

ANNUAL
REPORT

20
23

A TIGHTER
ENCIRCLEMENT
OF THE CIVIC
SPACE IN
VENEZUELA

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PRESENTATION

Acceso a la Justicia is a non-profit, private, and independent civil association established in 2010. Its main goals are the defense of justice, the Rule of Law, the separation of powers, judicial independence, democracy, freedom, and human rights.

Its primary mission is to be an observatory of the Venezuelan justice system and its Rule of Law, which is the rationale behind all chapters of its 2023 annual report focusing on the serving of justice and its independence, especially the role of the Supreme Court of Justice (TSJ), which has been an important stakeholder of the events referred to.

2023, as a pre-electoral year, led to a selective increase of political repression to restrict the civic space and prepare elections tailored to the hegemonic aspirations of the ruling party. In this way, the Judicial Branch and, in particular, the TSJ, was the protagonist of a large number of the observed persecutory actions, such as the intervention of the Venezuelan Red Cross, political parties, civil, and professional organizations, as well as the refusal to process judicial appeals against the political disqualifications unconstitutionally imposed by the Comptroller General of the Republic (CGR) and the untimely annulment of the opposition primary elections.

In the first chapter of the 2023 annual report of Acceso a la Justicia, reference is made to the situation of the Rule of Law in Venezuela and its monitoring by international human rights protection organizations, as well as the progress of the investigation by the prosecutor of the International Criminal Court (ICC). The second chapter refers to institutional persecution and the servicing of justice for repressive purposes, referring to the increasing restrictions to civic space, the annulment of political rights, the attacks against union leaders, and the inability of the justice system to provide due process guarantees in the fight against state corruption. The third section exposes the management of the TSJ, whose performance balance is direr than ever before.

Finally, a summary of Acceso a la JusticiaA publications made during 2023 is presented, including the digital book *The Law to Other Rights: Freedom of Association. Basic concepts and its regulation in Venezuela*, the report *Myths and Realities in the Violence Against Women in Venezuela: a Story of Another Failure by the Judicial Branch (2018-2022)*, the Shadow Reports to the Committee of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW Committee), and to the Human Rights Committee of the United Nations (UN), and the investigations *Regulatory blockade to the Freedom of Association in Venezuela*, *GAFI Assessment Results: Is the Civil Society in Venezuela Protected?* and *Some Actions for the Reform of the Criminal Justice System in Venezuela in the Framework of a Two-Track Scenario*.

Chapter I

Context: The Status of Law and Justice in Venezuela

In 2023, the government's strategy of simulating the service of justice and slight cooperation with international bodies, adopted in preparation for the investigation started by the International Criminal Court (ICC) Prosecutor at the end of 2021, was definitively abandoned.¹ Institutional repression increased significantly in preparation for the 2024 elections, with increasing repercussions on civil society, the free press and human rights defenders. As has been the norm during the last decade, there has been no progress but rather there have been setbacks in serving justice and the Rule of Law.

1.1. Zero progress in the World Justice Project's Rule of Law Index. Criminal justice remains the worst rated in the world.

According to the results of the World Justice Project evaluation published in October 2023,² the rule of law occupied for the eighth consecutive year the worst score of the assessment among the 142 countries that have been examined since 2008 by this renowned organization. Notably, in 2023, one of the indicators that make up the Rule of Law, criminal justice, also obtained the last place in this ranking and the same score (0.12) as in 2021 and 2022. It corroborates that the legal reforms undertaken at the end of 2021 have not had any real effect that translates into a minimum improvement in the serving of criminal justice.

Likewise, civil justice, whose index scopes the jurisdiction for matters other than criminal, was also far from reflecting any significant improvement. On the contrary, Venezuela ranked second to last in the world, only surpassing Cambodia.

In general, the situation of the Rule of Law, as reflected in the index, continues to be very poor, which led Venezuela to occupy the last place in the indicators on limits to government power, which is also part of the evaluation of the Rule of Law in the country. In terms of transparency and absence of corruption, the low evaluation of 2022 was maintained: as will be detailed later in this report, the justice system does not escape from this, because it does not provide effective responses to the plentiful allegations of corruption and its management continues to be very little transparent.

In general terms, the observance for fundamental rights, an essential guarantee of the Rule of Law, continued in steep decline in 2023, to the extent that the non-governmental organization CIVICUS, whose Civic Space Index serves as a worldwide reference downgraded Venezuela to its lowest category as one of the 28 countries with "closed civic space" in its annual report entitled *People Power Under Attack*.³ The harassment of civic space took form through intimidations and attacks against human rights defenders, social and union leaders, the persistent refusal to the

1 CPI. ICC Prosecutor, Mr Karim A.A. Khan QC, opens an investigation into the Situation in Venezuela and concludes Memorandum of Understanding with the Government, November 5, 2021. Available at: <https://www.ohchr.org/es/press-releases/2023/03/venezuela-un-experts-warn-persisting-attacks-civil-society-media-and-trade>.

2 World Justice Project Index, available at: <https://worldjusticeproject.org/rule-of-law-index/global/2023/>.

3 CIVICUS, *Venezuela downgraded: civic space considered closed after years of repression*, December 6, 2023. Available at: <https://monitor.civicus.org/presscentre/venezuela/>.

registry of civil associations, the siege of the free press with the closing of 15 radio stations⁴ and the passing in its First Discussion of the bill for the Control, Regularization, Performance and Financing of Non-Governmental and Related Organizations (hereinafter referred to as the draft Anti-Society Law).⁵ The Judiciary was also a determining factor in restricting the right to Freedom of Association through the siege of civil associations, such as the Venezuelan Red Cross⁶ and the Carabobo State Bar Association,⁷ among others.

1.2. Crimes against humanity under investigation by the ICC Prosecutor.

During 2021 and 2022, the government undertook singular efforts in the judicial apparatus through legislative reforms and announcements of progress in some criminal cases against State agents to show itself as a guarantor and willing to cooperate with the ICC Prosecutor once the latter announced on November 3, 2021, the opening of an investigation in the situation known as “Venezuela I” for crimes against humanity that occurred since February 12, 2014.⁸

However, it was confirmed that the Venezuelan State only sought to instrumentalize the criminal reforms and the reactivation of judicial proceedings so that they would be helpful in its strategy of delaying the process before the ICC.⁹ First, it availed itself of the prerogative enshrined in Article 18 of the Rome Statute to request the Prosecutor’s inhibition in favor of the Venezuelan justice system.¹⁰ Still, instead of taking the necessary steps for proper investigations, the Venezuelan regime opted to close and file the aforementioned procedural incident without solid grounds.

The Venezuelan authorities argued that the ICC lacked material jurisdiction, since - in their opinion - no crimes against humanity had been committed, but only some isolated acts of human rights violations.¹¹ This argument was categorically rejected by the First Pre-Trial Chamber (SCP-I) on

4 Instituto Prensa y Sociedad (IPYS), *IPYS annual report 2023: in the labyrinth of censorship*, March 3, 2024, p.15. Available at: <https://ipysvenezuela.org/2024/03/03/reporte-anual-2023-de-ipys-venezuela-en-el-laberinto-de-la-censura/>.

5 See: Provea, Ley de Fiscalización, Regularización, Actuación y Financiamiento de las Organizaciones No Gubernamentales y Afines. Available at: <https://provea.org/wp-content/uploads/2021/05/LEY-DE-FISCALIZACION-REGULARIZACION-ACTUACION-Y-FINANCIAMIENTO-DE-LAS-ORGANIZACIONES-NO-GUBERNAMENTALES-Y-AFINES-v24.01h2.00-2.pdf>.

6 Supreme Court of Justice, Constitutional Chamber. Ruling No. 1057 of August 4, 2023, exp. 23-0802. Available at: <https://accesoalajusticia.org/wp-content/uploads/2023/08/SC-nro.-1057-04-08-2023.pdf>.

7 Supreme Court of Justice, Electoral Chamber. Ruling No. 0124 of November 22, 2023, exp. 23-0004. Available at: <https://accesoalajusticia.org/wp-content/uploads/2023/11/SE-no.-124-22-11-2023.pdf>.

8 Access to Justice (AJ). Annual Report 2021: *ICC decrees the end of the simulation of justice in Venezuela*, February 4, 2021, pp. 5-6. Available at: <https://accesoalajusticia.org/wp-content/uploads/2022/02/Informe-Anual-de-Acceso-a-la-Justicia-2021.pdf>.

9 Ibid., p. 7.

10 AJ. Annual Report 2022: *The State of Justice and Law in Venezuela*, June 12, 2023, p. 15. Available at: https://accesoalajusticia.org/wp-content/uploads/securepdfs/2023/06/Annual-report-AJ_2022-Executive-Summary.pdf

11 AJ, *The Venezuelan State Continues to Fail to Persuade the ICC Prosecutor's Office by Showing No Progress in the Investigations*, April 12, 2023. Available at: <https://accesoalajusticia.org/estado-venezolano-sigue-sin-persuadir-fiscalia-cpi-no-mostrar-avances-investigaciones/>.

June 27, 2023, in its decision to authorize the ICC Prosecutor to continue with the investigation of crimes against humanity in Venezuela.¹² The SCP-I considered that no national investigations have been carried out that reflect the criminality that the ICC Prosecutor's Office intends to investigate; on the contrary, the existence of these crimes is denied vehemently without having carried out a serious and impartial investigation that would allow such a conclusion to be reached. In the Court's opinion, the fact that Venezuela does not provide information in the crime of persecution, does not prevent the investigation of the discriminatory intent of a group on political grounds; nor does the absence of a national law criminalizing crimes against humanity prevent investigations from covering the circumstances of the widespread or systematic attack against the civilian population and the State's policy in that regard.

The inactivity of the criminal justice system is evident from the very admission made by the office headed by Tarek William Saab, the Venezuelan Attorney General, who admitted that, among the 893 human rights cases, only 23 (2.58%) have been completed with a conviction ruling issued by a judge, while 606 (67.86%) are in the investigation phase and in 764 cases (85.55%) the perpetrators of the crimes have not even been identified.¹³ In general, the few convictions are limited to direct perpetrators, since the systematization of the conducts and the State policy that gave rise to them have been excluded from the investigations.

The government announced the appeal of the decision of the SCP-I¹⁴ and the Appeals Chamber (SA) started the corresponding procedure. The arguments submitted for the challenge by the Venezuelan government were reduced to formal flaws that did not reveal substantial errors in the interpretation made by the first instance. As of this report's submission date, the SA rejected the appeal,¹⁵ confirming the resumption of the investigation that the SCP-I had already authorized.¹⁶

In the incidence of admissibility of the investigation, there was a massive participation of the victims, both in the first instance¹⁷ and in the appeal;¹⁸ they argued in a generalized manner that

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- 12 International Criminal Court (ICC), *Decision Authorising the Resumption of the Investigation Pursuant to Article 18(2) of the Statute*, 27 June 2023. Available at: <https://www.icc-cpi.int/court-record/icc-02/18-45>.
 - 13 AJ, *The ICC's five reasons for authorizing its prosecutor to resume its country inquiries*, July 3, 2023. Available at: <https://accesoaljusticia.org/cinco-razones-cpi-autorizar-fiscal-reanudar-averiguaciones-sobre-pais/>.
 - 14 AJ, *Maduro's government defeated at ICC, but "will continue to make use of actions and mechanisms" to defend itself*, May 16, 2023. Available at: <https://accesoaljusticia.org/gobierno-maduro-derrotado-cpi-pero-continuar-haciendo-uso-acciones-mecanismos-defenderse/>.
 - 15 ICC Appeals Chamber, *Judgment on the appeal of the Bolivarian Republic of Venezuela against Pre-Trial Chamber I's "Decision authorising the resumption of the investigation pursuant to article 18(2) of the Statute,"* March 1, 2024. Available at: <https://www.icc-cpi.int/court-record/icc-02/18-89>.
 - 16 AJ, *ICC investigation into crimes against humanity in Venezuela continues*, March 7, 2024. Available at: <https://accesoaljusticia.org/continua-investigacion-cpi-sobre-crmenes-lesa-humanidad-venezuela/>.
 - 17 AJ, *Massive victim participation and Venezuelan State petitions force ICC to take more time*, March 28, 2023. Available at: <https://accesoaljusticia.org/masiva-participacion-victimas-peticiones-estado-venezolano-obligan-cpi-tomarse-mas-tiempo/>.
 - 18 AJ, *The ICC held the first face-to-face meeting in the case on alleged crimes against humanity in Venezuela*, <https://accesoaljusticia.org/cpi-celebro-primer-cara-a-cara-caso-presuntos-crmenes-lesa-humanidad-venezuela/>.

the Government of Venezuela is not willing and is incapable of carrying out investigations and prosecutions of the perpetrators of the alleged crimes against humanity, so they stated that there are no realistic prospects for the victims to obtain justice served in Venezuela for any of the alleged crimes against humanity committed.

No substantial progress has been made concerning the implementation of the Memorandum of Understanding of June 10, 2023,¹⁹ which remains confidential²⁰ and whose purpose is the set up of a local office of the ICC Prosecutor's Office in Venezuela. As of this report's submission date, its installation is expected to take place during 2024. In any case, the office will provide technical assistance to national authorities on the issue of complementarity and good practices of the OTP and other jurisdictions. It has been referred to as a two-track approach;²¹ on the one hand, the investigation of the ICC Office of the Prosecutor will continue in The Hague and, on the other hand, cooperation with the State to improve its capacities to investigate and prosecute will take place in Venezuela. Both tracks are independent of each other.

1.3. The Venezuelan justice system fell short before the United Nations Human Rights Committee.

Venezuela was examined for the fifth time by the Human Rights Committee on October 10 and 11, 2023, during these sessions the national authorities infringed the characteristic decorum of the sessions, appealing to disqualifications against the independent experts that integrate the Committee,²² which is the agency in charge of supervising compliance with the International Covenant on Civil and Political Rights (ICCPR). Moreover, Venezuela's report was submitted three years past due date on April 12, 2021, according to the Concluding Observations of the fourth report.²³ Also, the country did not provide sufficient information regarding events after 2019.²⁴

19 ICC, ICC Prosecutor Karim A.A. Khan KC concludes official visit to Venezuela, signing MoU on establishment of in-country office, June 13, 2023. Available at: <https://www.icc-cpi.int/news/icc-prosecutor-karim-aa-khan-kc-concludes-official-visit-venezuela-signing-mou-establishment>.

20 AJ, *The ICC Prosecutor expects to open an office in Caracas in 2024*, December 18, 2023. Available at: <https://accesoalajusticia.org/2024-fiscalia-cpi-espera-abrir-oficina-caracas/>.

21 AJ, *The "two-track approach," the ICC Office of the Prosecutor's new strategy for investigating Rome Statute crimes*, November 21, 2023. Available at: <https://accesoalajusticia.org/enfoque-doble-via-nueva-estrategia-fiscalia-cpi-investigar-crmenes-estatuto-roma/>.

22 Center for Civil and Political Rights (CCPR), *Disqualifications and disrespect to Committee members during the fifth review of Venezuela*, October 31, 2023. Available at: <https://ccprcentre.org/ccprpages/venezuela-cuestiona-la-imparcialidad-y-profesionalidad-del-comit-de-derechos-humanos-en-su-quinta-revisin>.

23 UN, Human Rights Committee, *Concluding observations on the fourth periodic report of the Bolivarian Republic of Venezuela (CCPR/C/VEN/C0/5)*, August 15, 2015. Available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2FVEN%2FCO%2F5&Lang=es

24 Bolivarian Republic of Venezuela, *Fifth Periodic Report that the Bolivarian Republic of Venezuela was required to submit in 2018 under Article 40 of the Covenant, circulated on September 7, 2021*. Available https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2FVEN%2F5&Lang=en.

In the concluding observations presented by the Committee,²⁵ , limited legislative advances were recognized, as well as the ratification of the Optional Protocol to the International Covenant on Economic and Social Rights and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, and the ruling that partially decriminalized homosexual relations in the military.²⁶ In general, the Committee's experts observed a further deterioration in the guarantees of civil and political rights with the raising of 22 concerns circumscribing a wide range of rights such as life, personal integrity, personal liberty, equality, freedom of association, and freedom of expression.²⁷

The Committee was alarmed by Judiciary's lack of willingness to implement the ICCPR, derived from the criterion imposed by the Constitutional Chamber of the Supreme Court of Justice (TSJ) as of Ruling 1.942 of 2003, according to which the decisions of international human rights bodies lack binding force in Venezuela and shall be subject to the control of constitutionality of said Chamber.²⁸

It also expressed concern about Venezuela's failure to report on domestic procedures for the adoption of the Committee's Views.²⁹ It, therefore, recommended "adopting all necessary institutional and legislative measures to ensure that the rights protected by the Covenant are fully recognized in the domestic legal system"³⁰ and requested that Venezuela shall take the necessary steps to follow up on the Committee's Views and consider "the advisability of adopting a law recognizing the authors of communications in whose favor this Committee has agreed on some measure."³¹

The Committee's experts exposed deep concern that most of the country's judges and prosecutors continue to be provisional, as well as the political ties of the TSJ magistrates to the governing party.³² The Committee requested that:

25 UN Human Rights Committee, Concluding observations on the fifth periodic report of the Bolivarian Republic of Venezuela (CCPR/C/VEN/C0/5), November 28, 2023. Available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2FVEN%2FCO%2F5&Lang=es..

