organizations in a situation of handicap and at the limit of survival with the creation of a state system based on the idea of communes or of a parallel state called communal state, which promotes other forms of citizen participation alien to the precepts of the Magna Carta.
26. The statification and monopolization of the internal democracy of the professional associations by the CNE was a notable setback for civil society, which saw its freedom minimized. This policy was a governmental interference strategy aimed at reducing citizen participation and, thus, accentuating hegemonic control.
27. The disregard of the identity of social organizations was a presidential policy that would be developed through a normative regulation of the CNE and that at no time was intended to protect the rights and freedoms of professional associations and guilds, but at all times sought to enhance the absolute power of the national government and the groups that supported it.
28. On August 7, 2003, the governing body of the Electoral Power issued the Norms to regulate the electoral processes of professional associations and guilds, which contained a total of forty-five provisions. The instrument was extremely limiting for the autonomy and freedom of association but counted with the full support of the TSJ.

29. The norms were not only based on Article 293.6 of the Constitution, which legitimized the CNE to centralize the elections of professional associations and other civil society organizations, but also on the eighth transitory provision of the Constitution. Said provision states that "Until the new electoral laws provided for in this Constitution become enacted, the electoral processes shall be called, organized, directed and supervised by the CNE."
30. This transitory provision led the CNE to erect a regulatory framework of sub-legal rank without the corresponding legislative development, allowing it to restrict and threaten political freedoms and form a system millimetrically favorable to the national government's interests in the country's electoral contests.
31. The behavior of the CNE has been endorsed by the TSJ through its rulings and by the National Assembly (AN), through the Organic Law of Electoral Processes of 2009, which gives the CNE full powers to legislate on electoral matters.
32. The electoral body designed in the normative instrument a list of competencies (article 10) that would be ideal for monopolizing the electoral processes of the professional associations and guilds and, in this way, to remove from the political game those leaders that annoy the governmental interests.
33. The CNE reserved for itself tasks such as registering in its records the guild or professional association interested in holding elections, authorizing the call for elections requested by the Electoral Commission, after verifying the legality of the appointment of the members thereof, per the regulations of each guild or professional association. It shall also approve the electoral project submitted by the Electoral Commission, set the timetables for the electoral acts, prepare the lists of the guilds, prepare the electoral material (voting notebooks and minutes, among others) and recognize the validity of the electoral processes held or declare them null and void.
34. The simple reading of this repertoire of significant powers that the CNE granted itself only reveals the purpose of hindering the exercise of the right of participation of trade organizations and professional associations. It was, in short, the elimination of representative democracy and the political autonomy of these civil society entities.
35. It should be noted that freedom of association implies, among other things, the freedom to establish election mechanisms as long as they are compatible with democratic principles.
36. Being a sub-legal act, the CNE resolution made it formally and materially impossible to enshrine the exercise of this administrative power of review in a decision that hierarchically should be subject to the mandate of the laws, the only acts capable of regulating the powers of state agencies, and was therefore questionable and an invasion of the legislative function.

37. The interference of the CNE in the internal processes of civil organizations has earned the State a reprimand from organizations such as the International Labor Organization (ILO). A report published in 2019 urged Venezuela to implement legal reforms to eliminate figures such as electoral arrears and reduce the CNE's interventionism in union elections.
38. The normative regulation of the CNE was not adequate to the constitutional text since its purpose was not to protect the general interests represented by these organizations in the country's society but to impose an increasing state interference. The inspection, supervision, monitoring, regulation, and control of the electoral processes of the professional associations and guilds were not oriented to guarantee their political freedom.
39. In the particular case of the bar associations, the harassment of the highest court was expressed through decisions declaring the suspension or nullity of practically all the actions of the electoral commissions. The consequence would be the restriction of the exercise of the powers of these organizations and the blocking of their autonomy.
40. In the last few years, the Bar Association of Caracas has been subject to several Supreme Court of Justice measures that have prevented it from appointing its authorities. This ordeal began in 2003 when the ES admitted an injunction against the Electoral Commission of this professional body for not having organized the elections to choose its new board of directors before the expiration of the deadline for the same in 2001.
41. In 2005, the elections were held and the ES was satisfied. However, in 2008 the SC suspended the disciplinary tribunal of the body and appointed a new one, as well as a new board of directors and another Electoral Commission, under the excuse that the elections "have not yet been held". The SC ignored the 2005 process, which was supervised by the CNE and endorsed by the ES.
42. The decision of the SC was a political one. It withdrew without any justification whatsoever the appointment of a new board of directors of the professional association and the appointment of the members of the Electoral Commission that would carry out the election of the authorities of the Bar Association of Caracas, hindering the possibility of its members the exercising their right to elect their authorities.
43. The TSJ did not stop there: in 2012, it threatened the Inpreabogado, and in 2014 it intervened the Zulia Bar Association. As if this were not enough, the highest court also took other measures to alter the coexistence within these civil groups. Thus, in 2007 the SC declared the unconstitutionality of the legal rule that required the solvency of the bar associations' members to support the presentation of lists of candidates in the elections of the bar associations in the country.

44. For the highest interpreter of the constitutional text, the condition of insolvency of one or more members could not be an obstacle for them to participate and exercise their right to vote. Therefore, he asserted that the legal provisions to the contrary distorted the essential elements of the rights to political participation and voting (Articles 62 and 63 of the Constitution, respectively) and also generated a violation of the right to equality and non-discrimination (Article 21 of the Constitution).
45. The TSJ consolidated the severe distortion and illegitimate use of judicial control for purposes other than those established in the constitutional text, such as controlling and interfering in the elections of the bar associations with the sole purpose of kidnapping them, in violation of democracy, the rule of law and human rights.
46. The strategy of neutralizing the bar associations carried out by the CNE and the TSJ has extended to other civil society organizations critical of their actions, starting with the universities, and has reached the political parties. This policy has the purpose of disarming and stripping these groups of their freedom and autonomy, apart from silencing and neutralizing them so that they do not continue exercising functions that compromise and even threaten the interests of the Government's power, such as denouncing its actions and omissions that violate the rule of law.
47. The neutralization of the bar associations is evident when, for example, various activities were suspended as a result of the pandemic, including that of the Judiciary, thus violating the right to adequate judicial protection, since only the criminal courts remained operational without citizens being able to turn to other courts competent in other matters. These months of court inactivity affected a large number of legal professionals. Nevertheless, only the Caracas Bar Association and the Federation of Bar Associations protested.



[accesoalajusticia.org](http://accesoalajusticia.org)

 @accesoajusticia

 accesoalajusticia

 @AccesoaJusticia

 AccesoaLaJusticiaONG