

**ATENÇÃO ÀS PESSOAS VULNERÁVEIS NA PRIMEIRA CÂMARA
CONSTITUCIONAL E TRANSITÓRIA SOCIAL DO SUPREMO TRIBUNAL DA
REPÚBLICA EM LIMA (PERÚ)**

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RESUMO

Objecto de estudo: O objectivo da investigação era explicar como as pessoas vulneráveis são tratadas no Primeiro Tribunal Constitucional e Transitório Social do Supremo Tribunal da República, em Lima; ou seja, como é o tratamento preferencial de pessoas em situações vulneráveis: pessoas com mais de 75 anos de idade, deficientes e outros.

Metodologia: Foi utilizada uma metodologia qualitativa descritiva, que nos permitiu compreender a forma como os catorze participantes nesta investigação apreciaram os fenómenos ou eventos através da compreensão dos principais aspectos dos fenómenos, dos factos sob observação ou das relações estabelecidas pelos sujeitos. Esta investigação fornecerá um serviço aos operadores jurisdicionais e cidadãos que procuram uma protecção jurisdicional rápida e eficiente; optimizando e melhorando a atenção da comunidade nos processos judiciais que chegam a esta instituição, com base em formulações conceptuais e medidas de implementação relacionadas com este problema.

Principais resultados: Os resultados mostram-nos que a atenção às pessoas vulneráveis no Primeiro Supremo Tribunal é inadequada devido à sobrecarga processual existente; ou seja, não é imediata, o que afecta o cumprimento dos prazos estabelecidos nos regulamentos legais em vigor, das controvérsias do processo administrativo e contribuirá para a modernização do referido órgão judicial, a fim de prestar um melhor serviço aos seus utilizadores.

Contribuições teóricas: Os direitos devem ser complementados por direitos políticos e sociais que permitam satisfazer as necessidades dos mais vulneráveis, aliviando o seu sofrimento e proporcionando-lhes oportunidades de progresso. Para salvaguardar os mais vulneráveis, a bioética deve ser considerada nas políticas públicas através da normalização das suas práticas de cuidados.

Palavras-chave: Direito à justiça. Direito civil. Direito administrativo. Igualdade de oportunidades. ónus processual.

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ATTENTION TO VULNERABLE PEOPLE IN THE FIRST CONSTITUTIONAL AND SOCIAL TRANSITORY CHAMBER OF THE SUPREME COURT OF THE REPUBLIC IN LIMA (PERU)

ABSTRACT

Object of study: The objective of the research was to explain how vulnerable people are treated in the First Constitutional and Social Transitory Court of the Supreme Court of the Republic, in Lima; that is, how is the preferential treatment of people in vulnerable situations: people over 75 years of age, the disabled and others.

Methodology: A descriptive qualitative methodology was used, which allowed us to understand the way in which the fourteen participants in this research appreciated the phenomena or events through the understanding of the main aspects of the phenomena, of the facts under observation or of the relationships established by the subjects. This research will provide a service to jurisdictional operators and citizens seeking fast and efficient jurisdictional protection; optimizing and improving the attention of the community in the judicial processes that reach this institution, based on conceptual formulations and implementation measures related to this problem.

Main results: The results show us that the attention to vulnerable persons in the First Supreme Court is inadequate due to the existing procedural overload; that is, it is not prompt, which affects compliance with the deadlines established in the legal regulations in force, of the controversies of the administrative process and will contribute to the modernization of the mentioned judicial body in order to provide a better service to its users.

Theoretical contributions: Rights must be complemented by political and social rights that allow the needs of the most vulnerable to be met, alleviating their suffering and providing them with opportunities for progress. To safeguard the vulnerable, bioethics must be considered in public policies by standardizing their care practices.

Keywords: Right to justice. Civil law. Administrative law. Equal opportunity. Procedural burden.

1 INTRODUCTION

Globally, it is observed that Peruvian society is concerned about the efficiency of all public organizations, mainly the administration of justice, i.e. the Judiciary, which is an autonomous institution responsible for resolving legal conflicts through its various jurisdictional bodies at various levels in accordance with the law and the Constitution; however, one of the vital challenges it faces is the procedural overload.