26 Supreme Court of Justice (TSJ), Constitutional Chamber (SC), Office of the Ombudsman v. National Assembly, Unconstitutionality of Article 565 of the Organic Code of Military Justice, judgment number 128 of March 16, 2023. Available at: <https://accesoalajusticia.org/wp-content/uploads/securepdfs/2023/03/SC-nro.-0128-16-03-2023.pdf>.

27 UN Human Rights Committee, Concluding observations on the fifth periodic report of the Bolivarian Republic of Venezuela (CCPR/C/VEN/C0/5), November 28, 2023. Available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2FVEN%2FCO%2F5&Lang=es.

28 TSJ, Constitutional Chamber, Rafael Chavero Gazdik vs. National Assembly, Unconstitutionality of several articles of the Criminal Code, judgment number 1942 of July 15, 2003. Available here: <https://accesoalajusticia.org/wp-content/uploads/2024/02/SC-nro.-1942-15-07-2003.pdf>.

29 UN Human Rights Committee, Concluding observations on the fifth periodic report of the Bolivarian Republic of Venezuela (CCPR/C/VEN/C0/5), paragraph 5, November 28, 2023. Available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2FVEN%2FCO%2F5&Lang=es.

30 Idem, para. 6.

31 Idem, para. 8.

32 AJ, *Conclusions of the UN Committee set alarm bells ringing about the guarantee of civil and political rights in Venezuela*, November 7, 2023. Available at: <https://accesoalajusticia.org/conclusiones-comite-onu-encienden-alarmas-garantia-derechos-civiles-politicos-venezuela/>.

The State must take immediate measures to ensure and protect the full autonomy, independence, and impartiality of the Judiciary and the Public Prosecutor's Office, and guarantee the free exercise of their functions, without being submitted to undue pressure or interference by the Executive or Legislative branches.³³

Although it noted the reforms made to the Organic Code of Criminal Procedure (COPP) to reduce the length of pretrial detention, it regretted that the information it received indicated that they were not being enforced. It also demanded that the authorities take measures against enforced disappearances of short duration, including clearly criminalizing them in the legislation. The experts were alarmed by the practice of apprehending someone, not allowing them to contact their family and lawyers immediately, and presenting them before judges well after the 48 hours as enshrined in the Constitution.³⁴ Therefore, they requested the unconditional release of all persons illegally or arbitrarily deprived of their liberty.³⁵

Venezuela was required to report to the Human Rights Committee by November 2026 on measures taken in compliance with recommendations on the independence of the Judiciary, freedom of expression, and political participation.³⁶

1.4. Insufficient legal reforms of the justice system according to the Office of the United Nations High Commissioner for Human Rights.

The High Commissioner, Volker Türk, visited the country between January 26 and 28, 2023, when the Letter of Understanding with the Government of Venezuela was renewed for two additional years.³⁷ Despite the verification of some positive steps in the cooperation of the authorities, such as the visit to fifteen centers of detention³⁸ and the confidential access thirteen files of the Attorney General's Office and three judicial hearings,³⁹ at the beginning of 2024 the high government expelled the OHCHR officials from the country and cancelled the authorization for the presence of the office operating in the country since 2019.⁴⁰ As of this report's submission date, the measure

33 UN Human Rights Committee, *Concluding observations on the fifth periodic report of the Bolivarian Republic of Venezuela* (CCPR/C/VEN/C0/5), paragraph 36, November 28, 2023. Available at: en: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolNo=CCPR%2FC%2FVEN%2FCO%2F5&Lang=es.

34 Article 44.

35 *Idem*, para. 30.

36 *Idem*, para. 51.

37 OHCHR, *Türk updates the Human Rights Council on the situation in Venezuela*, March 21, 2023. Available at: <https://www.ohchr.org/es/statements/2023/03/turk-updates-human-rights-council-situation-venezuela>.

38 UN, Human Rights Council, *Situation of human rights in the Bolivarian Republic of Venezuela (report of the United Nations High Commissioner for Human Rights at the 53rd session)*, general distribution 17 November 2023, A/HRC/53/54, para. 47. Available at: <https://www.ohchr.org/en/documents/country-reports/ahrc5354-situation-human-rights-bolivarian-republic-venezuela-report>

39 *Idem*, para. 42

40 Human Rights Review Venezuela, *5 consequences of the cessation of operations of the OHCHR office in Venezuela* (sic), February 15, 2024. Available at: <https://examenddhvenezuela.org/derechos-civiles-y-politicos/5-consecuencias-del-cese-de-operaciones-de-la-oficina-de-la-acnudh-en-venezuela>.

has not been revoked, even though it was reported to be a temporary provision subject to review of the terms of the Letter of Understanding within 30 days.⁴¹

In its report presented to the Human Rights Council, examining the human rights situation between May 2022 and April 2023,⁴² The OHCHR ratified the conclusions of the Independent International Fact-Finding Mission on the Bolivarian Republic of Venezuela (IMIDHV)⁴³ and the ICC Prosecutor on the lack of adequate implementation of legislative reforms in the criminal justice sector.⁴⁴ In particular, the reform of the COPP is a dead letter about preventive detentions, which are enforced as a rule rather than as an exception, and the maximum limit of two years or, by exceptional judicial resolution, three years, according to Article 230 of the COPP, is regularly breached. During the reporting period, the OHCHR documented at least 135 cases of persons (10 women among them) who remained in pre-trial detention past due the legally established period, which amounts to arbitrary detention and can also lead to violations of other human rights.⁴⁵

Its report shows that legal reforms are useless if they are not enforced. For example, the office documented that the pattern of continued detention persists, even though people have served their sentences or have been ordered to be released by a judge.⁴⁶ Nor do the new legislative provisions contribute to improving the situation if administrative actions do not accompany them focused on solving the problems identified, as is the case with the excessive delay in proceedings. To illustrate the seriousness of the situation, Türk presented to the Council three cases against persons accused of insurrection and mentioned that 93 hearings were deferred for them between May 2022 and April 2023.⁴⁷

41 Ministerio del Poder Popular para las Relaciones Exteriores, *Comunicado: Venezuela anuncia suspensión de actividades de la Oficina Técnica del Alto Comisionado ONU para los DDHH en Caracas* (Venezuela announces suspension of activities of the Technical Office of the UN High Commissioner for Human Rights in Caracas), February 15, 2024. Available at: <https://mppre.gob.ve/comunicado/venezuela-anuncia-suspension-actividades-oficina-tecnica-asesoria-alto-comisionado-onu-ddhh-caracas/>.

42 UN, Human Rights Council, *Situation of human rights in the Bolivarian Republic of Venezuela (report of the United Nations High Commissioner for Human Rights at the 53rd session)*, general distribution 17 November 2023, A/HRC/53/54. Available at: <https://www.ohchr.org/en/documents/country-reports/ahrc5354-situation-human-rights-bolivarian-republic-venezuela-report>.

43 UN, IICHR. *Report of the International Independent Fact-Finding Mission on the Bolivarian Republic of Venezuela*, September 20, 2022, para. 10. Available at: <https://www.ohchr.org/en/hr-bodies/hrc/ffmv/report-ffmv-september2022>.

44 ICC, Office of the Prosecutor. *Prosecution request to resume the investigation into the situation in the Bolivarian Republic of Venezuela I pursuant to article 18 (2)*, 1 November 2022, paras. 162-165. Available at: https://www.icc-cpi.int/sites/default/files/CourtRecords/CR2022_06554.PDF.

45 AJ, *For the OHCHR, legal reforms have been insufficient to solve the failures of the Venezuelan justice system*, July 13, 2023. Available at: <https://accesoalajusticia.org/para-acnurdh-reformas-legales-han-sido-insuficientes-para-solventar-fallas-justicia-venezolana/>.

46 Idem.

47 Idem.

1.5. According to the International Independent Fact-Finding Mission on the Bolivarian Republic of Venezuela, the structures linked to the commission of crimes against humanity remain intact.

The International Independent Fact-Finding Mission (FFM) on the Bolivarian Republic of Venezuela published its fourth report on September 18, 2023,⁴⁸ accompanied by two detailed reports on i) the state apparatus, its repressive mechanisms and restrictions to civic and democratic space,⁴⁹ and ii) the Directorate of Strategic and Tactical Actions (DAET) of the Bolivarian National Police Corps and its relations with the former Special Actions Forces (FAES).⁵⁰ The report focused on the human rights violations under its mandate that took place in Venezuela since January 1, 2020.

The Mission concluded the existence of reasonable grounds to believe that some of the gross human rights violations that took place between 2020 and early 2021 were part of the same attack against the civilian population that was previously identified by that instance in its 2020 report.⁵¹ In this context, they are part of the same line of behavior previously qualified by FFM as crimes against humanity. Concerning the subsequent period, there have been fewer cases of violations, however, FFM had reasonable grounds to believe that these violations showcase the same elements as those previously documented, including the same *modus operandi*, the involvement of the same security forces and the same profile of victims, even though the selection of victims has been more specific and, therefore, much smaller in numbers.

In short, repression has reduced since its widespread use has not been required to achieve the desired target. Nevertheless, the structures associated with it remain intact and ready for when it is deemed necessary. It is illustrated by the fact that the Venezuelan State did not abolish the police corp that various national and international instances implicated in cases of extrajudicial executions, arbitrary and illegal detentions, torture and forced disappearances, but simply changed its name and renamed it as the Directorate of Strategic and Tactical Actions (DAET).⁵² In fact, FFM found reasonable grounds to believe that there is complete continuity between the FAES and the DAET since the dissolution of the FAES was never made official.

48 UN, ICHR, *Report of the Independent International Fact-Finding Mission on the Bolivarian Republic of Venezuela*, A/HRC/54/57, September 18, 2023. Available at: https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/sessions-regular/session54/advance-versions/A_HRC_54_57_Unofficial-SP-Translation.pdf.

49 UN, FFM, *The State apparatus, its mechanisms of repression and restrictions to civic and democratic space*, A/HRC/CRP.9, September 18, 2023. Available at: https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/ffmv/A_HRC_54_CRP8_260923.pdf.

50 UN, FFM, *The Directorate of Strategic and Tactical Actions of the Bolivarian National Police Corps and its relations with the former Special Actions Forces*, A/HRC/CRP.9, September 18, 2023. Available at: https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/ffmv/A_HRC_54_CRP9_SP_260923.pdf.

51 UN, FFM, *Report of the Independent International Fact-Finding Mission on the Bolivarian Republic of Venezuela*, A/HRC/45/33, September 25, 2020. Available at: <https://undocs.org/Home/Mobile?FinalSymbol=A%2FHRC%2F45%2F33&Language=E&DeviceType=Desktop&LangRequested=False>.

52 AJ, UN *Mission has reasonable grounds to believe controversial FAES still alive*, October 3, 2023. Available at: <https://accesoaljusticia.org/mision-onu-tiene-motivos-razonables-crear-controvertidas-faes-siguen-vivas/>.

The FFM maintained that the policy of persecution of dissidents, particularly about the severe restriction of civic and democratic space, has had the consent and collaboration of the structures previously identified, as well as the Ombudsman's Office, the National Electoral Council (CNE), the Office of the Comptroller General of the Republic (CGR) and the National Telecommunications Commission (Conatel).⁵³

Regarding the Ombudsman's Office, the FFM stated that it has systematically and deliberately failed to respond effectively to the complaints of serious human rights violations filed by victims and their relatives and has also failed to act ex officio in response to them⁵⁴ since their requests are rejected before being registered or never formally responded to.

1.6. According to the Inter-American Commission on Human Rights, another year without adequate measures of judicial independence.

The Inter-American Commission on Human Rights (IACHR) once again included Venezuela among the countries of most significant concern for its critical human rights situation in Chapter IV of its 2022 *Annual Report*.⁵⁵ It is due to the lack of separation and independence of powers and the persistence of systematic human rights violations.

Regarding the Judicial Branch, the IACHR determined that the State has not adopted suitable, effective and practical measures to recover its independence. On the contrary, "timid and ineffective" measures were adopted,⁵⁶ such as reforming the Organic Law of the Supreme Court of Justice (LOTSJ). The IACHR warned about the inconvenience of having increased the number of deputies in the Nominations Committee and the possibility of reelection of the TSJ magistrates, given the constitutional prohibition if they have already served a term⁵⁷ in office.

In short, the legislative reforms did not impact on the implementation of the required structural changes that would reduce the high number of provisional justice operators, conduct public and transparent competitive examinations to enter the judicial career, correct the prevailing opacity in the serving of justice and stop the removal without due process of persons in non-tenured positions.

53 UN, IACHR, *Report of the Independent International Fact-Finding Mission on the Bolivarian Republic of Venezuela*, para. 106, A/HRC/54/57, September 18, 2023. Available at: https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/sessions-regular/session54/advance-versions/A_HRC_54_57_Unofficial-SP-Translation.pdf.

54 AJ, UN *Mission accuses Ombudsman's Office of ignoring alleged crimes against humanity in Venezuela*. September 26, 2023. Available at: <https://accesoalajusticia.org/mision-de-la-onu-acusa-a-la-defensoria-del-pueblo-de-ignorar-presuntos-crimenes-de-lesa-humanidad-en-venezuela/>.

55 OAS, IACHR, *Annual Report 2022*, Chapter IV.b (Venezuela). Available at: https://www.oas.org/es/cidh/docs/anual/2022/capitulos/9-IA2022_Cap_4B_VE_ES.pdf.

56 *Idem*, para. 16.

57 Article 264 of the Constitution of the Bolivarian Republic of Venezuela establishes a single 12-year term.

1.7. Justice without an adequate gender approach unveiled by the United Nations Committee on the Elimination of Discrimination against Women.

The Committee on the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW Committee) reviewed Venezuela's ninth report⁵⁸ submitted three years past the due date, regarding the implementation of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in a session held on May 18, 2023 and published its Concluding Observations on May 31, 2023.⁵⁹

In its Concluding Observations, the CEDAW Committee expressed its concern about the failure of the Venezuelan State to comply with the obligations outlined in the CEDAW on issues related to access to justice for women, particularly for women prisoners, indigenous women, migrants, afro-descendants, and women with disabilities, in addition to those who are victims of gender violence, trafficking, sexual exploitation or other forms of modern slavery.⁶⁰ In this regard, the CEDAW Committee warned about the lack of free legal assistance, which especially impact women, because they have few resources or belong to one of the groups of vulnerability⁶¹ mentioned above.

Another primary concern of the Committee was the high rate of violence against women, girls, and adolescents, with particular attention to femicides, disappearances, psychological and sexual abuse, warning of the lack of regulations and protocols for the implementation of the Organic Law on the Right of Women to a Life Free of Violence (LOSDMVLV), and the lack of transparency in official statistics on women victims of violence.⁶²

In view of all these problems, it is necessary to train officials and create all the courts specialized in the matter since, at present, only 75% of those required are specialized; those who exercise this competence in municipal matters are not specialized.⁶³

58 RBV, *Ninth periodic report of the Bolivarian Republic of Venezuela due in 2018 under Article 18 of the Convention*, CEDAW/C/VEN/9, general distribution of October 4, 2021. Available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FVEN%2F9&Lang=es.

59 UN, CEDAW Committee, *Concluding Observations on the Ninth Periodic Report of the Bolivarian Republic of Venezuela*, CEDAW/C/VEN/CO/9, general distribution of May 31, 2023. Available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FVEN%2FCO%2F9&Lang=es.

60 AJ, *The Venezuelan State continues to fail to comply with its obligations regarding the elimination of all forms of discrimination against women*, September 14, 2023. Available at: <https://accesoalajusticia.org/estado-venezolano-sigue-incumpliendo-obligaciones-materia-eliminacion-todas-formas-discriminacion-contra-mujer/>.

61 Idem.

62 Idem.

63 AJ, *Shadow Report to the Committee on the Elimination of Discrimination against Women*, May 10, 2023. Available at: <https://accesoalajusticia.org/shadow-report-to-the-committee-on-the-elimination-of-discrimination-against-women-cedaw/>.

The CEDAW Committee recognized the establishment of the State Council for Gender Equality and Equity, which is dedicated to ensuring the integration of the gender perspective in public policies. Still, at the same time, the National Commission to Guarantee the Right of Women to a Life Free of Violence has not been created to date.⁶⁴ Therefore, the nominal creation of entities is of little use if they are not provided with the effectiveness required for the fulfillment of the functions entrusted to them.

64 UN, CEDAW Committee, Concluding Observations on the Ninth Periodic Report of the Bolivarian Republic of Venezuela, CEDAW/C/VEN/CO/9, para. 17, general distribution of May 31, 2023. Available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FVEN%2FCO%2F9&Lang=es.

