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A TIGHTER EN-  
CIRCLEMENT OF  
THE CIVIC SPACE  
IN VENEZUELA

ANUAL REPORT  
EXECUTIVE SUMMARY

1. According to the results of the World Justice Project evaluation published in October 2023, Venezuela ranked for the ninth consecutive year the worst in the evaluation of the Rule of Law indicator among the 142 countries that have been examined since 2008 by this organization. It stands out that, in 2023, criminal justice also obtained the last position and the same score (0.12) as in 2021 and 2022. It corroborates that the legal and judicial reforms undertaken by Venezuela at the end of 2021 have not had any real effect that translates into a minimum improvement in the administration of criminal justice.
2. It was confirmed that the Venezuelan State only sought to instrumentalize the criminal reforms and the reactivation of judicial processes in a way that would be useful to its strategy of delaying the process before the International Criminal Court (ICC). First, it availed itself of the prerogative of Article 18 of the Rome Statute to request the Court's prosecutor's inhibition in favor of the Venezuelan justice system. Still, instead of taking the necessary steps for this to proceed, consisting of seriously investigating the facts, the country opted to file the aforementioned procedural incident without solid grounds.

3. The inactivity of the criminal justice system is evidenced by the admission made by the office headed by Tarek William Saab, Attorney General of Venezuela, who admitted that, among the human rights cases (893), only 23 (2.58%) have ended with a conviction by a judge, while 606 (67.86%) are in the investigation phase and in 764 (85.55%) it has not even been possible to determine the perpetrators of the crimes. 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, so that the chain of command does not appear in these convictions, which is an important requirement for complementarity.
4. Venezuela was examined for the fifth time by the Human Rights Committee in sessions held on October 10 and 11, 2023, in whose dialogue the national authorities violated the decorum characteristic of the sessions, appealing to disqualifications against the independent experts that make up the Committee, which is the agency in charge of supervising compliance with the International Covenant on Civil and Political Rights. The experts of the Committee exposed deep concern that the majority of judges and prosecutors in the country continue to be provisional, as well as the political ties of the magistrates of the Supreme Court of Justice (TSJ) with the governing party. The Committee requested that 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 (MP) and guarantee the free exercise of their functions, without being subjected to any undue pressure or interference by the Executive or Legislative branches.
5. The United Nations High Commissioner for Human Rights, Volker Türk, visited the country in January 26 through 28, 2023, when the Letter of Understanding with the Government of Venezuela was renewed for two additional years. Despite the verification of some positive steps in the cooperation of the authorities, such as the visit to 15 detention centers and the access to 13 confidential files of the Office of the Attorney General of the Republic and the attendance to 3 judicial hearings at the beginning of 2024, the high government suspended the team of the Office of the United Nations High Commissioner for Human Rights (OHCHR) that had been operating in the country since 2019 implying its departure from the country.
6. In his report submitted to the Human Rights Council, examining the human rights situation between May 2022 and April 2023, it is evident that legal reforms are useless if they are not enforced. For example, his office documented the continuation of the pattern of detaining people, even though they have served their convictions or have been ordered released by a judge. Nor do new legislative provisions contribute to improving the situation if they are not accompanied by administrative actions focused on solving the problems identified, such as the excessive delay of proceedings.
7. In parallel, the International Independent Fact-Finding Mission for Venezuela (MIIDHV) published its fourth report on September 18, 2023, and two detailed reports accompanied on i) the State apparatus, its repressive mechanisms and restrictions to civic and democratic

space, ii) the Directorate of Strategic and Tactical Actions (DAET) of the Bolivarian National Police Corps and its relations with the former Special Action Forces (FAES). The report focused on the human rights violations under its mission in Venezuela since January 1, 2020.