According to Hernandez (2009), the procedural load is the total number of cases or work that each judge has under his care to resolve; this load is the result of two variables: the entry of cases into the judicial system to be resolved and, on the other hand, those that have been entered in previous years, but have not been concluded, giving rise to what is known as procedural overload in the jurisdictional bodies.

A clear example of the above is the administrative procedures in labor retirement matters which are structured to last two weeks; however, in practice, the retirement process in the first instance takes at least twenty-two months, fifteen months if one or both parties appeal and up to thirty months more if an appeal is filed in the Supreme Court of Justice of the Republic.

Said court has tried to solve this problem in cases of vulnerable groups such as the elderly, disabled individuals and those suffering from a serious illness through legal provisions such as laws N°30490, 29973 and 27408, as well as the publication of internal regulations (Administrative Resolution No. 213-2013-CE-PJ, 2013), whose purpose is to encourage judges to prioritize the cases

mentioned for humanitarian reasons, being this instance familiar with and processing retirement and social security cases.

Regarding administrative proceedings, most of them are initiated by persons over thirty years of service seeking the granting of pensions, the increase of their amounts or their restitution and, given this reality, in order to comply with Administrative Resolution No. 213-2013-CE-PJ, 2013, the processing of appeals filed by the defendants who are immersed in these situations is required either for the accelerated scheduling of qualification visits or funds.

The Supreme Court has faced a procedural overload of approximately 15 thousand cases and, given the nature of the administrative processes, the interested parties are almost entirely persons in vulnerable situations, who meet the vast majority of the prioritization criteria such as being over 75 years old and possessing other characteristics mentioned above; as a result, no preferential attention has been given without taking into account the consequences, leading us to formulate the problem: How is vulnerable persons cared for in the First Transitory Constitutional and Social Law Chamber of the Supreme Court of the Republic, in Lima? This formulation is made to fulfill the broad objective of examining how this supreme judicial body cares for vulnerable people in Lima.

The research is justified because it will provide a service to jurisdictional operators and citizens seeking fast and efficient jurisdictional protection by optimizing and improving the attention of the community in the judicial proceedings that reach this institution, based on conceptual formulations and implementation measures related to this problem. In practice, it is found in the jurisdictional body under the procedural reality of the review that, in 2021, will have an unmanageable number of judicial proceedings, of which, according to information collected from the aforementioned judicial body and explained in detail below, more than five thousand defendants will meet such budget, which will make optimal attention impossible. Consequently, it is critical and imperative to implement new measures or modernize existing ones to address this problem and promote a more expeditious and inclusive administration of justice.

Having antecedents in the international arena, several researchers, including Pinochet (2017) in Chile, stated that, in addition to political will, public management requires the interest and commitment of citizens.

Spain and Ecuador agree that mechanisms for the protection of older adults should be implemented to ensure effective management in public entities, taking into account their unique vulnerability. It is necessary to consider the relationship between the administrative process of a public entity and the quality of the service it provides as indicated by Moreno de Gonzáles (2020). It is also shown through an analysis of motivation and organizational commitment that these are transcendental factors to optimize the efficiency and speed of public services that allow achieving timely attention by the Judiciary (Dousdebés-Santos, 2016).

Garcia (2018), for his part, has determined that one of the components that favor the drawbacks of public management is staff turnover, which results in inefficiency in achieving the objectives or tasks ordered. Hence the importance of implementing a quality management system in public entities and process-based approaches that would improve the quality of services provided. On the other hand, as a process of modernization of the State, the improvement to the citizenship should start using the National Registry of Identification and Civil Registry (Reniec) to optimize the efficiency and effectiveness of its service.

While De La Cruz (2017) agrees that the procedural burden of the Judiciary continues to grow despite efforts to mitigate it such as the extraordinary days applied by some Superior Courts of Justice, the dilation of the process persists, causing unnecessary delays in the procedural process.