CHAPTER II

Repression and Arbitrariness

2.1. Legal and judicial encirclement against freedom of association.

The year 2023 marked the strengthening of restrictive measures to the civic and democratic space through judicial decisions and the threat of laws, such as the passing in the First Discussion of the Law for the Control, Regularization, Performance, and Financing of Non-Governmental and Related Organizations (hereinafter referred to as Anti-Society Law), and the dusting off of the draft Law on International Cooperation. At the same time, the Supreme Court of Justice (TSJ) has continued its role as the repressive arm of the government party with the construction of an encirclement mainly aimed at curtailing freedom of association.

Both the International Independent Fact-Finding Mission (FFM) on the Bolivarian Republic of Venezuela⁶⁵ and the Office of the United Nations High Commissioner for Human Rights (OHCHR)⁶⁶ reported that these restrictions are part of a policy of state control over the existence, financing, and activities of non-governmental organizations (NGOs), which require a free and thriving space for the development of their activities in the promotion of human rights and democracy.⁶⁷

Indeed, in 2023, civic space went from being restricted into being considered as closed, according to the methodology of the NGO CIVICUS.⁶⁸ The restriction of freedom of association was coupled with the limitation of freedom of expression. Thus, together with the increasing harassment against political opponents, human rights defenders, and union leaders, more attacks against freedom of expression were verified, especially against the media, following the closure of 12 radio stations,⁶⁹ some of them endorsed through a decision of the TSJ,⁷⁰ as well as the blocking of websites.⁷¹

65 UN, FFM. Venezuela: UN experts warn of constant attacks on civil society, media and trade unions, March 22, 2023. Available at: <https://www.ohchr.org/es/press-releases/2023/03/venezuela-un-experts-warn-persisting-attacks-civil-society-media-and-trade>. Available at: https://www.youtube.com/watch?v=83St00ng_18.

66 OHCHR. Update on Venezuela by High Commissioner Türk, July 5, 2023. Available at: <https://www.ohchr.org/es/statements/2023/07/venezuela-update-high-commissioner-turk>.

67 AJ. Fact-Finding Mission and OHCHR pronounce on the growing offensive against organized civil society in Venezuela, March 30, 2023. Available at: <https://accesoalajusticia.org/mision-determinacion-hechos-y-acnudh-se-pronuncian-sobre-ofensiva-creciente-contra-sociedad-civil-organizada-venezuela/>.

68 CIVICUS. Venezuela downgraded: civic space considered closed after years of repression, December 6, 2023. Available at: <https://monitor.civicus.org/presscentre/venezuela/>.

69 IPYS. Annual Report 2023: In the Labyrinth of Censorship, March 3, 2024, p. 15. Available at: <https://ipysvenezuela.org/2024/03/03/reporte-anual-2023-de-ipys-venezuela-en-el-laberinto-de-la-censura/>.

70 AJ. TSJ gives the coup de grace to RCR, Venezuela's oldest radio station, July 19, 2023. Available at: <https://accesoalajusticia.org/tsj-da-tiro-gracia-rcr-emisora-radio-mas-antigua-venezuela/>. AJ, TSJ ratifies Conatel's decision to take Tu FM 92.9, RCR's "little sister" off the air, December 5, 2023. Available at: <https://accesoalajusticia.org/tsj-ratifica-decision-conatel-sacar-aire-tu-fm-92-9-hermana-menor-rcr/>.

71 AJ. Fact-Finding Mission and OHCHR pronounce on the growing offensive against organized civil society in Venezuela, March 30, 2023. Available at: <https://accesoalajusticia.org/mision-determinacion-hechos-y-acnudh-se-pronuncian-sobre-ofensiva-creciente-contra-sociedad-civil-organizada-venezuela/>.

2.1.1. The threat of the Anti-Societies Law.

On January 24, 2023, the National Assembly (NA) passed the bill for the Control, Regularization, Performance and Financing of Non-Governmental and Related Organizations⁷² (Anti-Societies Law) in its First Discussion.

Congressman Diosdado Cabello presented this bill that severely threatens the independence of non-profit organizations (NPOs) and makes the operation of those uncomfortable ones for the government almost untenable.

Although the legislative proposal refers to NGOs, in reality, it concerns almost all instances of civil society in Venezuela since it refers to all types of non-profit organizations, whether dedicated to the defense of human rights or to welfare, humanitarian, educational, cultural or any other field, provided that they are not regulated by special laws, such as unions, political parties or professional associations.⁷³ The bill targeted not only national NGOs, but also foreign NGOs operating or planning to operate in the country.

This bill was passed in the first discussion in contravention of Article 208 of the Constitution and Article 104 of the Internal Regulations and Debates of the National Assembly, since, on that occasion, there was no discussion whatsoever on the explanatory memorandum nor its articles. Its text was never published, and his proponent did not offer details of the instrument, nor reveal the number of articles it contained or inform about its explanatory memorandum. He only limited himself to attacking NGOs and accusing them of being "appendages of organizations that operate in the world to guarantee imperialism its operation throughout the world."⁷⁴

The President of the NA, Jorge Rodríguez, neither informed about the details of the instrument nor ordered the reading of the explanatory memorandum, despite the fact that it is mandatory in the First Discussion of every bill according to Article 208 of the Magna Carta. In fact, it has become customary practice in the pro-government Parliament to dismiss explanatory memoranda. There has been no discussion or debate whatsoever of bills since 2021.

Various international human rights protection bodies have expressed their concern and rejection of the bill as contrary to international standards for freedom of association. FFM warned that "if adopted, the

72 See: Provea, Ley de Fiscalización, Regularización, Actuación y Financiamiento de las Organizaciones no Gubernamentales y Afines. Available at: <https://provea.org/wp-content/uploads/2021/05/LEY-DE-FISCALIZACION-REGULARIZACION-ACTUACION-Y-FINANCIAMIENTO-DE-LAS-ORGANIZACIONES-NO-GUBERNAMENTALES-Y-AFINES-v24.01h2.00-2.pdf>. See also: <https://www.asambleanacional.gob.ve/noticias/an-aprueba-en-primera-discusion-ley-para-regular-las-ong>.

73 AJ, *Venezuelan anti-civil society bill considers almost all non-profit organizations as NGOs*, February 6, 2023. Available at: <https://accesoalajusticia.org/proyecto-ley-contra-sociedad-civil-venezolana-considera-ong-casi-todas-organizaciones-civiles-sin-fines-lucro/>.

74 AJ, *Approved in first discussion and with repressive purposes the project of NGOs and related organizations*, January 26, 2023. Available at: <https://accesoalajusticia.org/aprobado-primera-discusion-con-fines-represivos-proyecto-ley-contra-ong-y-afines/>.

law would impose such onerous requirements that it would grant the State a quasi-permanent power to suppress them, (...) its adoption could represent a point of no return in the closing of the civic and democratic space in Venezuela."⁷⁵

The UN Rapporteurs on freedom of peaceful assembly and of association; on the promotion and protection of the right to freedom of opinion and expression; on the situation of human rights defenders; and on the promotion and protection of human rights and fundamental freedoms while fighting terrorism, issued an open letter to the Government of Venezuela to alert it to their concerns about the bill. In the opinion of the rapporteurs:

(d) If passed into Law in its current version, this bill could impact the exercise of human rights, mainly the right to freedom of association, as well as the rights of persons participating in and benefiting from the activities of organizations constituted as different types of associations.⁷⁶

They also denounced that the new formalities and controls imposed by the bill would make it "difficult for Venezuelan NGOs to continue operating freely and effectively." In particular, they referred to the rules that oblige the groups to report the origin and destination of the funds received to the authorities.

The IACHR,⁷⁷ , the OHCHR,⁷⁸ and the Human Rights Committee also warned about the bill's content. The latter expressly recommended the Venezuelan State to repeal "any measure that limits the exercise of the right to freedom of association or leads to undue control of civil society organizations or interference in their activities."⁷⁹

2.1.2. The TSJ intervening associations and guilds.

The Constitutional Chamber has gradually been showing its claws against the right to freedom of association through the intervention of political parties, union organizations and civil associations. In July 2023, the Electoral Chamber intervened in the internal electoral processes of the Táchira State

75 UN, FFM, *The state apparatus, its repressive mechanisms and restrictions on civic and democratic space*, para.99, September 18, 2023. Available at: https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/sessions-regular/session54/advance-versions/A_HRC_54_CRP8_CleanVersion.pdf.

76 UN, Human Rights Council, Special Procedures, OL VEN 2/2023, September 21, 2023. Available at: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=28362>.

77 IACHR. *IACHR and SRFOE express concern over bill limiting citizen participation in Venezuela*, March 6, 2023. Available at: <https://www.oas.org/es/CIDH/jsForm/?File=/es/cidh/prensa/comunicados/2023/036.asp>.

78 OHCHR. *Venezuela: The NGO bill, a possible point of no return in the closing of civic space*, January 30, 2023. Available at: <https://www.ohchr.org/es/press-releases/2023/01/venezuela-draft-ngo-law-reaching-point-no-return-closure-civic-space>.

79 UN Human Rights Committee. *Concluding observations on the fifth periodic report of the Bolivarian Republic of Venezuela* (CCPR/C/VEN/C0/5), para. 42(b), November 28, 2023. Available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolNo=CCPR%2FC%2FVEN%2FCO%2F5&Lang=es.

Cattlemen's Association⁸⁰ and the Bolivar State Branch of Fedecámaras,⁸¹ as well as in the Venezuelan Surfing Federation, where it suspended the president from exercising her position and urged the National Sports Institute to appoint an ad hoc Board of Directors.⁸²

The Constitutional Chamber through decision No. 1,054 of August 4, 2023,⁸³ intervened in the National Society of the Venezuelan Red Cross in a pronouncement of admission of a lawsuit of collective and diffuse interests in conjunction with unnamed precautionary measure filed by the Attorney General himself, who was appointed in 2017 by the illegitimate and now extinct National Constituent Assembly (ANC).

The move of the Public Prosecutor's Office (MP) responds to the pattern of concerted action between his office and the political leadership of the Government party. A few days before, a discrediting campaign was started by Diosdado Cabello, who accused the president of the Red Cross of committing "mafia activities," including harassing and mistreating the personnel of the humanitarian organization and uncontrolled handling of funds received by this organization.⁸⁴ A few hours later, the MP announced that it had opened an investigation supported by complaints received from volunteers and workers of the Red Cross for abuses and administrative irregularities.⁸⁵

However, the office headed by the Attorney General, Tarek William Saab, instead of investigating these allegations and seeking to prosecute those allegedly responsible criminally, decided to take eight of these complaints to the Constitutional Chamber to support its request for the intervention of the humanitarian organization.⁸⁶

The Constitutional Chamber appointed as temporary President of the Red Cross the former President of Fedecámaras, Ricardo Cusanno, to whom the Chamber gave the position of President of its Board of Directors and entrusted him with the appointment of its remaining members, "to carry out an evaluation and internal reorganization of the Venezuelan Red Cross to modernize its structure and

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- 80 AJ. *The Electoral Chamber decided to intervene in the electoral process of the Táchira State Cattle Raisers Association (ASOGATA)*, July 10, 2023. Available at: <https://accesoalajusticia.org/la-sala-electoral-decidio-intervenir-el-proceso-electoral-de-la-asociacion-de-ganaderos-del-estado-tachira-asogata/>.
- 81 AJ. *TSJ suspends the totalization, adjudication and proclamation of authorities in the Fedecámaras electoral process*, July 25, 2023. Available at: <https://accesoalajusticia.org/la-se-suspende-la-totalizacion-adjudicacion-y-proclamacion-de-las-autoridades-en-el-proceso-electoral-de-fedecamaras/>.
- 82 AJ. *Intervention of the Venezuelan Surfing Federation and appointment of an ad hoc board of directors*. July 20, 2023. Available at: <https://accesoalajusticia.org/intervencion-de-la-federacion-venezolana-de-surf-y-designacion-de-directiva-ad-hoc/>.
- 83 AJ. *Judicial intervention of the Venezuelan Red Cross*, August 4, 2023. Available at: <https://accesoalajusticia.org/intervencion-judicial-de-la-cruz-roja-venezolana/>.
- 84 AlbertoRodNews X account, *ÚLTIMA HORA | Diosdado Cabello again denounces "mafia activity" in the Venezuelan Red Cross and Mario Villarroel: "I have fallen short"*. July 26, 2023. Available at: <https://twitter.com/AlbertoRodNews/status/1684378173968904192>.
- 85 SwissInfo. *Venezuelan Attorney General's Office opens investigation of national Red Cross president for "harassment"*, 28 July 2023. Available at: <https://www.swissinfo.ch/spa/fiscalia-de-venezuela-abre-investigacion-a-presidente-de-la-cruz-roja-nacional-por-acoso/48698206>.
- 86 AJ. *Venezuelan Red Cross joins the list of civil organizations intervened by the TSJ*, August 5, 2023. Available at: <https://accesoalajusticia.org/la-cruz-roja-venezolana-engrosa-la-lista-de-organizaciones-civiles-intervenidas-por-el-tsj/>.

operation," adjust its rules to the legal framework and call for internal elections. For achieving so, he was granted with a one year term, which could be extended for the same period.⁸⁷

The President appointed by the Constitutional Chamber appointed the Board of Directors of the Red Cross, integrated by María Fátima Garcés, academic vice-rector of the Central University of Venezuela (UCV); businessman Alberto Vollmer, President of Ron Santa Teresa and founder of Proyecto Alcatraz; physician Juan Simón Muñoz; olympic medalist Rubén Limardo; President of the Student Center of the UCV School of Nursing, Jhoanna Pantoja; and physician Griswill Fonseca. This Board of Directors has been questioned because some of its members are linked or have been linked to the government party, undermining essential principles of the Red Cross movement and because Law prevents the Vice Rector of the UCV from accepting positions of this nature.⁸⁸

The ruling of the Constitutional Chamber undermines the principles of autonomy and neutrality, cardinal norms of the International Red Cross Movement. Thus, the Chamber, without being requested to do so by the MP, ordered the restructuring of the organization, something scary for the freedom of association since its members should be the ones to decide how to solve their issues. Let us remember that the Venezuelan Red Cross is configured as a civil association, and, therefore, its members should be the ones to make the decisions to prevent, if necessary, the commission of irregularities, and not through a board imposed by the Venezuelan State.⁸⁹ To justify the intervention of a private organization on the alleged irregularities committed by its Board of Directors there is a denial of the human right to freedom of association since it leaves aside those who constituted it and imposes the will of a State that persecutes and represses civil society organizations.

In this way, not only were its authorities changed, but the intervened association was transformed into something different from what its members had decided. This case coincide with the one of the Nicaraguan Red Cross, which had a new structure imposed on it in other ways through the enforcement of a legislative measure.⁹⁰

Following its line of intervening civil society organizations, the TSJ, issued three more rulings between August and December 2023. On August 10, the Electoral Chamber declared null the call for the renewal of the authorities of the civil association Puerto Encantado⁹¹ Board of Directors, a private beach club.

87 Idem.

88 AJ. *Doubts about the legality of the incorporation of the vice chancellor of the UCV to the ad hoc board of the Venezuelan Red Cross*, August 23, 2023. Available at: <https://accesoalajusticia.org/dudas-legalidad-incorporacion-vice-rectora-ucv-junta-ad-hoc-cruz-roja-venezolana/>.

89 Idem.

90 El País. *Ortega and Murillo regime dissolves Nicaraguan Red Cross and confiscates its assets*, May 10, 2023. Available at: <https://elpais.com/internacional/2023-05-10/el-regimen-de-ortega-y-murillo-disuelve-cruz-roja-de-nicaragua-y-confisca-sus-bienes.html>.

91 AJ. *Nullity of the call to renew the authorities of the board of directors of the civil association "Puerto Encantado"*, August 10, 2023. Available at: <https://accesoalajusticia.org/nulidad-de-la-convocatoria-para-renovar-autoridades-de-la-directiva-de-la-asociacion-civil-puerto-encantado/>.

On October 18, the same Chamber suspended, as a precautionary measure, the Association of Professors of the University of Carabobo elections to the detriment of its autonomy.⁹²

Finally, on November 22, 2023, the Electoral Chamber suspended the record of the totalization of the elections of the Board of Directors of the Bar Association of the state of Carabobo, appointed an ad hoc board, and ordered its members "to be installed immediately, to exercise their respective positions, performing only acts of simple administration, until the final decision in the present case is rendered."⁹³

Acceso a la Justicia has denounced other similar cases, including with the Carabobo Bar Association itself. These cases are part of a strategy to disarm them and strip them of their freedom and autonomy as well as to silence and neutralize them so that they do not continue to exercise functions that compromise or eventually threaten the interests of the government, such as denouncing the actions and omissions that violate the Rule of Law.⁹⁴

2.2. Preparing tailor-made elections.

Judicial repression during the year focused on advancing scenarios favorable to the Government party for the 2024 presidential elections. From the use of unconstitutional political disqualifications to parties' intervention, the Judiciary aligned itself once again to the partisan political guidelines that have undermined electoral integrity for years.

