

## **Acceso a la Justicia denounced before the IACHR that the 6D parliamentarian elections will be held under an electoral system tailored to Maduro**

The parliamentary elections scheduled for December 6 are designed to favor the Maduro government and harm its adversaries. This was reported by Acceso a la Justicia to the Inter-American Commission on Human Rights (IACHR), a body to which it sent a report explaining the implications of the changes that the Supreme Court of Justice (TSJ as its acronym in Spanish) and the National Electoral Council (CNE as its acronym in Spanish) have made the Venezuelan electoral system in recent months.

For Acceso a la Justicia, the "mutation" suffered by the electoral system is "yet another example of the lack of independence" of the highest court, in particular the Constitutional Chamber, which through its judgments numbers 68 and 70 of 5 and 12 of June 2020, respectively; Not only was it granted, for the fifth time in two decades, the power to appoint the members of the electoral body, but it also de-applied several rules of the Organic Law on Electoral Processes (LOPRE as its acronym in Spanish) related to the choice of deputies and authorized the electoral referee to legislate on the matter.

Under the excuse that the current dual model, which established that 70% of the members of the National Assembly (AN as its acronym in Spanish) should be elected uninominal and the remaining 30% by closed lists, affected "political pluralism as the superior value of the legal system", the interpreter of the Magna Carta instructed the CNE, which she herself appointed, to alter this proportion, as well as to reform the way in which indigenous peoples choose the three legislators that the fundamental text assigns them.

The result? The Special Norms for Parliamentary Elections for the 2021-2026 period, approved in June by the questioned electoral body, in which the number of deputies to choose from 167 to 277 was increased without any constitutional justification; that is, 66%. Likewise, the number of parliamentarians to be elected

nominally was reduced from 70% to 48% (133), while the number of those who are to be elected proportionally rose to 52% (144).

The report reminds the commissioners that over the last decade the Constitutional Chamber had been endorsing the content of the LOPRE, so this 180-degree turn is to overturn its own jurisprudence and its constitutional decisions of what he had done during Chavismo until now.

But as if the above were not enough, in the case of indigenous representation, the CNE established a second-degree election system.

### **Loads of violations**

In its report, Acceso a la Justicia informed the commissioners that all the changes are unconstitutional, and incidentally, to the most elementary rules of law.

"The new Venezuelan electoral model did not come from reform to the Organic Law of Electoral Processes (LOPRE) of 2009, carried out by Parliament, nor because the Supreme Court annulled part of the law and urged the deputies to reform it, but it is the product of a resolution issued by the CNE, that is highly irregular, because it runs counter to the Kelsen pyramid, according to which laws are above administrative resolutions, so these cannot be modified by means of these", the organization warned.

It also reported to the Commission that the members of the new arbitrator were not chosen according to the procedure established in the 1999 Constitution, which states that the AN is the body that can make such designation. The Constitutional Chamber once again assumed this task, accusing Parliament of committing an omission; and also named two of its members: the former presidents of the Electoral and Constitutional Chamber, Indira Alfonzo, and Gladys Gutiérrez.

Acceso a la Justicia also alerted the aforementioned instance that these appointments do not generate confidence in the CNE, since the new rectors during their time at the TSJ made clear their alignment with Chavismo, always ruling in favor of the interests of the governments of Hugo Chávez and Nicolás Maduro.

These antecedents explain why both have been sanctioned by governments such as the United States, Canada, and the European Union (EU).

Referring to the changes contained in the new electoral system, the NGO Acceso a la Justicia stated that they “violate the provisions of the 1999 Constitution”, in particular, the provisions of Article 186, which states:

“The National Assembly will be made up of deputies elected or elected in each federal entity by universal, direct, personalized and secret vote with proportional representation, according to a population base of one-point one percent of the total population of the country. Each federal entity will also elect three deputies or deputies. The indigenous peoples of the Bolivarian Republic of Venezuela shall elect three deputies or deputies in accordance with the provisions of the electoral law, respecting their traditions and customs. Each deputy will have a substitute or a substitute, chosen or chosen in the same process”.

If the provisions of the aforementioned rule are followed, the report reads:

“the number of legislators should be more or less equal to that of today: 167, and if there is any variation, it should be not upwards, but downwards by cause of the massive exodus of Venezuelans. And even if there were more population and not less, it could not be more than two deputies, as in fact, it has been happening in recent years. Indeed, in the 2010 parliamentary elections, 165 legislators were elected and in the 2015 elections, 167”.

### **Second-class citizens**

But where, in the opinion of Acceso a la Justicia, violations of the Constitution are most evident is in the new system for choosing indigenous representation. Thus, in the Special rules to regulate the Election of the Indigenous Representation in the 2020 National Assembly, contained in resolution n.º 200630-0024 of June 30, 2020, it is established that the deputies will be elected not directly, but through spokesmen, elected in general assemblies by show of hands, that is, without

respecting the universal, secret and direct vote provided for in the fundamental text.

However, in the face of the scandal, the CNE partially backed down and in a second resolution decided that the vote would no longer be by show of hands, but secret. However, he maintained that said selection would be second-degree and not direct, which discriminates against members of indigenous peoples from the rest of Venezuelans.

### **And to you Venezuelan, how does it affect you?**

The numerous violations contained in the new Venezuelan electoral system, far from generating confidence around the institution of the vote, what it does is reinforce the doubts existing in wide sectors of society and the international community about the transparency of the future parliamentarians.

They also seem to clearly indicate that the Maduro regime wants to modify the rules of the game, which at the time of the late President Chávez had been described as the "best in the world", in an attempt to obtain advantages that allow it to achieve many more seats in the new National Assembly of which it would obtain with the previous model.