8. The MIIDHV concluded that there are 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 previously identified by that Mission in its 2020 report and in this context, those are part of the same line of conduct previously qualified by the Mission as crimes against humanity. Concerning the later period, there have been fewer cases of violations; however, MIIDHV had reasonable grounds to believe that these violations present 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 if the selection of victims has been more specific hence smaller in number.
9. The Committee of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW Committee) reviewed Venezuela's ninth report, submitted 3 years past due date, in session held on May 18, 2023, and published its Concluding Observations on May 31, 2023.
10. In its Concluding Observations, the CEDAW Committee expressed its concern about the failure of the Venezuelan State to comply with the obligations established in the Convention in 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-based violence, trafficking, sexual exploitation or other forms of modern slavery. In this regard, the Committee warned about the lack of free legal assistance, which especially impacts women, because they have few resources or belong to one of the above-mentioned vulnerable groups.
11. During 2023, civic space went from being restricted to being considered closed, according to the methodology of the respected NGO CIVICUS. Restrictions on freedom of association were coupled with restrictions on 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, after the closing of 12 radio stations, some of them endorsed through a decision of the TSJ, as well as the blocking of websites.
12. On January 24, 2023, the National Assembly (AN) approved the draft Law for the Control, Regularization, Performance, and Financing of Non-Governmental and Related Organizations (Anti-Society Law) in its First Discussion. Although the legislative proposal refers to non-governmental organizations (NGOs), it concerns almost all instances of the organized civil society in Venezuela because 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

activities, provided special laws do not regulate labor unions, political parties or professional associations. The bill targets national and foreign NGOs operating or wishing to operate in the country.

13. The United Nations (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 the promotion and protection of human rights and fundamental freedoms while fighting terrorism issued an open communication in September 2023 to the government of Venezuela alerting it of their concerns about the draft law. In the opinion of the rapporteurs,

“If passed into law in its current version, this bill could affect the exercise of human rights, primarily the right to freedom of association, as well as the rights of individuals who participate in and benefit from the activities of organizations constituted as different types of associations.”

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

14. Moreover, the TSJ has been gradually attacking the right to freedom of association through the intervention of political parties, trade union organizations and civil associations. In July 2023, the Electoral Chamber intervened in the internal electoral processes of the Táchira State Cattle Raisers Association and the Bolívar State Branch of Fedecámaras, in which an ad hoc Board of Directors was judicially appointed. Also, the Board of Directors of the Venezuelan Surfing Federation was suspended and urged the National Sports Institute to appoint a Board of Directors. Following its line of intervening civil society organizations, the TSJ, between made three additional interventions between August and December 2023. On August 10, the Electoral Chamber declared null the call for the renewal of the authorities of the Board of Directors of the civil association Puerto Encantado, a private beach club. 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. Finally, on November 22, 2023, the Electoral Chamber suspended the record of the totalization of the elections of the Board of Directors of the Carabobo State Bar Association, appointed an ad hoc Board of Directors of the Association, 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 case is served.
15. In parallel, the Constitutional Chamber, through decision 1.054 dated on August 4, 2023, intervened in the National Society of the Venezuelan Red Cross. It in a pronouncement of admission of a lawsuit of collective and diffuse interests in conjunction with an unnamed precautionary

measure filed by the Attorney General himself, who was appointed in 2027 by the illegitimate National Constituent Assembly (ANC). The SC decision undermines the principles of autonomy and neutrality, cardinal norms of the International Red Cross Movement. Thus, the Chamber, without being requested by the MP, ordered the restructuring of the organization, something very perilous for the freedom of association, since if there are problems in an organization, its members should be the ones called to decide how to solve them. Let us remember that the Venezuelan Red Cross is set up as a non-profit civil association. Therefore, its members shall be the ones to make the decisions that prevent, if necessary, the commission of irregularities, and not through a Board of Directors imposed by the Venezuelan State.

16. Judicial repression in 2023 was aimed at advancing scenarios favorable to the government party for the 2024 presidential elections. From the use of unconstitutional political disqualifications to the intervention of political parties, the Judiciary aligned itself again to the partisan political guidelines that have undermined electoral integrity for years.
17. A new National Electoral Council (CNE) was appointed due to pressures from the ruling party for the resignation of the rectors appointed in 2021. Instead of appointing the new rectors from the list of those nominated in 2021, it was illegally decided to call for a new nomination process. The lack of transparency on the part of the evaluating body reigned again, since it did not inform about the criteria, methodology, or scale used to qualify the candidates. Nor were the different lists of candidates published on time, which expressly violates the provisions of Articles 26 to 28 of the Organic Law of the Electoral Power (LOPE). Even though Article 296 of the Constitution clearly states 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 and especially to the government, something which casts doubts on the capacity of this instance to organize free, fair, transparent, and competitive elections. The new President of the CNE was President of the Office of the Comptroller General of the Republic (CGR), and in his position, he stood out for disqualifying opponents of the Government.
18. The political organizations associated with the so-called Plataforma Unitaria Democrática (United Democratic Platform) decided to define the presidential candidacy for the 2024 elections through primary elections, which were held -without the CNE- on October 22, 2023. On October 30, 2023, the Electoral Chamber admitted a contentious electoral appeal against the opposition primaries, whose entire judgment has not yet been published on the TSJ’s web site as of the date of publication of this report. Only a part of the ruling has been 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 judgment brings a peculiar outcome: the rationale that supports the judgment is unknown.