2.2.1. Unconstitutional Appointment of the National Electoral Council.

In 2021, possibly the most balanced National Electoral Council (CNE) that the country has had for years was appointed, despite the significant irregularities that existed in the appointment process of the rectors of the electoral body,⁹⁵ a fact that did not seem to suit the agenda of the Government party because of the organization of the opposition primaries and the elections scheduled for 2024.

For this reason, barely more than a year and a half after the 2021 appointments, the president of the NA, Jorge Rodríguez, started a campaign to appoint a new CNE, despite the fact that, according to the

92 AJ. *Precautionary suspension of the elections of the Association of Professors of the University of Carabobo (APUC)*, October 18, 2023. Available at: <https://accesoalajusticia.org/suspension-cautelar-de-las-elecciones-de-la-asociacion-de-profesores-de-la-universidad-de-carabobo-apuc/>.

93 AJ. *Intervention of the election of the Carabobo State Bar Association and appointment of an ad hoc board of directors*, November 22, 2023. Available at: <https://accesoalajusticia.org/intervencion-de-la-eleccion-del-colegio-de-abogados-del-estado-carabobo-y-designacion-de-una-junta-directiva-ad-hoc/>.

94 AJ. *Right to association in intensive care over government intervention in bar associations*, January 26, 2022. Available at: <https://accesoalajusticia.org/derecho-asociacion-en-terapia-intensiva-intervencion-del-gobierno-en-los-colegios-de-abogados/>.

95 AJ. *The new CNE appointed by the pro-government NA comes with factory defect*, May 19, 2021. Available at: <https://accesoalajusticia.org/nuevo-cne-designado-por-an-oficialista-viene-con-defecto-de-fabrica/>.

Constitution, the term of office of the rectors expired in 2028. However, in the case of Tania D'Amelio there should have been a designation, because shortly after being appointed in 2021 as CNE rector, she was elected as judge of the Constitutional Chamber of the TSJ.⁹⁶

However, the president of the NA's proposal consisted in a complete restructuring of the CNE, replacing the rectors of 2021 after an alleged agreement with sectors of the opposition.

Subsequently, the pressures of the Government party resulted in an implosion of the electoral body. Thus, on June 15, 2023, the two main rectors and six alternate rectors linked to the ruling party resigned from their positions.⁹⁷ It led to the resignation of Rectors Roberto Picón and Enrique Márquez on June 19 and 20, respectively, whose appointment was promoted by opposition sectors.⁹⁸

Thus, the NA proceeded to structure a new NEC contrary to the constitutional and legal norms in force, with the appointment of a Preliminary Commission of the Electoral Nominations Committee. However, according to Article 12 of the Organic Law of Electoral Processes (Lopre), the appointments had to be made among those persons who were on the list of those selected by the Nominations Committee of 2021 since only in this way was continuity given to the absolute absences generated as a result of the resignations of most of the principal and alternate rectors.⁹⁹ In other words, the deputies should not have called for a new appointment process but should have reviewed the list they received in March 2021 from the previous Electoral Nominations Committee, and from that list, made up of 75 selected candidates,¹⁰⁰ should have chosen the replacements for those who had resigned.¹⁰¹

Even so, on August 24, 2023, the NA appointed a new CNE¹⁰² conformed by some people who were already in the body due to the appointment of 2021, ratifying the complete lack of justification of their previous resignations, as were the cases of the now main rector Carlos Quintero and the alternates Leonel Enrique Parica, Gustavo Vizcaino, Conrado Perez and Francisco Garces.

96 AJ. *One more violation of the Constitution: the possible appointment of a new CNE in 2023*, January 25, 2023. Available at: <https://accesoalajusticia.org/violacion-mas-constitucion-posible-designacion-nuevo-cne-2023/>.

97 AJ. *Venezuela's ruling party implodes the National Electoral Council*, June 22, 2023. Available at: <https://accesoalajusticia.org/oficialismo-venezuela-implosiona-consejo-nacional-electoral/>.

98 Although it should be clarified that it is not only irregular that there are rectors from the ruling party, but also from the opposition, since the Constitution establishes the following in this respect in its article 296: "The National Electoral Council shall be integrated by five persons not linked to organizations with political purposes".

99 Idem.

100 National Assembly. *Comité de Postulaciones Electorales presenta el listado de los 75 candidatos a rectores del CNE*, November 3, 2021, Available at: <https://www.asambleanacional.gob.ve/noticias/comite-de-postulaciones-electorales-presenta-el-listado-de-los-75-candidatos-a-rectores-del-cne>.

101 AJ. *Venezuela's ruling party implodes the National Electoral Council*, June 22, 2023. Available at: <https://accesoalajusticia.org/oficialismo-venezuela-implosiona-consejo-nacional-electoral/>.

102 AJ. *Formal installation of the CNE*, September 18, 2023. Available at: <https://accesoalajusticia.org/instalacion-formal-del-cne/>.

Several of the irregularities registered in the previous process of 2021 were repeated. The first one was that the evaluating body continued to be dominated by the NA, despite the fact that article 295 of the Constitution states that "representatives of the different sectors of society shall integrate it."¹⁰³

The evaluating body's lack of transparency reigned once again, as it did not inform the criteria, methodology or scale used to qualify the candidates. Nor were the different lists of candidates published on time, something which expressly violates the provisions running in Articles 26 through 28 of the Organic Law of the Electoral Power (Lope).¹⁰⁴

Likewise, even though Article 296 of the Constitution enshrines that "the National Electoral Council shall be integrated by five persons not linked to organizations with political purposes," the Parliament appointed as main rectors persons highly related to political parties, something that casts doubts on the capacity of such instance to organize free, fair, transparent, and competitive elections. The NA appointed three rectors linked to Chavismo and two to the opposition.¹⁰⁵ For the ruling party, Elvis Amoroso, who had served as Comptroller General of the Republic and deputy to the NA; Rosalba Gil, who until then was the secretary of the NA; and Carlos Quintero, an official related to the governing party in the electoral body since 2004, were appointed. Also appointed were Aimé Nogal, linked to the Un Nuevo Tiempo party, and Juan Carlos Delpino (with a previous internship as alternate rector in the CNE) who is said to be close to the ranks of Acción Democrática headed by former deputy Henry Ramos Allup (Acción Democrática).¹⁰⁶

2.2.2. Cancellation of the primaries and persecution of their organizers.

The political organizations associated with the so-called Plataforma Unitaria Democrática (United Democratic Platform) decided that to define the presidential candidacy for the 2024 elections through primary elections, which were held without the CNE on October 22, 2023.

The surprising participation of more than 2.5 million people led to the activation of the repressive judicial machinery of the State. Thus, the Attorney General indicated on October 25, 2023, that he would initiate a criminal investigation against the directors of the National Primary Commission (CNP), whom he would prosecute for the alleged commission of the crimes of usurpation of functions and identity, as well as money laundering and association to commit a crime.¹⁰⁷

103 AJ. *The new CNE appointed by the pro-government NA comes with factory defect*, May 19, 2021. Available at: <https://accesoalajusticia.org/nuevo-cne-designado-por-an-oficialista-viene-con-defecto-de-fabrica/>.

104 Profile on X A.C. Súmate, August 17, 2023. Available at: <https://twitter.com/Sumate/status/1692325440436748711>.

105 AJ. *"New" CNE express and with less independence*, August 29, 2023. Available at: <https://accesoalajusticia.org/nuevo-cne-expres-con-menor-independencia/>.

106 Idem.

107 AJ. *Prosecutor's criminal investigation against opposition primary organizers is more political than judicial*, November 1, 2023. Available at: <https://accesoalajusticia.org/investigacion-penal-fiscalia-contra-organizadores-primarias-opositoras-es-mas-politica-que-judicial/>.

On October 27, the Attorney General announced that his subordinates, the 8th and 73rd National Prosecutors, summoned Jesús María Casal, Mildred Camero, and Roberto Abdul-Hadi Casanova, president, vice-president and alternate of the Commission, respectively, for a meeting on October 30. The members of the regional boards of the NPC were also summoned.¹⁰⁸

The primaries were organized without the support of the CNE since the CNE did not respond on time to the CNP's request for technical assistance. This silence was used as a ground for justifying the baseless accusation made by the Attorney General that the CNP members had incurred in usurpation of the electoral body's functions. However, the primary was not a process to elect the any party's authority or to choose a particular party's leader. Instead, it was a consultation in which the voters had to select from among 10 candidates who may be the leader of the opposition, many of them not affiliated to any grouping. Therefore, there was no obligation for its organization to be channeled by the CNE as outlined in Article 293, numeral 6 of the Constitution.¹⁰⁹

The Attorney General made, as has become customary, allegations of gross irregularities without any basis or proof. He said that the names, surnames, and ID numbers of thousands of people who did not attend the electoral event were used, but in reality, the identity of these people was used to increment the figure¹¹⁰ when announcing the number of votes.

As of this date, there is no evidence of this alleged fraud.

On October 30, 2023, the Electoral Chamber admitted a contentious electoral appeal against the opposition primaries, whose ruling has not been published yet in the website of the TSJ as of the date of publication of this report (only the dispositive of the sentence was published). Even so, the website of the highest court announces that the Chamber temporarily suspended "all the effects of the different phases of the electoral process conducted by the National Primary Commission (CNP)." The refraining from publishing the full text of this ruling brings a peculiar outcome: the rationale that support the ruling is unknown.

In the dispositive section of the said decision, in addition to annulling the triumph of María Corina Machado, the instance ordered the organizers of the opposition electoral process to submit information on the twenty-five phases that governed the primaries. Also, Attorney General Tarek William Saab was notified that given "the multiple and serious allegations related to this electoral event (that could) configure the alleged commission of crimes against the Constitution of the Bolivarian Republic of

108 Account in X of Tarek William Saab, October 27, 2023. Available at: <https://twitter.com/TarekWilliamSaab/status/1717972867705348279>.

109 AJ. Op.cit. Available at: <https://accesoalajusticia.org/investigacion-penal-fiscalia-contra-organizadores-primarias-opositoras-es-mas-politica-que-judicial/>.

110 Ciudad VLC. *Public Prosecutor's Office initiates investigations for usurpation of voter's identity at primary event*, October 25, 2023. Available at: <https://www.ciudadvalencia.com.ve/mp-investigaciones-usurpacion-identidad-electores/>.

Venezuela, the alleged commission of electoral illicit acts and the alleged commission of common crimes," he may submit his observations as outlined in the Organic Law of the Supreme Court of Justice (LOTSJ).¹¹¹

Finally, the Electoral Chamber refers to María Corina Machado, Henrique Capriles Radonski and Freddy Superlano as "firmly" disqualified citizens. This disqualification was apparently confirmed without due process, even though it is not within the competence of the Electoral Chamber, since the declaration of validity or invalidity of an act of the Comptroller General of the Republic (CGR) corresponds to the Political Administrative Chamber of the TSJ.

It is important to highlight that such disqualifications were unconstitutionally imposed by the Office of the Comptroller General of the Republic (CGR) in violation of international human rights treaties signed by Venezuela, as well as against the Constitution of the Bolivarian Republic of Venezuela itself, as explained in the following section.

2.2.3. Political disqualification to restrict the right to vote.

For more than a decade, the Venezuelan State has used administrative and political disqualifications to veto persons who constitute a threat to its hegemonic intention to remain in power. The Inter-American Court of Human Rights (IACHR) determined that this figure provided for in the Organic Law of the Office of the Comptroller General of the Republic violates the rights to political participation and the presumption of innocence. In the decision of Leopoldo López vs. Venezuela, the IACHR Court established that political disqualifications only proceed due to an accessory penalty dictated in a final and definitive criminal conviction.¹¹²

On June 30, 2023, the General Director of Special Procedures of the CGR announced the disqualification imposed on María Corina Machado.¹¹³ This sanction was communicated through a letter in "office form" No. DGPE-23-08-00-008 dated June 27, 2023. Shockingly, the letter was not addressed to the affected party by the Comptroller himself, as would be the bare minimum expected under Article 105 of the Organic Law of the Comptroller General, Instead, it was sent by the General Director of Special Procedures to the NA deputy, José Brito.¹¹⁴ In this context, it is noteworthy that a few days before, the

111 AJ. *Precautionary suspension of the effects of the opposition primary elections*, judgment no. 122 of October 30, 2023. Available at: <https://accesoalajusticia.org/suspension-cautelar-de-los-efectos-de-las-elecciones-primarias-de-la-oposicion/>.

112 I/A Court H.R., Case of López Mendoza v. Venezuela. Case of López Mendoza v. Venezuela, Judgment of September 1, 2011 (merits, reparations and costs), para. 107. Available at: https://corteidh.or.cr/docs/casos/articulos/seriec_233_esp.pdf.

113 Bloomberg Línea. *Venezuelan Comptroller's Office confirms disqualification of María Corina Machado for 15 years*, June 30, 2023. Available at: <https://www.bloomberglinea.com/2023/06/30/contraloria-venezolana-confirma-inhabilitacion-de-maria-corina-machado-por-15-anos/>.

114 Efecto Cocuyo. *Comptroller disqualifies María Corina Machado for 15 years, says José Brito. Cocuyo Effect*. June 30, 2023. Available at: <https://efectococuyo.com/politica/contraloria-inhabilita-a-maria-corina-machado-por-15-anos-dice-jose-brito/>.

aforementioned deputy of the AN of 2020 went to that agency to ask if it had any open investigation in course against Machado.¹¹⁵

The administrative act of the CGR took place in an irregular manner, whereas it is based on facts while María Corina Machado was not holding a public position or the character of public official; it was made without prior procedure, undermining her right to defense; it is a measure contrary to the Constitution which prohibits administrative disqualifications; and it constitutes a double sanction, because the CGR already disqualified her once before. Thus, any other similar measure should be the result of another procedure, which, according to what was stated by the office headed by Elvis Amoroso, has not taken place.¹¹⁶

The TSJ dismissed the lawsuit filed by María Corina Machado before the Political Administrative Chamber¹¹⁷ in compliance with a mechanism agreed by the Barbados Agreement; previously, the TSJ, in the second half of 2023, dismissed three appeals filed by other persons before the Constitutional Chamber.¹¹⁸

In the January 26, 2024 ruling¹¹⁹ that Chamber confirmed the disqualification of María Corina Machado.¹²⁰ As of the submission date for this report, the Political Administrative Chamber has not published the ruling mentioned above on the TSJ's website. Therefore, the rationale supporting the decision is unknown, which detracts the plaintiff's right to defense and the principle of publicity of judicial rulings.

The Political Administrative Chamber's decision in the case of María Corina Machado was issued at the procedural stage of admissibility and out of time. It deprived her of her right to due process since she was not allowed to contradict the CGR's allegations in the trial. The Chamber ruled on the merits of the case without a trial formula.

The decision regarding the appeal filed by Henrique Capriles Radonski against his disqualification, which was denied by the Chamber, is in the same situation. The full text of the ruling has not been published as of the date of this report.¹²¹

115 El Estímulo. *Pro-Chavista Deputy José Brito also launches himself against María Corina Machado*, June 26, 2023. Available at: <https://elestimulo.com/politica/2023-06-26/diputado-pro-chavista-jose-brito-tambien-se-lanza-contraria-corina-machado/>.

116 AJ. *The five flaws that make María Corina Machado's disqualification null and void*, July 10, 2023. Available at: <https://accesoalajusticia.org/cinco-vicios-hacen-nula-inhabilitacion-maria-corina-machado/>.

117 AJ. *The TSJ endorses the disqualification of María Corina Machado without publishing her sentence and out of time*, January 30, 2024. Available at: <https://accesoalajusticia.org/tsj-avala-inhabilitacion-contraria-corina-machado-sin-publicar-sentencia-fuera-lapso/>.

118 AJ. *The TSJ rejects two actions against the disqualification imposed on María Corina Machado*. October 24, 2023. Available at: <https://accesoalajusticia.org/tsj-rechaza-dos-acciones-contraria-inhabilitacion-impuesta-maria-corina-machado/>. See also: AJ. *SC dismissed lawsuit against the political disqualification of María Corina Machado issued by the CGR in 2015*. Available at: <https://accesoalajusticia.org/la-sc-desestimo-demanda-contraria-inhabilitacion-politica-de-maria-corina-machado-dictada-por-la-cgr-en-2015/>.

119 AJ. *The SPA declared that the claim filed by María Corina Machado was inadmissible and ratified that she is disqualified*, January 26, 2024. Available at: <https://accesoalajusticia.org/la-spa-declaro-sin-lugar-la-reclamacion-por-via-de-hecho-intentada-por-maria-corina-machado-y-ratifica-que-esta-inhabilitada/>.

120 AJ. *The TSJ endorses the disqualification of María Corina Machado without publishing her sentence and out of time*, January 30, 2024. Available at: <https://accesoalajusticia.org/tsj-avala-inhabilitacion-contraria-corina-machado-sin-publicar-sentencia-fuera-lapso/>.

