

Eglée González-Lobato: “The National Electoral Council (CNE) is a giant isolated from the citizen”

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“In 1999, excluding political parties from the National Electoral Council was a political mistake. These structures were essentially political and were fundamental for democratic development.”
With this sentence, Eglée González-Lobato highlights one of the origins of the deinstitutionalization of the electoral system in Venezuela.

Eglée is a lawyer from the Central University of Venezuela (UCV). She earned her Ph.D. in Sciences with honors and specialized in Law. She is a specialist in Administrative Law and electoral processes. Additionally, she has served as a legal consultant for the CNE (National Electoral Council), as director of the Free Democracy and Elections course at the Central University of Venezuela, as international consultant for UNDP (United Nations Development Programme), and as a member of the board of directors of Transparency International.

Eglée González-Lobato is one of the most experienced voices to speak about the Venezuelan electoral system. Her participation, research, and experience in electoral

organizations in this field give us a precise and informed analysis of the steps to follow in re-establishing the Venezuelan electoral system.

–Chavismo-Madurismo has been in power for 23 years and has gradually dismantled the republican and democratic institutions that supported the Venezuelan political system. This process of institutional dismantling does not exclude the electoral system. In fact, it prioritizes it as a means to maintain political power. How has this process of dismantling the electoral system evolved in recent years, and how has it affected our political system and democracy?

The year 2004 is a significant date to understand the current situation of the Venezuelan electoral system. In that year, two things were happening that marked the understanding of elections in Venezuela in the years to come. In 2004, the automation of the entire electoral process was implemented at the same time as the Presidential Recall Referendum was taking place. For the first time in Venezuela, the constitutional instrument of recall of mandate was being used. This tool was extremely innovative for the region. In fact, only Colombia had a similar figure, but it was only for mayors.

That year, Venezuela held the Presidential Recall Referendum. Regardless of what can be said about that process, its nature was civic. However, when delving into purely technical and electoral aspects, it must be said that the election generated a lot of suspicion. It was not positive to implement an automated system that Venezuelans were not familiar with and did not fully trust at the same time as a recall referendum because the perception of the results led to mistrust in the accuracy of the results. And it was indeed a perception because to this day, there is no evidence that

the results were different from those reflected by the Venezuelan electoral system in 2004.

However, this prevailing opinion that arose about the falsehood of the results had very marked consequences. The automated system was blamed for the alleged fraud, and there was particular distrust in regards to the effects we continue to observe. It was a narrative that was challenging to debunk for those of us involved in these matters. In subsequent elections, there was a progressive increase in distrust, to the point that there was significant abstention in the 2005 elections for the National Assembly. It wasn't until the 2015 elections that this began to change somehow. A concerted effort was made by all organizations, political parties, NGOs dealing with electoral matters to shift the perception of distrust toward the automated electoral system.

Another moment that significantly impacted the perception of the electoral system was in 2017, during the election for the Constituent National Assembly. In that electoral process, there was a situation with Smartmatic, the company responsible for the entire automated system, where the final results reported by the National Electoral Council did not match those registered by the company. This represented a major setback for automation and further fueled distrust.

The regional elections of 2021 opened the door to a new debate with the case of Barinas. The election results were unfavorable for the government, but they were recognized. However, following that result, there was a refusal by the Supreme Tribunal of Justice (TSJ) to acknowledge the victory of Freddy Superlano, who had won the Governorship of Barinas. He was later disqualified, and the elections were held again. In any case, in both elections,

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some results were unfavorable for the government. This leads to the question: does this scenario demonstrate that it is possible to win with this automated system? Perhaps it should be considered whether, in many cases, what has been lacking is voter turnout rather than a fortification of the automated system.

This leads to a second idea that I would like to address: the importance of the role of the citizenry. The greatest guarantee of transparency is the deployment of witnesses throughout the regions and situational rooms, receiving copies of the scrutiny records, verifying them, and certifying that the allocation corresponds to the numbers. This means that it is possible to win even when irregularities are present by strengthening the existing audits.

Another important idea that cannot be overlooked is the nature and functioning of the government in a system like this. In this authoritarian context, elections are held, but they do not necessarily lead to a change in power. In other words, democracy is not just about elections; it also involves alternation of power.

–Credibility and trust in the Electoral Power are fundamental for its functioning, but in recent years, that credibility has eroded. What do you think should be the institutionalizing elements for a more reliable National Electoral Council (CNE)?

The National Electoral Council is an exclusive and exclusionary body in electoral matters. This body is linked to the maintenance of democracy. There is no other body that can replace the National Electoral Council. This has been one of the problems we can address later. However, it can be noted that in recent years, other bodies, different from the National Electoral

Council, have been added to it, intervening in the electoral process, making it more difficult and obstructing the exercise of political rights. Among these bodies, we can find the Comptroller General of the Republic, the Supreme Tribunal of Justice with its Electoral and Constitutional Chambers, and even criminal courts, despite having absolutely no competence in electoral matters. An example can also be made of what the National Institute of Statistics has done when calculating the population, as it modifies certain important variables in forming constituencies.

In conclusion, the National Electoral Council is more of a governing body. The Constitution is very clear about that. It is the governing body responsible for building trust among citizens to participate in electoral processes. What often happens is that citizen participation is limited to election days, and it should not be that way. Citizen participation should go far beyond election day. I believe that is the key to strengthening the institutional framework of the electoral system: greater institutional trust leads to increased citizen participation and, consequently, greater involvement in electoral processes.

That leads us to analyze the objectives of electoral processes. What is sought in an electoral process? That they are plural, reliable, transparent, fair, and competitive processes. These values translate into respect and the guarantee of popular sovereignty, building a Republic with stronger foundations.