19. On June 30, 2023, the General Director of Special Procedures of the CGR informed of the disqualification imposed on the citizen María Corina Machado, who was never served notification of this administrative act. The TSJ dismissed the lawsuit filed by María Corina Machado before the Political Administrative Chamber, as well as three appeals filed by other persons before the Constitutional Chamber. In the decision of January 26, 2024, the Chamber confirmed the disqualification of María Corina Machado. As of the date of submission of this report, the Political Administrative Chamber has not published the aforementioned decision on the TSJ's website, so the rationale the decision is unknown, harming the plaintiff's right to defense, and the principle of publicity of judicial decisions.
20. Likewise, on that exact date of the decision regarding María Corina Machado and Henrique Capriles, six other decisions were issued related to acts of disqualification issued by the CGR. The appeal filed by Vicencio Scarano was denied, maintaining the disqualification imposed on him in 2017. On the same day, the Political Administrative Chamber enabled politically in a provisional way to Leocenis García, Richard Mardo, Pablo Pérez, Daniel Ceballos, and Rosa Brandonisio de Scarano. None of the aforementioned person's rulings have been published; therefore, it is not possible to know the reasons why the appeals were admitted in some cases and denied in others.
21. The pattern of intervention in the autonomy of political parties through judicial measures continued. At the beginning of the year, the intervention of the Board of Directors of Acción Democrática (AD) was confirmed. On August 11, 2023, the Constitutional Chamber, in its Ruling No. 1,160, drafted by Judge Michel Adriana Velásquez Grillet, the full content of which was published two working days after its announcement on the website of the governing body of the Judiciary, intervened the Communist Party of Venezuela (PCV). 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 organization, operation and management methods. Its leadership bodies and its candidates for popularly elected positions shall be selected in internal elections with the participation of its members.
22. Political persecution, as pointed out by MIIDHV, has not ceased even though mass protests of a political nature have diminished, but not social protests. The Government has used more selective persecution techniques, but it has also extended the persecution to other segments of society, such as trade unions and peasant organizations. In addition, in the pre-electoral stage, the government initiated stigmatization and harassment campaigns against sexually diverse people to gain sympathy among conservative groups sympathetic to Chavismo. In Venezuela, as social and labor conflicts increase, so does government repression against workers and their representatives. Thus, in 2023, 6,956 protests were registered, according to the Venezuelan Observatory of Social Conflict (OVCS). Six out of ten of the 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.

23. 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 sentenced to spend 16 years behind bars. The conviction imposed was based on the testimony of a complainant who did not appear at the trial and on alleged incriminating elements in screenshots of WhatsApp conversations. A few weeks before the conviction of the six union members, three other men, 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. bringing up a total of 22 the number of union leaders or workers who have ended up in jail for demanding better wages.
24. On December 20, during the political negotiations to implement the Barbados Agreement, the six trade unionists sentenced to 16 years in prison were freed after the United States granted the release of Alex Saab. It was not a pardon but a judicial measure of a decree of substitutive measures of presentation every 15 days and prohibition to leave the country. Therefore, the irregular judicial process against them continues its course.
25. Torture is a generalized policy in Venezuelan prisons, especially in cases with a political profile. This occurs in a framework of absolute impunity. In 2023, public opinion was shocked by the case of the young university student John Alvarez, who was arrested on August 30 and accused of conspiracy charges. His lawyer reported that Alvarez 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 reported that DAET officials beat him with a baseball bat and gave him electric shocks.
26. Proof of the existing impunity is that the Constitutional Chamber of the TSJ, in its judgment n. No. 966 of July 27, declared almost 6 years later that it “does not have jurisdiction” to hear a right to shelter (an amparo) action filed in September 2017 by a lawyer in favor of his client, who was being held 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, and was the victim of mistreatment by a police officer, for which he requested that urgent measures be taken to prevent the same from continuing. However, the TSJ ruled that since it was an amparo against a police agency, the jurisdiction corresponded to the contentious-administrative jurisdiction. Torture cannot be a matter of an administrative nature because it is a gross crime whose knowledge is not part of the specialty of the contentious-administrative judges, but of the criminal courts. The jurisprudential criterion established 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 not from the perspective of the commission of a punishable act that violates fundamental rights that require immediate and urgent constitutional protection.