121 AJ. *The SPA dismissed the lawsuit filed by Henrique Capriles Radonski against the disqualification issued by the CGR in 2017*, TSJ-SPA, judgment no. 003 of January 26, 2024. File available at: <https://accesoalajusticia.org/la-spa-declaro-sin-lugar-la-demanda-que-henrique-capriles-radonski-presento-contraria-inhabilitacion-que-dicto-la-cgr-en-2017/>.

On the same date as the decision related to María Corina Machado and Henrique Capriles, six others about acts of disqualification were issued by the CGR. The appeal filed by Vicencio Scarano was denied, maintaining the disqualification imposed on him in 2017.¹²² On the same day, the Political Administrative Chamber provisionally politically enabled Leocenis García,¹²³ Richard Mardo,¹²⁴ Pablo Pérez,¹²⁵ Daniel Ceballos,¹²⁶ and Rosa Brandonisio de Scarano.¹²⁷ None of the above mentioned decisions have been published, therefore it is impossible to know why the appeals were admitted in some cases and not in others.

2.2.4 Intervened political parties

In 2023, the troubling trend of interventions in the autonomy of political parties continued. At the start of the year, the intervention of Acción Democrática (AD) Board of Directors was confirmed.

It occurred after more than 2 years, following a series of decisions adopted in December 2022 in which the highest court endorsed the internal elections held by the party in mid-2022, despite several complaints of irregularities received from militants of that formation. The Constitutional Chamber, in its Ruling No. 1,189 of December 15, 2022, closed the process it opened against the party using which it dismissed, the Board headed by Isabel Carmona and by the then Deputy Henry Ramos Allup, and replaced it by another one headed by Deputy Bernabé Gutiérrez.¹²⁸

On August 11, 2023, the Constitutional Chamber, in its Ruling No. 1,160,¹²⁹ drafted by Judge Michel Adriana Velásquez Grillet, the entire content was published two working days after its announcement

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- 122 AJ. *The SPA dismissed the action that Vicencio Scarano filed against the political disqualification issued by the CGR in 2017*, TSJ-SPA, judgment no. 009 of January 26, 2024. Available at: <https://accesoalajusticia.org/la-spa-desecho-la-accion-que-vicencio-scarano-presento-contrala-inhabilitacion-politica-que-dicto-la-cgr-en-2017/>. Although it should be noted that, despite being disqualified, the CNE allowed him to run and participate in the regional elections held in 2021.
- 123 AJ. *SPA admits nullity attempted by Leocenis García and he is temporarily authorized to exercise public functions*, TSJ-SPA, judgment No. 001 of January 26, 2024. Available at: <https://accesoalajusticia.org/spa-admite-nulidad-intentada-por-leocenis-garcia-y-queda-habilitado-temporalmente-para-el-ejercicio-de-funciones-publicas/>.
- 124 AJ. *TSJ-SPA, Judgment No. 002 of January 26, 2024*. Available at: <https://accesoalajusticia.org/spa-habilita-temporalmente-al-dirigente-politico-richard-mardo-para-ejercer-cargos-publicos/>.
- 125 AJ. *SPA declared admissible innominate precautionary measure and temporarily empowers leader Pablo Pérez*, TSJ-SPA, judgment n.º 004 of January 26, 2024. Available at: <https://accesoalajusticia.org/spa-declaro-procedente-medida-cautelar-innominada-y-habilita-temporalmente-a-dirigente-pablo-perez/>.
- 126 AJ. *Political leader Daniel Ceballos was temporarily authorized to perform public functions.*, TSJ-SPA, Judgment No. 006 of January 26, 2024. Available at: <https://accesoalajusticia.org/el-dirigente-politico-daniel-ceballos-quedo-habilitado-temporalmente-para-el-ejercicio-de-funciones-publicas/>.
- 127 AJ. *Rosa Brandonisio de Scarano was temporarily authorized to exercise public functions*, TSJ-SPA, Decision No. 007 of January 26, 2024. Available at: <https://accesoalajusticia.org/rosa-brandonisio-de-scarano-quedo-habilitada-temporalmente-para-el-ejercicio-de-funciones-publicas/>.
- 128 AJ. *TSJ endorses Bernabé Gutiérrez as Secretary General of AD*, January 18, 2023. Available at: <https://accesoalajusticia.org/tsj-ava-la-manera-definitiva-bernabe-gutierrez-secretario-general-ad/>. See: TSJ-SC. Judgment No. 1,189 of December 15, 2022, Exp. 2018-0458. Available at: <https://accesoalajusticia.org/wp-content/uploads/2023/01/SC-nro.-1.189-15-12-2022.pdf>.
- 129 TSJ-SC. Judgment No. 1,160 of August 11, 2023, Exp. 23-0708. Available at: <https://accesoalajusticia.org/wp-content/uploads/2023/08/SC-nro.-1160-11-08-2023.pdf>.

on the website of the governing body of the Judiciary, intervened the Communist Party of Venezuela (PCV) and handed over the reins of AD to Henry Parra, who will serve as its president, while Sixto Rodríguez will occupy the position of secretary general. Griseldys Herrera will be the new Secretary of Organization, Carlos Figueroa will be Secretary of Administration and Finances, Zoilo Aristegui will be Secretary of Ideology, Johan Coraspe will be Secretary of Agitation and Propaganda, and Robinson García will be Secretary for the Agrarian and Peasant Workers. Those appointed have the task of organizing "the internal democratic processes that guarantee the rights to political participation of the associates."¹³⁰

These two interventions are yet another blow to Article 67 of the Constitution, which establishes that: All citizens have the right to associate for political purposes, through democratic methods of organization, operation and management. The organization's governing bodies and candidates for elected office shall be selected in internal elections with the participation of its members.

These actions of the TSJ are nothing more than the continuation of an encirclement of political freedoms; for more than a decade, it has taken similar measures against more than a dozen political formations, both opposition, and dissident of Chavismo, in what appears to be a strategy to not only create a tailor-made opposition, but also silence all dissidence within its own ranks.¹³¹

2.3. Relentless persecution.

Political persecution, as noted by FFM, has not ceased even though mass protests of a political nature have diminished, but not social demonstrations. The Government has used more selective persecution techniques, but it has also extended to other segments of society, such as union and peasant organizations. In addition, in the pre-electoral stage, the Government has initiated stigmatization and harassment campaigns against sexually diverse people to gain sympathy among conservative groups sympathetic to Chavismo.

2.3.1. Union leaders under harassment.

In Venezuela, as social and labor conflicts increase, so does government repression against workers and their representatives. Thus, in 2023, six thousand nine hundred and fifty six (6,956) protests were

130 AJ. *The red rooster beheaded: PCV is the last dissident party from Chavismo sieged by the TSJ*, August 14, 2023. Available at: <https://accesoalajusticia.org/descabezado-gallo-rojo-pcv-ultimo-partido-disidente-chavismo-intervenido-tsj/>.

131 AJ. *TSJ expropriates AD, PJ and VP with an opposition to Maduro's measure*. July 10, 2020. Available at: <https://www.observatoriodeconflictos.org.ve/tendencias-de-la-conflictividad/conflictividad-en-venezuela-en-2023>.

registered, according to the Venezuelan Observatory of Social Conflict (OVCS). six out of ten street actions that took place in the country in 2023 were aimed at demanding salary improvements or the fulfillment of collective bargaining agreements, the organization pointed out, a figure that represents an increase of 59% in contrast to 2022.¹³² In view of these data, it should come as no surprise that, in the same period, six union leaders have been sentenced to long prison terms and twenty two more have been arrested by the police and military forces for exercising their rights to manifest or strike.

On August 1, the country was shocked to learn that trade unionists Reynaldo Cortés, Alonso Meléndez, Alcides Bracho, Néstor Astudillo, Gabriel Blanco, and Emilio Negrín were convicted, without any evidence of their guilt, to spend 16 years behind bars. The activists were imprisoned between July 4 and 7, 2022, for participating in the wave of protests caused by the coming into effect of the controversial salary instructions issued by the National Budget Office (Onapre), thanks to which millions of public workers saw their bonuses reduced.¹³³ The ground for conviction was the deposition of a complainant who did not appear at the trial and on alleged incriminating elements in screenshots of WhatsApp conversations.

The defense released a report that the Municipal Police of Sucre sent to court last June, in which it explains that a commission of four of its agents tried, unsuccessfully, to locate Adalberto Acosta Rodríguez so that he would appear in court. Acosta Rodríguez appears in the file as the fundamental witness to support the prosecution's accusation against the union members.¹³⁴

A few weeks before the sentencing of the six union members, three others, Leandro Azócar, Juan Cabrera, and Daniel Romero, members of the Sindicato Único de Trabajadores de la Industria Siderúrgica y sus Similares (SUTISS) were arbitrarily arrested. It brought to 22 the number of union leaders or workers who have ended up in jail for claiming better wages.

The convictions and arrests were not the only measures the national authorities took to stifle the union movement. On June 13, 2023, the First Instance Labor Trial Court of Bolívar decreed an injunction (an unnamed precautionary measure), at the request of the Corporación Venezolana de Guayana (CVG), which restricted 22 workers of the Siderúrgica del Orinoco (Sidor) from exercising their rights to strike and freedom of expression.¹³⁵

132 OVCS. *Conflict in Venezuela in 2023*. Available at: <https://www.observatoriodeconflictos.org.ve/tendencias-de-la-conflictividad/conflictividad-en-venezuela-en-2023>.

133 AJ. *Maduro's Government ignores Bachelet's recommendations and launches a new repressive wave against organized civil society*, June 20, 2022. Available at: <https://accesoalajusticia.org/gobierno-maduro-ignora-recomendaciones-bachelet-lanza-nueva-ola-represiva-contra-sociedad-civil-organizada/>.

134 AJ. *The persecution against the union movement worsens while social conflict increases in Venezuela*, August 9, 2023. Available at: <https://accesoalajusticia.org/persecucion-contra-movimiento-sindical-agudiza-mientras-aumenta-conflictividad-social-venezuela/>.

135 Espacio Público. *Court of First Instance criminalizes protest by 22 Sidor workers*, June 14, 2023. Available at: <https://espaciopublico.org/tribunal-criminaliza-la-protesta-de-22-trabajadores-de-sidor/>.

In the injunction, they were ordered to refrain from "all acts of force and threats of any kind aimed at disturbing, suspending, obstructing, interrupting or ceasing the administrative, and operational activities of the company." They were also prohibited from occupying the installations of the steelworks or obstructing its access roads. Finally, the court prohibited them from placing "posters, banners, graffiti or any other kind of instrument of dissemination by any means of communication and/or communication networks that may incite hatred, intolerance, violence and labor terrorism."

On December 20, during the political negotiations to implement the Barbados Agreement, the six trade unionists convicted to 16 were released¹³⁶ after the United States granted the release of Alex Saab. The release of the trade unionist was not a pardon but a parole including presentations every 15 days and prohibition to leave the country. In short, their irregular judicial processes continue their course.¹³⁷

2.3.2. The case of John Alvarez and the official trivialization of torture.

Torture is a generalized policy in Venezuela's prisons, especially in cases with a political profile. It occurs in a framework of absolute impunity. In 2023, public opinion was shocked by the case of the young student of the Central University of Venezuela, John Alvarez, who was arrested on August 30, accused of conspiracy charges.

His lawyer denounced that Álvarez had lost vision in his left eye, showed inflammation in his left kidney, and a lesion in his right leg as a result of the torture he suffered. It was claimed that officers of the Directorate of Strategic and Tactical Actions (DAET) beat him with a baseball bat and applied electric shocks to him.¹³⁸ As of this date, there has not been a public prosecutor investigation for these facts nor any action by the Ombudsman, who is also President of the National Commission for the Prevention of Torture and other Cruel, Inhuman, and Degrading Treatment, as per Article 13 of the Special Law to Prevent and Punish Torture, and other Cruel, Inhuman or Degrading Treatment.¹³⁹ The aforementioned Commission operates with total obscurity, as it has no internet portal to report its activities, and the Ombudsman's Office does not report on them, as it has not even published its annual report for the 2022 and 2023.

136 El Tiempo. *Venezuela releases six trade unionists after agreement to free Alex Saab*, December 20, 2023. Available at: <https://www.eltiempo.com/mundo/venezuela/venezuela-excarcela-a-seis-sindicalistas-tras-acuerdo-para-liberacion-de-alex-saab-837380>.

137 Tal Cual. *Union members released from prison must report every 15 days and may not leave the country*, January 15, 2024. Available at: <https://talcualdigital.com/sindicalistas-excarcelados-deberan-presentarse-cada-15-dias-y-no-podran-salir-del-pais/>.

138 Infobae. *The lawyer of the detained Venezuelan student John Álvarez denounced that he was tortured and lost the sight of his left eye*, September 27, 2023. Available at: <https://www.infobae.com/venezuela/2023/09/27/el-abogado-del-estudiante-venezolano-detenido-john-alvarez-denuncio-que-fue-torturado-y-perdio-la-vision-de-su-ojo-izquierdo/>.

139 National Assembly. Official Gazette of the Bolivarian Republic of Venezuela, No. 40,212, July 22, 2012. Available at: <https://www.acnur.org/fileadmin/Documentos/BDL/2015/10000.pdf>.

John Álvarez was released after the concessions reached in the Barbados Agreement, but he is still on trial and has been placed under alternate presentation regime and prohibition to leave the country.¹⁴⁰ Likewise, gross acts of torture remain uninvestigated, despite calls by activists and human rights defenders for the activation of the National Commission for the Prevention of Torture.¹⁴¹

An example of the existing impunity is that the Constitutional Chamber of the TSJ, in its Ruling No. 966 of July 27,¹⁴² declared almost six years later that it "does not have jurisdiction" to hear a right to shelter action (amparo) filed by an attorney in September 2017 on behalf of his client, who remained arrested in the premises of the International Criminal Police Office (Interpol) in Caracas, awaiting extradition to the United States to face a trial for drug trafficking, who became a victim of mistreatment by police officer. The attorney requested urgent measures to avoid continuing the abuses against his client. However, the TSJ ruled that since it was an injunction against a police corp, the jurisdiction corresponded to the contentious-administrative jurisdiction.

The chamber held that:

It is evident that the sphere in which the injuries were generated was administrative, since the alleged violation of constitutional rights by Commissioner Gerardo Contreras, head of the International Criminal Police Organization, Parque Carabobo headquarters, reported by the plaintiff, clearly falls within the conflicts subject to control by the Contentious-Administrative Jurisdiction.

The ruling of the TSJ is worrisome and reinforces the arguments for the International Criminal Court (ICC) to investigate crimes against humanity that have occurred in the country and not the national courts, as the Venezuelan government has instead argued before that instance since the practice of torture and other cruel, inhuman and degrading treatment is routine in Venezuela. The failure to adequately investigate or prosecute them, as occurred in this case, reflects the lack of possibility for the justice system to hold accountable the perpetrators of these heinous crimes.¹⁴³

Torture cannot be a matter of administrative nature, since it is a gross crime whose knowledge is not part of the specialty of the administrative litigation judges but of the criminal courts. The jurisprudential criterion set by the Constitutional Chamber relegates one of the most important human rights issues to an administrative matter, in which the competent courts treat it as an administrative matter and

140 Infobae. *Maduro dictatorship released student John Alvarez as part of agreement with US*, December 23, 2023. Available at: <https://www.infobae.com/venezuela/2023/12/23/la-dictadura-de-maduro-libero-al-estudiante-john-alvarez-como-parte-del-acuerdo-con-eeuu/>.

141 Swissinfo. *NGOs request activation of commission against torture due to alleged abuse of Venezuelan student*, September 5, 2023. Available at: <https://www.swissinfo.ch/spa/ong-piden-activar-comision-contra-la-tortura-ante-supuestos-abusos-a-estudiante-venezolano/48788938>.

142 TSJ-SC. Ruling No. 966 of July 27, 2023, Exp. 17-0948. Available at: <https://accesoalajusticia.org/competencia-para-conocer-un-accion-de-amparo-por-tortura-y-tratos-crueles/>.

143 AJ. *TSJ downplays torture and makes it a purely administrative matter*, September 28, 2023. Available at: <https://accesoalajusticia.org/tsj-minimiza-tortura-convierte-asunto-meramente-administrativo/>.

not from the perspective of the perpetration of a punishable act that violates fundamental rights that require immediate and urgent constitutional protection.

2.3.3. Peasants imprisoned for protesting.

Selective repression in recent years has had a sobering function against certain segments of society when they somehow manifest their dissatisfaction against government policies. Thus, in June 2023, two peasants who protested through their social networks against the fuel shortage that impacted them in the distribution of their crops were imprisoned.