Such is the case that Colquichagua (2018), making an observation and study of this problem, states that there is a relationship between the speed of the judicial process, with the increase of the procedural burden faced by the jurisdictional bodies. In the same sense, Canelo (2018) identified one of the factors that contribute to this problem as the jurisdictional staff that each office has; as well as the management system, information technologies, in addition to quality management, process management and the budget that the Judiciary has, for the implementation of policies that allow access and extension of services.

From the research described above, the saturation in the administration of justice can be seen as a current problem, and there are factors that can contribute to its improvement and that have been implemented, such as the aforementioned extraordinary workday for the procedural discharge or the creation of new courts; however, despite this, the problem persists until now.

Regarding the institution under study, Bocanegra (2020) identifies the use of technology in the justice administration system as a safe and effective means that prevents impersonation and facilitates the notification of procedural actions to the parties. On the other hand, the implementation of an information system in the jurisdictional bodies, achieved an effective functioning in the control and planning processes, where the realization of an external administrative audit will allow to investigate to what extent the administration of justice is deficient.

Simultaneously to the aforementioned difficulties faced by the administration of justice, older adults and people in vulnerable situations require special protection and attention from state entities, where it is recommended to pay special interest and implementation of mechanisms that avoid gender discrimination (Hoyos and Ramírez, 2018).

On the other hand, in the national doctrine, we find that in the face of the problem of the latent procedural overload in the administration of justice, it is referred that its origin is the number of lawsuits that exceed not only the number of courts and judges, but also the volume of cases resolved; To this must be added that many of these processes contain claims that have no legal basis and, therefore, become inadmissible or liminal rejections; but, for the effective jurisdictional protection, as a fundamental right, the judge cannot fail to review previously before issuing his decision; that is, these cases contribute to increase the procedural burden (Vargas and Idrogo, 2015).

Currently, it is not enough for a judge, as director of the process, to know and be an expert in law; but, in the current circumstances of society, they also need to know about management, specifically, public management and processes (Solote and Grané, 2019) in order to streamline the work and contribute with improvements to achieve the purpose of this branch of the State. Indeed, the current organization of our justice system has in the figure of the judge the person who assumes or directs the administrative tasks of his office, in addition to resolving the cases that come before his office.

The justice system, according to Vásquez (2016), is adopting a new model, referring to the creation of corporate modules as, for example, in the judicial district of La Libertad, where, since 2010, there has been a corporate labor module that is in charge of the administrative work that the judge used to see so that he/she can be in charge exclusively of the work of administering justice; This model aims to manage justice not only in the organizational sphere, but also in a systematized way and with an approach based on human rights, interculturalism and the protection of human rights.

The procedural burden can be conceptualized as the volume of cases pending to be heard by the competent jurisdictional body and to know such process, it is the number of cases to be resolved, which has a direct impact on the work of the jurisdictional servants and is closely related to their productivity and that of their judicial offices. Likewise, this is linked to the procedural principles, such as celerity, reasonable time, among others, which are only guidelines for the development of each of the processes that are discussed in this branch of the State.

And in relation to celerity, the principle of which is rooted in the non-extension of the deadlines for resolving the cases that come to the knowledge of the jurisdictional body, which must guarantee prompt justice, that is, without delays and in an expeditious manner; that is to say, to achieve the maximum result in the least number of procedural activities.

2 JURISDICTION OF THE FIRST CONSTITUTIONAL AND SOCIAL TRANSITORY CHAMBER OF THE SUPREME COURT OF JUSTICE OF THE REPUBLIC.

This highest judicial court, in relation to administrative resolutions issued by the Executive Council of the Judiciary, has the authority to resolve and determine judicial proceedings related to the public law of labor, pensions and social security through the contentious-administrative procedure regulated by Law No. 27584.

Regarding the issues with which this body of justice is familiar, it is necessary to clarify that, in order to alleviate procedural overload and speed up the review processes, the work team of each Supreme Court judge assigned to cases has been divided into two components: a team responsible for procedural discharge and a team responsible for the discharge itself.

For the former, we must consider only the ongoing qualification cases, but on specific topics of low complexity; while, for the latter, highly complex topics are evaluated and studied both for the qualification of the appeal and for the merits perspectives. These subtopics are the following:

Table 1. SUBJECTS: According to the competence conferred by Administrative Resolutions N° 006-2001-P-CS of April 30, 2001, N° 013-2013-CE-PJ of January 23, 2013 and N° 029-2015-CE- PJ of June 25, 2015.