27. The selective repression of recent years has had a sobering function against specific segments of society when they somehow manifest their discontent against government policies. Thus, in June 2023, two peasants who protested through their social networks against the fuel shortage that affected them in the distribution of their crops were imprisoned.
28. Recently, the Venezuelan State, primarily for electoral purposes, has undertaken an anti-corruption campaign that began with reforming of the Law against Corruption. One of the first campaigns started in mid-March 2023 following the revelation of a scandalous scheme to embezzle funds from Petróleos 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). It is worrisome that crimes unrelated to the facts under investigation are being charged, as well as the considerable violations of due process, evidenced by 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 Prosecutor's Office acted. Tarek William Saab revealed the identity of the detainees a week after the wave of arrests took place, without having informed the lieu of detention.
29. The year 2023 was marked by lukewarm advances for the equality of persons based on their sexual orientation, which were then eclipsed 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.
30. The Constitutional Chamber of the Supreme Court of Justice, accepting the recommendations of OHCHR, declared the partial nullity of art. 565 of the Organic Code of Military Justice (COJM), which prohibits homosexuality in the military sphere. 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 as a severe offense in its numeral 78 "Offending morals and good customs using words, gestures or acts." In addition, Article 565 itself, annulled in its last paragraph, but not in its entirety, states:

The officer who commits acts that affront him or demean his dignity or who permits such acts without trying to prevent it by the means authorized by Law, shall be punished with imprisonment of one to three years and separation from the Armed Forces.

Given the prevailing gender stereotypes in Venezuelan society, which are much more marked 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.



31. 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 LGBTIQA+ community, including the owner, and two workers of the location. The security forces justified the measure by claiming 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. Days later the detainees were released.
32. 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.
33. On January 31, 2024, the act of memory and account of the TSJ took place. On this occasion, no annual report was published, as has been customary since 2012, which is aggravated by the fact that every year, there is less information on the serving of justice that is provided orally in this act. 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.
34. 34. It was reported that in 2023, the highest court received 3,800 cases but issued “5,971 sentences, which represented an increase of 50.97%, leaving an overall resolution rate of 154.40%.” However, not only did it not specify the number of cases it received nor how many were decided by each of the chambers of the TSJ, 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.
35. There are significant discrepancies between the figures provided by the president of the TSJ and those reflected on the website. In the first place, Carysilia Beatriz Rodriguez stated that 5,971 rulings were issued, while the web page reports 134 fewer rulings. Secondly, of the total number of decisions reflected on the website (5,837), only 5,725 can be read because the full text of these rulings has been published. Finally, Judge Rodriguez’s account includes all types of decisions taken in a case, including mere procedural orders, not only the rulings, i.e., those that close the file in the TSJ, which are 4,141, only 72.33% of the total.
36. Obscurity is a chronic problem of the justice system in Venezuela. In addition, access to the files, which is a guarantee for the parties, is often undermined, despite the reforms of Articles 122 and 124 of the Organic Code of Criminal Procedure (COPP), so that the publicity of judgments and judicial acts ends up being essentially a dead letter, especially at the level of the courts. In the case of the TSJ, as a jurisdictional body, there is less obscurity, but 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 are incorporated in a sort of summary. It is to the detriment of the right of the parties to know the rationale of decisions and to exercise judicial

remedies, when appropriate. An illustrative example of this practice is what happened 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, reaching 31.4%.

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