The repressive action was supported by none other than the Attorney General and spokespersons of the National Assembly. Just hours after the uploading of the videos of the protesting peasants in social networks, the Attorney General appointed by the ANC, Tarek William Saab, pointed out that the producers were committing a crime. Then, he announced that his office would initiate an investigation against the peasants, who, according to him, were "trying to cause anxiety among the population and attempt against the agri-food security of the people."¹⁴⁴

In this way, Mr. Rodríguez Mambe and Mr. Barazarte were arrested and released by the judges who heard their cases, implying that the courts did not consider that they had committed a crime, although the truth is that they should never have been arrested.

A reading of Article 55 of the Organic Law of Fair Prices makes it clear that the actions of the peasants did not prevent "the production, manufacture, importation, collection, transportation, distribution and commercialization of food"; on the contrary, they explained that precisely because of the lack of fuel they were prevented from transporting and distributing the products.¹⁴⁵

In any case, the action of throwing their crops because it was impossible to distribute them because they had no way to mobilize, as they showed in their videos, was an act of protest, protected by Article 68 of the Constitution, which establishes the right to manifest, and Article 112, which protects the right to economic freedom.

2.4. Fighting corruption without due process guarantees.

Corruption in Venezuela has gigantic dimensions, so it has been catalogued as a phenomenon of "grand corruption," and the Judiciary does not escape from it. So, recently, the Venezuelan State,

144 Account in X of Tarek William Saab, June 16, 2023. Available at: <https://twitter.com/TarekWilliamSaab/status/1669896607289032708>.

145 AJ. *The right to protest in question in the case of the detained peasants, June 29, 2023*. Available at: <https://accesoaljusticia.org/derecho-protesta-entredicho-caso-campesinos-detenidos/>.

primarily for electoral purposes, has undertaken an anti-corruption campaign that began with the reform of the Law against Corruption.¹⁴⁶

However, it has been alarmingly observed that in the investigations and judicial processes undertaken, the guarantees of presumption of innocence, presentation of the accused without delay before the judicial authority have not been observed, and there have been convictions without prior trial.

One of the first campaigns began in mid-March 2023, following the revelation of a scandalous scheme to embezzle funds from Petr6leos de Venezuela (PDVSA), which led to the arrest of 25 people, including 14 officials from the Executive, Legislative and Judicial branches, and from PDVSA itself. One of the dismantled schemes operated between PDVSA and the National Superintendence of Crypto-assets (Sunacrip). This network allegedly traded crude oil extracted by the state-owned oil company through cryptocurrencies. Still, such operations were not registered and the funds obtained were not deposited in the company's accounts. Thus, a group of officials, with the help of some businessmen, appropriated the money received from the sale of oil.

Saab announced that the detainees were charged with the crimes of appropriation or distraction of public assets (sic), boasting (sic) valuing relationships or influence, money laundering and association (sic) [...] (and) all public officials linked to this plot will be added [...] the crime of treason, because they are traitors.¹⁴⁷

It is worrisome that crimes unrelated to the facts under investigation are being charged, as well as the considerable violations of due process, evident in the unjustified delay in presenting the detainees before the judicial authorities, the presumption of innocence ignored by declarations of high officials of the public powers, and the absolute obscurity with which the officials of the Public Ministry acted. Tarek Saab revealed the identity of the detainees a week after the wave of arrests took place without having informed the place of detention.¹⁴⁸

The same occurred concerning the detainees of the following announced corruption scheme related to the CVG. The latter demonstrates the inability of the criminal justice's institutions to operate under the procedural rules established in the Constitution and the Law.

As a result of this governmental anti-corruption campaign, the NA approved the Organic Law of Extinction of Ownership,¹⁴⁹ which responds to the recovering assets derived from corruption. However, this law contains provisions contrary to international human rights standards. First, it violates the

146 AJ. *The Anti-Corruption Act and its reform*, June 22, 2022. Available at: <https://accesoalajusticia.org/la-ley-contra-la-corrupcion-y-su-reforma/>.

147 YouTube channel of Tarek William Saab, video dated March 28, 2023. Available at: <https://www.youtube.com/watch?v=qLyhjk-3tg>.

148 AJ. *Does the end justify the means? Five worrying signs of the new state campaign against corruption in Venezuela*, April 4, 2023. Available at: <https://accesoalajusticia.org/fin-justifica-medios-cinco-senales-preocupantes-nueva-campana-estatal-contra-corrupcion-venezuela/>.

149 AJ. *Ley Orgánica de Extinción de Dominio*, May 3, 2023. Available at: <https://accesoalajusticia.org/ley-organica-de-extincion-de-dominio/>.

principle of non-retroactivity since it provides that it will apply to anti-corruption processes before the publication of the law. In addition, it does not establish proper guarantees to recover the confiscated and executed assets of those found innocent. Finally, given the absence of judicial independence and Rule of Law, such a law may be more of a political tool to attack, persecute, and threaten any person with appropriation of his or her assets, whether obtained legally or not.¹⁵⁰ This possible deviation from the purpose of the law can be derived, among other factors, from the incorporation of the figure of mandatory disclosure of public officials, according to which they must report assets allegedly derived from crimes at the risk of being administratively and criminally sanctioned, which opens the door to unfounded accusations.

In perspective, the law seeks to legalize the questioned figure of the "cooperating patriots," sympathizers of the governing party dedicated to reveal information, with or without basis, of opponents or dissents of the Government, clearly violating their rights to privacy and reputation.¹⁵¹ But the law does not stop there, because according to article 24, these informants could receive for their collaboration a retribution equivalent to a percentage of the proceeds obtained by the State from the liquidation of such assets, or of the commercial value of such assets, depending on the collaboration. The judge will determine the percentage in the ruling, ex officio, or at the request of the Public Prosecutor's Office."¹⁵²

In addition, given the obscurity of the judicial and public management in general,¹⁵³ there is no way of verifying whether the guarantees and rights of those involved are observed in the investigations and trials that are carried out and whether the assets that pass into the hands of the State will really be used for the benefit of the collective as outlined by Law.

2.5. Progress and setbacks in gender equality and the prohibition of discrimination based on sexual orientation.

Lukewarm advances marked the 2023 year for the equality of people based on their sexual orientation, which was then overshadowed by judicial measures equivalent to "moral police" operations that may have been intended to generate headlines that would serve as a wink to conservative sectors that have been in the electoral base of Chavismo for years.

Concerning gender equality, specifically in the area of violence against women, Acceso a la Justicia was able to verify that the criminal justice system, far from preventing violence, lacks concrete guarantees of access to justice, which results in situations of re-victimization for women victims.

150 AJ. *Five reasons to be concerned about the Extinction of Ownership Bill promoted by the government in Venezuela*, April 18, 2023. Available at: <https://accesoalajusticia.org/cinco-razones-preocuparse-proyecto-ley-extincion-dominio-impulsado-oficialismo-venezuela/>.

151 Idem.

152 AJ. *Ley de Extinción de Dominio*, May 3, 2023. Available at: <https://accesoalajusticia.org/ley-organica-de-extincion-de-dominio/>.

153 Idem.

2.5.1. Decriminalization of homosexuality in the military sector: a lukewarm progress.

The Constitutional Chamber of the Supreme Court of Justice (Ruling no. 128 of 03/26/2023), accepting the recommendations of the OHCHR, declared the partial nullity of article 565 of the Organic Code of Military Justice (COJM), which prohibits homosexuality in the military sphere.

The rule in question provides:

The officer who commits acts that affront him or demean his dignity or who permits such acts without attempting to prevent them by the means authorized by Law shall be punished with imprisonment of one to three years and dismissal from the Armed Forces. **The same penalty shall apply to any member of the military who commits unnatural sexual acts.** (Emphasis added).

The Constitutional Chamber argued that the rule could violate, in some cases, the principles of proscription of analogy *in malam partem*, legal reserve, progressivity of human rights, responsibility for external conduct, culpability, equality, exclusive protection of legal assets, harmfulness, plausible expectation, legitimate trust, presumption of innocence, *in dubio pro reo*, favorability, usefulness of criminal intervention, rationality, subsidiarity and fragmentary nature of criminal intervention, dignity, freedom, defense, legal security and due process, among others.

There was no mention of the prohibition of discrimination on the grounds of sexual orientation or the right to free development of personality protected by articles 21 and 20 of the Constitution, respectively. On the contrary, the ruling was based on formal grounds, insofar as the reasons for annulling the last paragraph of Article 565 of the COJM are its lack of use and imprecision, which does not expressly and clearly state that same-sex relationships are not punishable or unlawful.

The Ombudsman's Office filed the appeal for annulment, omitting to join it to a previous appeal filed by the NGO Equal Venezuela. Thus, the Chamber only referred to the arguments of the Ombudsman's Office and not to those of Equal Venezuela, which were more substantial in interpreting constitutional norms and principles.

However, it should be noted that there are still in force regulations that can be interpreted in a similar way to the annulled one, as is the case of Article 37 of the Military Discipline Law, which states in its numeral 78 "offending morals and good customs using words, gestures or acts" as a gross offense. In addition, Article 565 itself, annulled in its last paragraph but not in its entirety, states:

Any officer who commits acts that affront him or demean his dignity or who permits such acts without attempting to prevent them by the means authorized by law, shall be punished by imprisonment for one to three years and dismissal from the Armed Forces.¹⁵⁴

154 Aj. *Venezuela takes a step forward by decriminalizing homosexuality, but there is still a long way to go on equality*, March 23, 2023. Available at: <https://accesoalajusticia.org/venezuela-da-paso-adelante-despenalizar-homosexualidad-pero-queda-largo-camino-recorrer-materia-igualdad/>.

Given the prevailing gender stereotypes in Venezuelan society, which are much more pronounced in the military institution, the ruling of the Chamber, unfortunately, did not address the underlying problem and left alive the possibility of irregular application of the aforementioned precepts.

The decision marks a step forward in the protection of the rights of gay people in Venezuela. However, much remains to be done to protect the rights of the LGBTIQ+ community. Venezuela has not regulated unions between same-sex couples, nor has it guaranteed the rights of trans persons to fully enjoy the legal protection of their gender identity, as established by the Inter-American Court of Human Rights (IACHR) in its Advisory Opinion No. 24.¹⁵⁵

2.5.2. The case of the 33 men deprived of their liberty in Valencia: homophobia and criminalization of LGBTIQ+ people.

On July 23, 2023, following an alleged anonymous complaint, a group of agents of the Bolivarian National Police (PNB) showed up without a search warrant at a sauna in the city of Valencia, where they arrested 33 men from the LGBTIQ+ community, including the owner and two workers of the local. The security forces justified the measure by alleging that the detainees were participating in an orgy and that they were going to record it to sell the video, all this without a court order.

To justify their accusations, the PNB exposed images of the detainees, as well as of what was seized from them (condoms, cell phones, and the identity cards of the apprehended), thus violating the Organic Code of Criminal Procedure (COPP), which in its article 286 enshrines the confidentiality of an investigation to third parties and expressly mentions in the second paragraph *in fine* the commitment of the acting officers to keep such secrecy.

In the afternoon of July 26, that is to say, beyond the 48-hour established by the Constitution and the COPP, the detainees were presented before Judge 5 of Control of Valencia, Marialba Villareal, who, against all logic, accepted the charges presented by the MP for conspiracy, indecent assault and sonic pollution. She then placed 30 men under the presentation regime and demanded bail for the remaining 3 (the owner and two workers of the premises).¹⁵⁶

The accused did not break any law, so their detention was arbitrary and represents a violation of the principle of criminal legality enshrined in numeral 6 of Article 49 of the Constitution, which states that no person shall be punished for acts or omissions that were not foreseen as crimes, misdemeanors or infractions in pre-existing laws. At least, this is the conclusion reached when contrasting the facts with the crimes that were pointed out to them.

155 IACHR Court. *Gender identity, and equality and non-discrimination to same-sex couples*, advisory opinion 24/17, November 24, 2017. Available at: https://www.corteidh.or.cr/docs/opiniones/seriea_24_esp.pdf.

156 AJ. *Important arbitrariness in the case of the 33 men from the LGBTIQ+ community detained in Valencia*, August 3, 2023. Available at: <https://accesoalajusticia.org/importantes-arbitrariedades-caso-33-hombres-comunidad-lgbtqi-detenido-valencia/>.

The crime of indecent assault is provided for in Article 382 of the Criminal Code, it establishes the following:

Any individual who (...) has outraged modesty or good morals by acts committed in a public place or exposed to public view shall be punished with imprisonment of three to fifteen months. Whoever repeatedly or for profit and to satisfy the passions of another, induces, facilitates or favors the prostitution or corruption of any person, shall be punished with imprisonment from one to six years. If this offense is committed on a minor, the penalty shall be applied between the medium term and the maximum.

Thus, one of the requirements for indecent assault is that it must have been committed in public. However, the 33 detainees were inside an enclosed location. Another assumption that seems not to have been fulfilled is the one related to the promotion of prostitution because there is no evidence that anyone was recording what happened and intended to profit from it.

Regarding conspiracy, Article 287 of the same Code states that this occurs "when two or more persons associate for the purpose of committing crimes, each shall be punished, for the sole fact of the association, with imprisonment of two to five years."

Concerning noise pollution, it is provided for in Article 110 of the Environmental Criminal Law and punishes the generation of noises that, due to their intensity, frequency or duration, are capable of causing damage or disturbing other people. However, to determine whether some noises is pollution, it would have to be measured with a sound level meter, which did not occur. Finally, the regulation indicates that the responsible parties would be the owners of the locations where the noises are produced and not the people who could be found there.

In short, since no crime has been committed according to the Law, the punishable act of association to commit a crime has not been established.

Another worrisome element was the dissemination of information that one of the detainees was a carrier of the Acquired Immunodeficiency Virus (HIV). It is a clear violation of the provisions of the Law for the Promotion and Protection of the Right to Equality of Persons with HIV or AIDS and their Families (published in Official Gazette No. 40,571 of December 30, 2014), which does not allow the disclosure of the identity of the person who may eventually have such condition (Article 9).

The ultimate purpose of these actions by the PNB, in collusion with the MP, was to subject these people to public scorn, which is aggravated in a context such as Venezuela, where violence based on sexual orientation, gender identity, and gender expression is of concern, as in 2022, 97 cases of physical violence, hate speech and discrimination against LGBTIQ+ persons were registered, of which "about 21% would be attributed to state agents and 13% to other influential persons", according to data from OHCHR.¹⁵⁷

157 Aj. Venezuela takes a step forward by decriminalizing homosexuality, but there is still a long way to go on equality, March 23, 2023. Available at: <https://accesoalajusticia.org/venezuela-da-paso-adelante-despenalizar-homosexualidad-pero-queda-largo-camino-recor-rer-materia-igualdad/>.

CHAPTER III

MANAGEMENT OF THE JUSTICE SYSTEM

3.1. Unaccountable and more politicized serving of justice: memory and account of the TSJ

On January 31, 2024, the act of memory and account of the Supreme Court of Justice (TSJ) was held.¹⁵⁸ On this occasion, the annual report was not published either, as has been the custom since 2012. This is aggravated by the fact that less information on management is provided orally in this act every year. It is no longer a rendering of accounts, as required by Article 25 of the Law of the Justice System and Article 26 of the Constitution, but a formal act with political statements.¹⁵⁹

The recently elected president of the TSJ, Magistrate Carysilia Beatriz Rodríguez, offered minimal data on the judicial management for the year 2023. According to her, the data shows an “increase in the indexes of judicial productivity” of the highest court. In total, the Magistrate provided only 11 statistical figures.

First, it reported that in 2023, the highest court received 3,800 cases, but issued “5,971 rulings, which represented an increase of 50.97%, leaving an overall resolution rate of 154.40%”. However, not only did it not specify how many cases it received nor how many were decided by each of the chambers of the Court, but it also did not report how many cases from previous years were still pending, nor did it specify whether they were substantive, incidental or merely procedural rulings.¹⁶⁰ The following infographic illustrates what this data means:

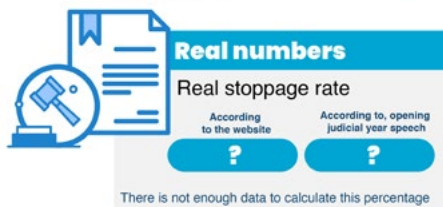
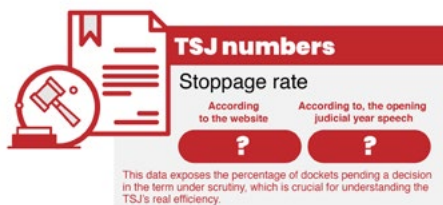
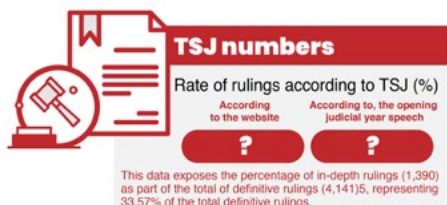
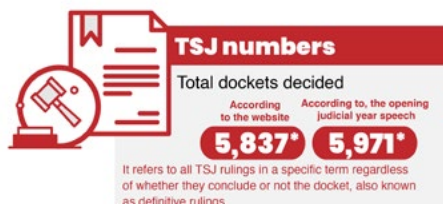
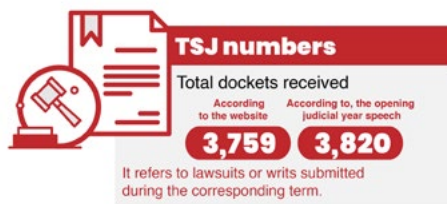
158 Video of the opening of the judicial year 2024. YouTube, Nicolás Maduro channel. Available at: https://www.youtube.com/watch?v=XaF4g_HPZYM.