So, what conditions should the National Electoral Council have to build these foundations? It is important to emphasize that what is stated in the Constitution, and how it has been put into practice are two different things. In this case, practice has been very different from what the Constitution says. An example of this is the appointment of the National Electoral Council in the terms

in which it has been done. This is not necessarily bad; it simply responds to a reality and a context. If we look at the recent history of Venezuela, we can see that the main methods for advancing towards democratic strengthening are agreements and consensus. This brings us to the beginning of this whole process. In 1999, it was a political mistake to exclude political parties from the National Electoral Council. These structures are essentially political and are fundamental for democratic development. However, they were excluded in favor of prioritizing citizenship. At that time, there was talk of an "active citizenship," excluding political parties. In practice, this was a misguided decision because it meant that the party in government had more importance than the other parties and that, instead of seeking consensus, there was an increasingly blatant asymmetry. This could be seen in the correlation of power in the National Assembly in 2005.

For the present day, it is important to be realistic and understand that the key to the National Electoral Council was the appointment of electoral authorities that required the consensus of the political parties and movements that are present in an electoral process.

–In 1999, a Constitutional process was carried out that included the reform of the Venezuelan electoral system. Currently, the disrepute of the National Electoral Council (CNE) leads to considering the idea of reforming it again to restore its legitimacy and institutional framework. What should be its first steps towards this re-institutionalization?

The first step to achieve real change and reduce the perception that the National Electoral Council (CNE) lacks independence is for it to resume its role in electoral education.

The National Electoral Council, for example, is an organization that holds privileged information in its statistics department, with a wealth of data that shows how constituencies are structured and what the historical results have been. Sharing this data is part of that cultural education and would bring the institution closer to the citizens. What we have now is a giant isolated from the citizens. People don't feel they can approach the National Electoral Council. I'm not saying they should attend to individual citizens in person, but they should reintroduce mass education to the public in an institutional manner.

The National Electoral Council (CNE) must reclaim this educational role because it has the capacity to reach the most remote areas of the country with information so that citizens know how to exercise their vote, a fundamental tool for citizenship. And what does exercising citizenship mean in a democracy? Regardless of political and ideological differences, it means strengthening democracy as a value that we all should uphold and protect.

–In the previous 1961 Constitution, the Supreme Electoral Council was an institution under the jurisdiction of the Judiciary, not an independent body. Do you believe that in a potential process of institutionalization, the CNE should once again be under the jurisdiction of the Judiciary, or should it remain an autonomous institution?

In the 1961 Constitution, the Supreme Electoral Council was not independent as it is today. The discussion about its independence occurred in 1998 and 1999, but was never fully resolved. Due to the behavior of the Electoral Chamber, there have been moments when it's unclear who holds the ultimate electoral authority, whether it's the National Electoral Council or the Supreme Tribunal through its Electoral Chamber or Constitutional Chamber. This debate

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became particularly evident during discussions about political rights related to the Recall Referendum and conflicts between the chambers.

The National Electoral Council should be independent, but there are certain functions assigned to it by the Constitution that don't seem to be appropriate for a body like this. For example, the civil registry. Civil registry and electoral registry are distinct areas, and civil registration goes beyond the scope of electoral interests. The civil registry should have been entrusted to an autonomous and independent institution and not placed within the National Electoral Council. Another issue is the Supreme Tribunal's involvement in electoral matters, such as the judicialization of political parties, which falls under the purview of the National Electoral Council, as well as the creation and dissolution of political parties based on election regulations. What needs to be done is to clearly define within the National Electoral Council which functions are genuinely its responsibility without interfering with the civic activities of citizens.

–In recent years, there has been a perception among the public that the recovery of the Electoral Power relies solely on a change in board members to include representation from other political forces. How accurate is this perception, and are there other changes that can help consolidate an independent institution?

There must be a cross-cutting vision of independence that encompasses the entire National Electoral Council. Political matters and political parties should prevail, and political guidance should exist. This cannot be limited to just the leadership of the National Electoral Council as an institution; it should trickle down throughout the organization. In fact, everything related to

regional offices and various commissions is crucial. The National Electoral Board is the key part of the National Electoral Council. There can be real change as long as the National Electoral Board establishes bridges or mechanisms with the public and various national and international electoral observation bodies. Processes should be opened up for the public to understand them. Today, these processes are like closed black boxes that nobody knows about except those inside the National Electoral Council.

It's also crucial to strengthen the ethics of electoral officials. These officials are specialists in their field with knowledge and expertise, regardless of the appointing authority. They are trained and can carry out their tasks effectively. Individuals within the National Electoral Council have spent years acquiring expertise, so knowledge and capability should be prioritized. When it comes to electoral matters, various aspects should be considered, including society, technology, engineering, political analysis, and regulations. All of these aspects need to be considered to have a strengthened National Electoral Council.

–The recent processes have been distant from legality and legitimacy, but there is hope that a scenario of transparency may emerge from the negotiations taking place in Mexico. Are there possibilities for a genuine process of re-institutionalization with the current government of Nicolás Maduro?

The political moment we are in is extraordinarily critical, extraordinarily complex. If all goes well, President Nicolás Maduro will face an election in 2024. On that day, if everything goes well, there are two possibilities: either the result favors or goes against him. If the result is in Maduro's favor, then there won't be any problem. However, if the result goes against him, given

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the characteristics and political reality in Venezuela, the situation becomes complex. The complexity of that moment demands that there be a National Electoral Council that generates confidence in ensuring the fulfillment of the different political conditions for the exit of the current government; one that has significant debts, both domestically and internationally. So, the upcoming scenario is not to be taken lightly. For 2024, there must be individuals committed to respecting those results. Following that process, we can talk about a progressive re-institutionalization in the country.