159 AJ. *TSJ officially started its activities in 2024 with almost no numbers and many political slogans*, February 6, 2024. Available at: <https://accesoalajusticia.org/el-tsj-inicio-oficialmente-sus-actividades-en-2024-sin-casi-cifras-y-con-muchas-consignas-politicas/>.

160 Supreme Injustice. *TSJ assures that in 2023 it resolved more cases than it received*, February 6, 2024. Available at: <https://supremainjusticia.org/el-tsj-asegura-que-en-2023-resolvio-mas-casos-de-los-que-recibio/>.

SUPREME COURT OF JUSTICE: EFFICIENCY IN NUMBERS

JANUARY THROUGH DECEMBER 2023



* While reviewing the rulings in the term under scrutiny filed under the Decisions section of the TSJ website, 5,830 were found in contrast with the 5,837 mentioned in the Completed Dockets filed under the Judicial Management Statistics, and the 5,971 referred in the opening of judicial year speech. In any case, only 5,725 counts with full-text ruling while the rest only count with their final provision.

** The 4,141 definitive rules are based on scrutinizing the 5,725 published decisions, the full text of which can be read.

*** A percentage surpassing 100% suggests high efficiency in solving most of the dockets received. However, for a proper assessment of the productiveness, it is crucial to consider the pending cases from prior years

Legend: TSJ: Supreme Court of Justice

Sources: <http://www.tsj.gob.ve/documents/10184/772581/Palabras+de+Apertura+Magistrada+Dra.+Caryllia+Beatriz+Rodr%C3%ADguez+Rodr%C3%A9guez/ee999208-12c3-4d3a-9722-526af1ad23d6>
www.tsj.gob.ve/es/estadisticas-de-gestion-judicial

As can be seen in the above graphic, there are discrepancies between the figures provided by the President of the TSJ and those reflected on the website. Rodriguez first stated that 5,971 rulings were issued, while the website reports 134 fewer rulings. Secondly, of the total number of rulings, only 5,725 have the full text published. Finally, the account of Judge Rodriguez includes all types of decisions taken in a file, including mere procedural orders, not only the rulings that close the file in the TSJ, which are 4,141, only 72.33% of the total.

Concerning the courts of first instance, the Magistrate announced that 453,988 decisions were issued and 219,887 hearings were held, which meant an increase of 41.44%. There are doubts concerning the percentage increase. Last year, the former President of the TSJ, Gladys Gutiérrez, assured that in 2022 the judges issued 423,242 sentences, so the variation would be only 7.26%. It makes us suppose that Rodriguez was referring to the number of hearings, but her predecessor did not offer figures for this, so this information cannot be contrasted.¹⁶¹ It was not specified to which courts or group of courts, either by subject matter, amount, or territory, these figures correspond to.

It shows that obscurity is a chronic problem in Venezuela's justice system. In addition, access to the dockets, which is a guarantee for the parties, is frequently undermined, despite the reforms of Articles 122 and 124 of the Organic Code of Criminal Procedure (COPP),¹⁶² so that the publicity of rulings and judicial acts ends up being a dead letter to a large extent, especially at the level of the courts. In the case of the TSJ, as a jurisdictional body, there is less opacity. Still, it has become an abusive practice the omission to publish the text of its sentences, limiting itself to the announcement of the decision by a communiqué or reflecting the data of the sentence and the case file, together with the device that is incorporated in a sort of summary. It is to the detriment of the right of the parties to know the reasons for the decision and to exercise judicial remedies when appropriate.

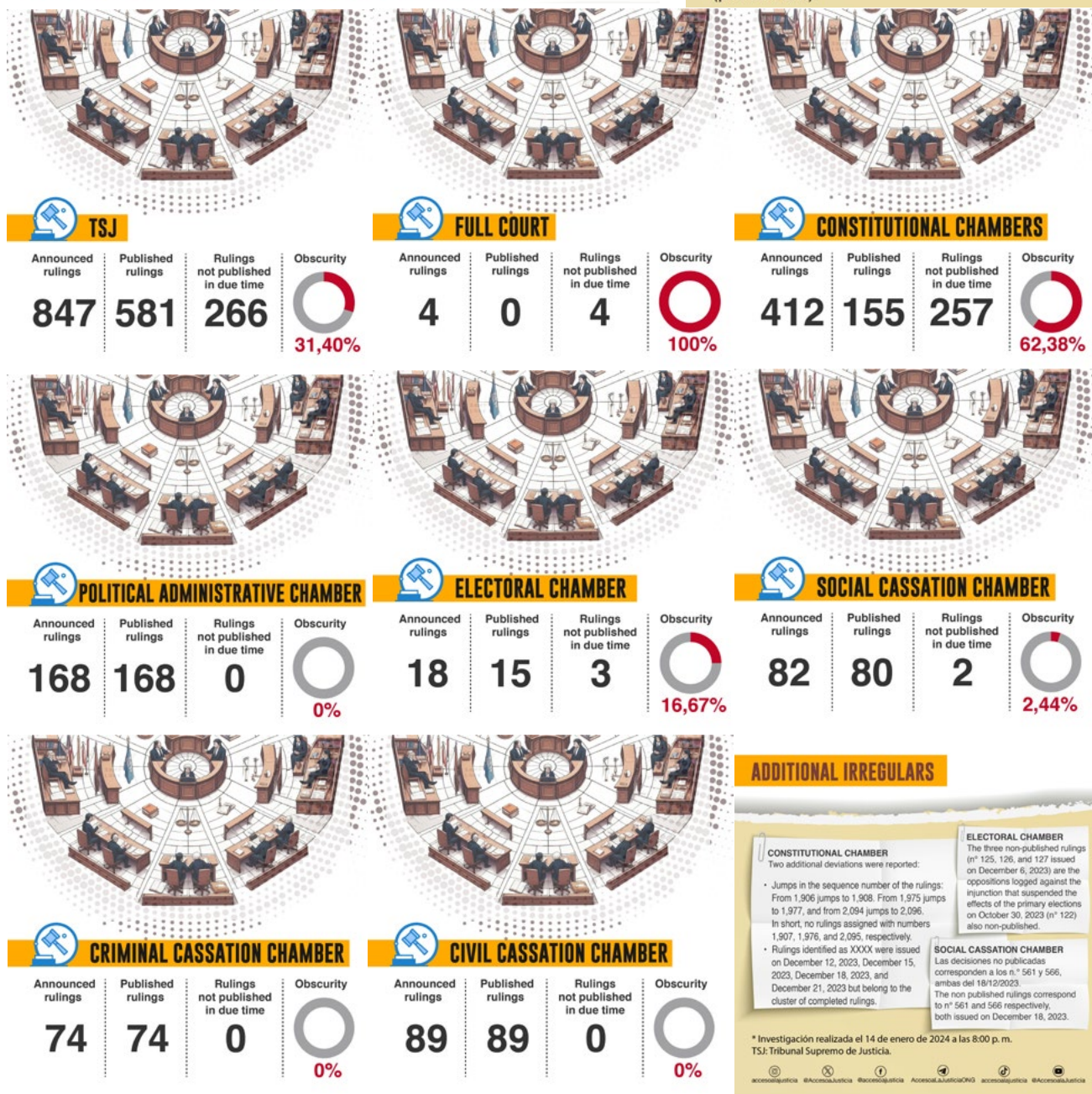
An illustrative example of this practice is Ruling No. 122 of the Electoral Chamber, dated October 30, 2023, which suspended the effects of the primary elections held in October 2023 to elect the candidate that would represent the opposition in the upcoming presidential elections to be held in July 2024, as of the date of preparation of this report, remains unpublished. Another example occurred in December 2023, when the TSJ incurred in a higher rate of obscurity than usual in terms of the percentage of sentences published vs. those announced, which reached 31.4%. This can be seen in the following graphic:

161 AJ. *TSJ, unaccountable for its 2022 management and with ethereal promises for 2023*, February 16, 2023. Available at: <https://accesoalajusticia.org/tsj-sin-rendir-cuentas-detalladas-sobre-gestion-2022-promesas-etereas-2023/>.

162 AJ. *Status and analysis of the legislative reforms carried out by the Government of Venezuela linked to the justice system*, p. 8, June 6, 2022. Available at: <https://accesoalajusticia.org/wp-content/uploads/securepdfs/2022/06/Status-and-analysis-of-the-legislative-reforms-carried-out-by-the-Venezuelan-government-re.pdf>.

THE OBSCURITY IN THE TSJ DURING DECEMBER 2023

In December 2023, the TSJ fell into more profound obscurity concerning the rulings published without access to their full texts (announced) in contrast to the rulings published with access to their full texts (published.) *



Regarding judicial independence, it should be noted that the Judicial Commission appointed 773 judges in 2023, which meant an increase of 18% in new appointments in contrast with 2022.¹⁶³ Rodríguez reported that the General Inspectorate of Courts had carried out 345,074 inspections, processed 2,449 complaints, opened 1,003 procedures and 181 conclusive acts were issued against judges. It should be noted that the Magistrate did not indicate the headcount of judges in the country, nor how many were removed, making it impossible to determine whether the new appointments really imply an increase in the headcount of judges.¹⁶⁴ Thus, the exact number of provisional and tenured judges is unknown.

This lack of transparency should alarm everyone equally because it not only prevents an independent evaluation of the performance of this branch of the Public Power, with which it would be possible to detect weaknesses and make suggestions to correct them, but also opens the doors to corruption. Such a situation has extended to the very composition of the TSJ, since, for the day of the judicial opening, the case of the Vice-President Magistrate of the Political Administrative Chamber, Barbara Cesar Siero,¹⁶⁵ was unknown, after the arrest of the alleged brothers of the member of the Political Administrative Chamber, Guillermo Enrique and Guillermo Henry Cesar Siero, for their alleged participation in a conspiracy against the Government. As from this revelation, versions began to circulate indicating that the Magistrate had requested a leave of absence, her retirement, and even that she had resigned from her position.¹⁶⁶ As of the date of submission of this report, it transpired that Judge César had finally been replaced on March 13, 2024,¹⁶⁷ by Emilio Ramos González, the second judge on the list of substitutes, in violation of Article 48 of the Organic Law of the Supreme Court of Justice.¹⁶⁸ The highest court never informed the reason for the absolute absence of Judge César.¹⁶⁹

The politicization of the act was evident from the beginning, since at the moment of interpreting the national anthem, a recording of late President Hugo Chávez singing the *Gloria al bravo pueblo* was played. However, the most political intervention was offered by the speaker of order, Magistrate Luis Damiani Bustillos (Constitutional Chamber), who among other things declared that “with the Constitu-

163 Supreme Injustice, *TSJ assures that in 2023 it resolved more cases than it received*, February 5, 2024. Available at: <https://supremainjusticia.org/el-tsj-asegura-que-en-2023-resolvio-mas-casos-de-los-que-recibio/>.

164 AJ, *TSJ officially started its activities in 2024 with almost no numbers and many political slogans*, February 6, 2024. Available at: <https://accesoalajusticia.org/el-tsj-inicio-oficialmente-sus-actividades-en-2024-sin-casi-cifras-y-con-muchas-consignas-politicas/>.

165 Tal Cual, *Who are the César Siero brothers, ex-military officers accused of conspiracy?*, January 25, 2024. Available at: <https://talcualdigital.com/quienes-son-los-hermanos-cesar-siero-exmilitares-acusados-de-conspirar/>.

166 AJ, *TSJ officially started its activities in 2024 with almost no numbers and many political slogans*, February 6, 2024. Available at: <https://accesoalajusticia.org/el-tsj-inicio-oficialmente-sus-actividades-en-2024-sin-casi-cifras-y-con-muchas-consignas-politicas/>.

167 Tal Cual, *TSJ replaces magistrate César Siero due to relationship with those involved in Brazalete Blanco*, March 3, 2024. Available at: <https://talcualdigital.com/hidalgo-pandares-asume-la-vicepresidencia-de-la-sala-politico-administrativa-del-tsj/>.

168 Supreme Injustice, *Barbara César Siero is no longer a magistrate: The TSJ clears a mystery that lasted 3 months*, April 8, 2024. Available at: <https://supremainjusticia.org/barbara-cesar-siero-ya-no-es-magistrada-el-tsj-despeja-un-misterio-que-duro-3-meses/>.

169 Idem.

tion and the Bolivarian political project, the political process that was turning the Venezuelan State into a hostage State, reduced to the will of mighty transnational and national political groups, is closed.”¹⁷⁰

He also stated that:

The Chavista project [which] has always been sustained with the broad support and legitimacy of the popular votes, and, on the other side, there is the opposition bloc led by the transnational ruling class, dominated by the military and diplomatic apparatuses of the US and Europe. This historical bloc is represented by the opposition political parties, the bosses’ unions, the CTV, the media, the PDVSA technocracy, professors, researchers and student leaders of the UCAB and IESA and other private universities, by the Cedice Group, Santa Lucia, Roraima, by the high clergy of the Episcopal Conference, the Opus Dei, by military groups of high ranks trained in the schools of the Americas, by families and plutocratic leaders with important presence in the business world, academies, NGOs, academies: the godarria.¹⁷¹

It is common for the President of the Republic to give a speech at the opening of the judicial year. On this occasion, Nicolás Maduro gave instructions on tasks to be undertaken by the Judicial Branch outside its constitutional competencies. The President ordered the judicial officers

to get out of the offices, out of the air conditioning and (...) to listen to the people in the squares, in the communities, in the communal councils (...) so that Venezuela may have a Judicial Power more adapted to the new times, more powerful and fairer.¹⁷²

He then requested the TSJ and the National Assembly (AN) to implement a joint plan to install and elect justices of the peace with the direct vote of the citizens. Likewise, he advocated for “advancing in the modernization of the justice system, in technology, in connectivity to overcome the obstacles and problems that may exist and that today delay the serving of justice.”¹⁷³

Finally, Maduro urged the parliamentarians to analyze the possibility of creating a special jurisdiction for large investments, reform the Civil Code and the Code of Civil Procedure and leave behind “the old written system.”¹⁷⁴

170 AJ. *TSJ officially started its activities in 2024 with almost no numbers and many political slogans*, February 6, 2024. Available at: <https://accesoalajusticia.org/el-tsj-inicio-oficialmente-sus-actividades-en-2024-sin-casi-cifras-y-con-muchas-consignas-politicas/>.

171 Idem.

172 Idem.

173 Idem.

174 Supreme Injustice. *Maduro’s 5 proposals to the TSJ to build a “more powerful and fairer” Judiciary*, February 6, 2024. Available at: <https://supremainjusticia.org/las-5-propuestas-de-maduro-al-tsj-para-construir-un-poder-judicial-mas-poderoso-y-justo/>.

January 31 marked the opening of the judicial year, but not for the Political Administrative and Electoral Chambers, which by that date had not yet been working.¹⁷⁵

3.2. The houses of justice again resurrected from the shadows.

The Criminal Justice Houses project, as it was originally called, was one of the points included in the Gran Misión a Toda Vida Venezuela. It was a plan launched in July 2012 by the late Hugo Chávez, after more than a dozen failed anti-crime plans. He presented it as the first comprehensive state policy on citizen security in decades. Unfortunately, a decade later, it is unknown the number of Houses of Justice operating throughout the country.¹⁷⁶

During the fifth review of Venezuela before the Committee of the International Covenant on Civil and Political Rights of the United Nations, official spokespersons made mention of the Houses of Justice as one of the measures of progress to prevent crime, in line with the announcement made in the same context on August 24, 2023 by the former President of the TSJ, Gladys Gutiérrez, while leaving a meeting held with authorities of the Public Ministry (MP), the Public Defense and the Ministry of Interior, Justice and Peace¹⁷⁷ in the following terms: "The most novel thing is that the Justice and Peace Houses type I will be followed by those of type II and III."¹⁷⁸

The official explained that Houses type I care those "where the communities activate alternative conflict resolution mechanisms (mediation and conciliation), and in this way, the problems do not escalate (or degenerate) into crimes that require the entire justice system to be activated."¹⁷⁹ On the other hand, Houses type II and III will be authorized to hear crimes and will be able to hold hearings to combat procedural delays, Gutiérrez added.

A striking fact is that the instructions on the operation of such houses were also signed in the act announcing the re-birth of the project. However, the documents have not been published, so it remains an enigma of how the Houses operate, how they are formed, how many there are, where they are and how judicial independence is guaranteed.

It cannot be forgotten that the so-called communal peace justice, which should also participate in the initiative, is paralyzed and was temporarily attributed to the TSJ by the third transitory pro-

175 Suprema Injustice, *For two TSJ Chambers the year 2024 has not yet begun*, February 23, 2024. Available at: <https://supremainjusticia.org/para-dos-salas-del-tsj-el-ano-2024-todavia-no-ha-comenzado/>. However, on January 26, in an "authorized" manner, the Political Administrative Chamber issued 9 decisions related to political disqualifications, including the ratification of the disqualification of María Corina Machado, the candidate elected in the primaries by the opposition.

176 AJ, *Venezuelan authorities resurrect the Houses of Justice and Peace with new versions*, October 17, 2023. Available at: <https://accesoalajusticia.org/autoridades-venezolanas-resucitan-casas-justicia-paz-nuevas-versiones/>.

177 Account in X of Daniel Ramírez Herrera, August 25, 2023. Véase: <https://twitter.com/drdanielrh/status/1695121170708774978>.

178 AJ, *Venezuelan authorities resurrect the Houses of Justice and Peace with new versions*, October 17, 2023. Available at: <https://accesoalajusticia.org/autoridades-venezolanas-resucitan-casas-justicia-paz-nuevas-versiones/>.

179 Idem.

vision of the Organic Law of the Special Jurisdiction of Communal Peace for a period of no more than 2 years, however 11 years have already passed and continues in a total stalemate. It reveals that this was a measure to remove a constitutional competence from the municipalities, as has been happening with the progressive implementation of the Popular Power or Communal State, which has promoted more centralization, and social control from the Government party. It violates, among others, the provisions of Article 178, numeral 7 of the Constitution, which assigns justice of the peace to the municipalities.

CHAPTER IV

Access to Justice Publications in 2023

4.1. Investigations

4.1.1. *What is FATF and what is it for (July 2023)?*



This research examines the Financial Action Task Force (FATF) regulatory and institutional framework and its impact on the regulation and operation of non-profit organizations (NPOs). The following questions are raised: What is the FATF, and what is its background, its organizational structure, current regulations, mutual evaluations, and the evaluation of compliance with the so-called FATF Recommendation No. 8 (R.8).

The FATF is an international organization made up of the world's States dedicated to the fight against money laundering and the financing of terrorism; as such, it is responsible for monitoring international and national financial systems.

The FATF's competencies seem, in principle, very distant from the activity of non-governmental organizations (NGOs), particularly in the field of human rights. Still, the truth is that its regulatory and monitoring competencies have a vast influence on them and have been fundamental in countries where their misuse has led to limitations on freedom of association, especially the restriction and even the cancellation of NPOs. The FATF adopts recommendations that ensure that national measures to prevent and combat money laundering and terrorist financing are diverted for the purpose of affecting the operation of NPOs that are uncomfortable for governments.

Understanding the FATF is necessary for NPOs. It is essential to understand that its existence is not by chance and that it has a specific mission unrelated to the repression of the independent voices of organized civil society. This mandate requires the involvement of these groups to establish advocacy strategies in favor of the beneficiaries of their activities, that is, the *raison d'être* of NPOs.¹⁸⁰

4.1.2. Results of the FATF evaluation. Is civil society protected in Venezuela (September, 2023)?



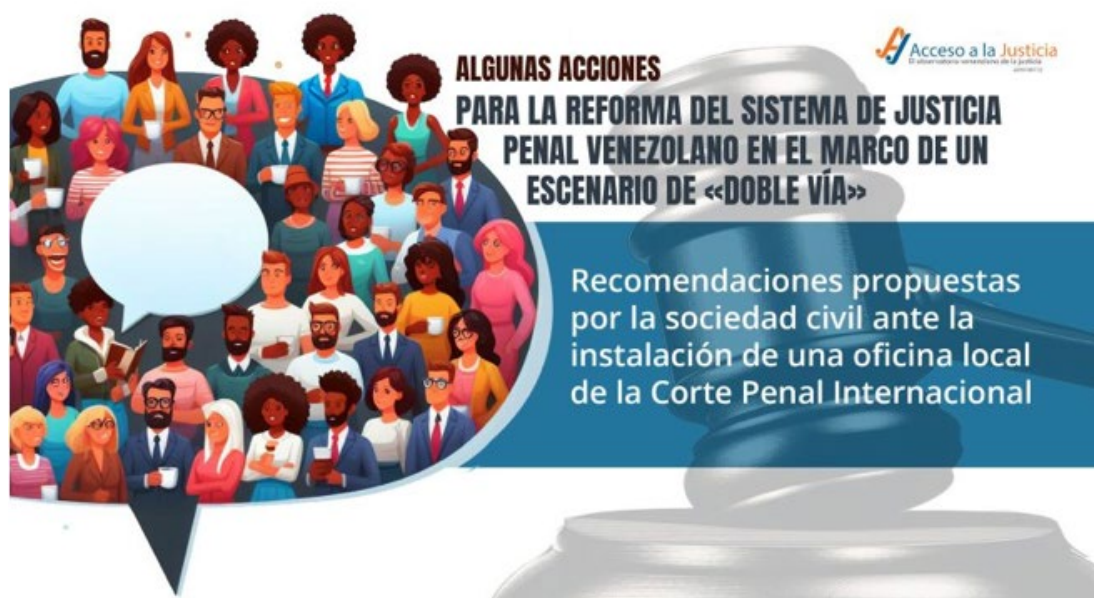
In 2023, the fourth round of mutual evaluations of Venezuela within the FATF framework was concluded. Given the complexity of this process and its significant impact on NPOs, Acceso a la Justicia prepared this report which addresses the following issues: i) analysis of what the mutual evaluations carried out by the FATF are, ii) what and how the countries under investigation are evaluated, and iii) description of the evaluation made to Venezuela, with special reference to NPOs.

FATF regulations have been used in Venezuela to impose sub-legal instruments that limit civic space and infringe on freedom of association. Thus, it was determined that the excessive attention given to the NPO sector and the measures taken by Venezuela in this regard are not compatible with FATF standards, in particular, its R.8. The evaluation team emphasized its disagreement with the high level of risk assigned to NPOs and therefore concluded that the measures implemented are disproportionate and should be reviewed to make them consistent with the proper level of risk for money laundering and terrorist financing.

180 Research available at: <https://accesoalajusticia.org/wp-content/uploads/securepdfs/2023/07/Que-es-el-GAFI-y-para-que-sirve.pdf>. English version available at: <https://accesoalajusticia.org/wp-content/uploads/securepdfs/2023/07/What-is-FATF-and-what-is-it-for.pdf>.

Therefore, it is important to know, analyze, and expose the results of the fourth round of mutual evaluations to Venezuela, as they evidence the intention to use FATF regulations to restrict the action of NPOs in the country.¹⁸¹

4.1.3. Some actions for the reform of the criminal justice system in Venezuela in the framework of a two-track scenario (January, 2024)



The opening of the International Criminal Court (ICC) prosecutor’s investigation into crimes against humanity in Venezuela marks an important milestone in the quest for justice for victims and survivors of State violence in the country. The opening of the investigation, announced by Prosecutor Karim Khan, is accompanied by a Memorandum of Understanding (MOU) between the ICC Office of the Prosecutor and the Bolivarian Republic of Venezuela, focusing on strengthening the national criminal justice system. This “twin-track approach” involves an ICC-led investigation and cooperative efforts with the Venezuelan State.

In this context, it is crucial to define possible scenarios for applying positive complementarity together with the ICC investigation, in order to achieve an effective fight against impunity and build sustainable peace in Venezuela. To this end, Acceso a la Justicia, with the support of 13 organizations and the Justice and Truth Initiative, has elaborated a document containing 75 recommendations, which can serve as a roadmap to improve the Venezuelan criminal justice

181 Research available at: <https://accesoalajusticia.org/wp-content/uploads/securepdfs/2023/09/Resultado-de-la-evaluacion-mutua-del-GAFI-a-Venezuela.pdf>. English version available at: <https://accesoalajusticia.org/wp-content/uploads/securepdfs/2023/09/FATF-Assessment-Results-Is-the-civil-society-protected-in-Venezuela.pdf>.

system. These concrete actions could be implemented in the framework of installing the ICC Office of the Prosecutor in Venezuela.

The recommendations presented are intended to be taken as performance indicators to evaluate the genuine willingness to change the criminal justice system to address recent human rights violations and prevent future occurrences. This working paper can be a reference for other proposals or give rise to initiating of a dialogue between different social sectors or even with the State to promote changes that tend to the reinstitutionalization of justice.¹⁸²

4.2. Reports

4.2.1. *Regulatory encirclement against freedom of association in Venezuela (December 2022)*



This report analyzes Venezuela's constitutional and legal framework of freedom of association. It examines, in particular, the compatibility of this regulatory framework with international standards protecting freedom of association.

It is concluded that some constitutional provisions restricting freedom of association are incompatible with international human rights law. In particular, the prohibition of the association of judges is contrary to the International Covenant on Civil and Political Rights and the American Convention on Human Rights, which prevents the realization of guarantees for maintaining of judicial independence. Likewise, the power of intervention of the National Electoral Council (CNE) and the Electoral Chamber of the Supreme Court of Justice in the elec-

182 Research available at: <https://accesoaljusticia.org/wp-content/uploads/securepdfs/2024/01/ALGUNAS-ACCIONES-PARA-LA-REFORMA-DEL-SISTEMA-DE-JUSTICIA-PENAL-VENEZOLANO.pdf>. English version available at: <https://accesoaljusticia.org/wp-content/uploads/securepdfs/2024/01/SOME-ACTIONS-FOR-THE-REFORM-OF-THE-VENEZUELAN-CRIMINAL-JUSTICE-SYSTEM.pdf>.

tions of unions, political parties, and other civil society organizations violates the autonomy of these entities.

The legislation imposes tax burdens and funding prohibitions on civil and political rights organizations incompatible with international standards on freedom of association.

In money laundering and terrorist financing, there are no adequate limitations on the discretionary power to regulate non-profit civil society organizations, which detracts the principle of legal reserve. The aforementioned regulations do not include the FATF limitations.¹⁸³

4.2.2. *Shadow report to the Committee on the Elimination of Violence against Women (May 2023)*



Acceso a la Justicia, together with the Venezuelan Prison Observatory (OVP), participated in the ninth review of the periodic report of the Bolivarian Republic of Venezuela (RBV) under the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

The report provided comments on the list of issues raised by the Committee and the RBV's responses. Thirty recommendations were made on access to justice and legal complaints mechanisms available to women, gender-based violence against women, and the situation of women deprived of their liberty, many of which were welcomed by the CEDAW Committee.¹⁸⁴

183 Report available at: <https://accesoalajusticia.org/wp-content/uploads/securepdfs/2022/12/Cerco-normativo-a-la-libertad-de-asociacion-en-Venezuela.pdf>. English version available at: <https://accesoalajusticia.org/wp-content/uploads/securepdfs/2022/12/Regulatory-siege-on-freedom-of-association-in-Venezuela.pdf>.

184 Report available at: <https://accesoalajusticia.org/wp-content/uploads/securepdfs/2023/05/Informe-sombra-al-Comite-para-la-Eliminacion-de-la-Discriminacion-contra-la-Mujer-AAJ-abril-2023.pdf>. English version available at: <https://accesoalajusticia.org/wp-content/uploads/securepdfs/2023/05/Shadow-report-to-the-Committee-on-the-Elimination-of-Discrimination-against-Women-AAJ-april-2023.pdf>.

4.2.3. *Alternative Report to the Human Rights Committee (October 2023)*



INFORME ALTERNATIVO COMITÉ DE DERECHOS HUMANOS DE NACIONES UNIDAS PACTO INTERNACIONAL DE DERECHOS CIVILES Y POLÍTICOS

SESIÓN 139

Quinta revisión de la implementación del Pacto
por la República Bolivariana de Venezuela

Elaborado por la organización de Sociedad Civil

Acceso a la Justicia
El observatorio venezolano de la justicia

Acceso a la Justicia prepared an alternative report on Venezuela's compliance with the International Covenant on Civil and Political Rights (ICCPR) in the context of reviewing Venezuela's fifth periodic report to the Human Rights Committee. The report focuses on the rights to judicial independence and due process protected by Article 14 of the ICCPR and the commitment to implement domestically the rights protected by the ICCPR (Article 2), as well as the connection of the serving of justice with other protected rights (Articles 7, 9, 25 and 26 of the ICCPR), and included 29 recommendations addressed to the Committee, which accepted some of them.

The report is divided into six chapters: "Implementation of the Covenant by Judges, Prosecutors, and Other Justice Officials"; "Independence of the Justice System"; "Access to Justice and Judicial Guarantees"; "Threats and Attacks against Legal Professionals"; "Military Criminal Jurisdiction" and "Access to Justice for Women and Indigenous Peoples." Each chapter presents the concerns and recommendations of Acceso a la Justicia to improve compliance with the ICCPR in Venezuela.¹⁸⁵

185 Report available at: https://accesoalajusticia.org/wp-content/uploads/securepdfs/2023/10/Informe-alternativo-PIDCP_AJ.pdf. English version available at: https://accesoalajusticia.org/wp-content/uploads/securepdfs/2023/10/Alternative-Report-CCPR_AJ.pdf.

4.2.4. *Myths and realities of violence against women in Venezuela: history of another failure of the Judiciary (2018-2022) (December 2023).*



Acceso a la Justicia presents a new report, with the support of the NGO Mulier, which updates its book *Myths and realities of violence against women in Venezuela: history of another failure of the Judiciary (2018-2022)*, where it analyzes the rulings of the Criminal Cassation Chamber and the Constitutional Chamber of the TSJ comprising data from 2021 through 2022.

This paper exposes the reality of access to justice for women in the context of humanitarian emergencies, and the generalized violation of human rights in Venezuela.

The report addresses a quantitative and qualitative analysis of the available decisions, which are limited to the TSJ. It examines the evolution of the number of decisions, the age typology of the victims, the crimes that have been the reason for the trials, and the analysis of the rulings.

Although the TSJ's rulings do not represent the totality of judgments on violence against women in the country, they do provide information on how significant issues are brought and held before the TSJ.

185 Report available at: https://accesoalajusticia.org/wp-content/uploads/securepdfs/2023/10/Informe-alternativo-PIDCP_AJ.pdf. English version available at: https://accesoalajusticia.org/wp-content/uploads/securepdfs/2023/10/Alternative-Report-CCPR_AJ.pdf.

The report shows the predominance of formalist interpretations of violence against women, assuming that those are criminal offenses like some others, and does not take into account elements such as intersectionality, power relations, the social environment of the victim, and the implementation of effective and proper reparation measures. A generalized pattern of procedural delays in judicial cases was also observed.

In short, the report highlights the insufficiency and lack of appropriate implementation of the Organic Law on the Right of Women to a Life Free of Violence (LODMVLV), which privileges the criminal perspective and leaves aside a cross-cutting approach to the problem of gender inequality that prevails in society.¹⁸⁶

4.3. Books

4.3.1. *The Right To Other Rights: Freedom Of Association: Basic Concepts And Its Regulation In Venezuela (October 2023).*



Under the pen of Alí Daniels, co-director of Acceso a la Justicia, the book *The Right To Other Rights: Freedom Of Association: Basic Concepts And Its Regulation In Venezuela* constitutes a basic input for civil society and the human rights movement in the country.

186 Report available at: https://accesoalajusticia.org/wp-content/uploads/securepdfs/2023/11/Informe_Mitos-y-realidades-de-la-violencia-contra-la-mujer-en-Venezuela.pdf. English version available at: https://accesoalajusticia.org/wp-content/uploads/securepdfs/2023/11/Informe_Myths-and-realities-of-violence-against-women-in-Venezuela-story-of-another-failure-of-the-judiciary.pdf.

With spaces for the exercise of freedoms encircled, the need arises to establish the essential elements of human rights in order to place them before limitations, restrictions, and prohibitions that are disguised as legality, but which, in reality, are nothing more than manifestations of the purest arbitrariness.

In the same way, to understand human rights, it is necessary to go beyond an article in the Constitution or an international treaty in order not to fall into a positivism alien to the principles that inspire them and to establish the ultimate causes and essential elements to combat more effectively and with greater forcefulness the arguments that seek to disregard freedoms with fallacies that are nothing more than political slogans without more significant support in the exercise and, above all, in the *raison d'être* of the same.

Thus, because of the numerous attacks that occur daily against freedom of association in Venezuela, it is essential to clarify its basic elements, explain the international standards, and contrast them with the national regulations to determine what are the real limits of public powers and the conditions for the exercise of their powers and how they must serve the rights of citizens, whose protection is, in the end, the ultimate reason for the existence of the State because outside such scope, the State would have no sense.

Studying human rights in times of freedom is a right, but in times of oppression, it is a requirement.¹⁸⁷

187 Book available at: <https://accesoaljusticia.org/wp-content/uploads/securepdfs/2023/10/El-derecho-para-otros-derechos-la-libertad-de-asociacion-v2.pdf>.



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