Low complexity	High complexity
Law No. 24029 Article 48	Review of administrative disciplinary proceedings against public servants, police officers or members of the armed forces, air or maritime forces.
FONAHPU	Labor reinstatement - Law No. 24041
Homologation of remunerations - article 53 LAW N° 23733	Payment of pensions or readjustments of the reference remuneration for the calculation of pensions.
Emergency Decree No. 037-94. Article 1	Payment of supplementary bonuses under Decree Law No. 19990
Mobility and Refreshments	Incorporation to the National Pension System - Decree Law No. 19990

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Emergency Decree N° 090-96, 073-97 AND 011-99	Withdrawal from the Private Pension System
Legal Interests	Granting of retirement pensions under special regimes, such as: mining, fishing or civil construction.
Law No. 25303- article 184	Contention of competence for consultation of a Superior Chamber in labor administrative contentious matters.
Decree 051-91-PCM Article 12	Emergency Decree No. 037-94, all its articles with the exception of Article 1.
Mourning and burial Legislative Decree No. 276	Payment of supplementary bonuses under Decree Law No. 19990
Mourning and burial. Law No. 24029	Appointments in the administrative career.
ESSALUD salary increases	Payment of social benefits of public sector workers, subject to Legislative Decree No. 276.
FONAVI	Administrative disciplinary proceedings against public servants.
Double Compliant - Urgent Processes	Payment of pensions or readjustments of the reference remuneration for the calculation of pensions.
Reincorporation Law No. 27803	Labor reinstatement - Law No. 24041
Compensation for years of service DL N° 276	Validity or payment of collective bargaining agreements in state-owned companies or public entities subject to Legislative Decree No. 276.
Compensation for years of service Article 52 Law No. 24029	Payment of hospital duty allowance. Annuity payment.
2nd paragraph	
Bonus for jurisdictional function	Fiscal function bonus

3 PROCESSING OF CASSATION PROCEEDINGS

There are four phases through which a proceeding that reaches this supreme chamber passes:

1. Receipt of documents by the office of the Mesa de partes - hereinafter referred to as MP, and the generation of cassation briefs.
2. Filing of files received by the Public Prosecutor's Office, so that the rapporteur's area can take charge of scheduling the files for the qualification hearing. At this point, it should be noted that, if the appeal filed is declared admissible, the scheduling of the hearing on the merits is carried out. Otherwise, it may be declared inadmissible, inadmissible or rejected.
3. Issuance and validation of rulings.

4. Management of notifications, legalization of signatures, return and temporary archiving of booklets.

Phase 1: Receipt of documents by the Office of the Public Prosecutor's Office (MP). In this stage, the office of the Mesa de Partes receives the physical files sent by the Superior Courts of Justice and the briefs sent by the procedural parties for processing and review by this supreme organ. Likewise, it receives the files that it delivers to the secretariat area once the cassation appeal has been resolved for their respective return to the Specialized Courts or Superior Courts, where these processes originated.

Phase 2: Filing and scheduling of files for qualification hearing/background hearing. This phase comprises the management carried out by the Rapporteurship Area, which begins with the reception of the physical files received by the MP, which are scheduled for the qualification hearing. It should be taken into account that during this process, it is necessary to verify the impediments in which the supreme magistrates are involved in order to avoid the existence of conflict of interest and thus guarantee impartiality and effective jurisdictional protection. Likewise, once the respective votes have been taken, the resolutions together with the main file are sent to the Chamber Secretariat Area in order to be notified; the same are then scheduled for a hearing on the merits when the extraordinary appeal for cassation has been declared admissible.

It should be noted that, with respect to the programming of the files, it is done according to the correlative order of arrival of the file; thus the oldest files in the temporary file of the Rapporteurship; which are programmed to be attended to in first order, but without failing to give priority within them, to the persons-parties that present the condition of vulnerability. It should be noted that the flow of files that reach the Supreme Court is divided into two main stages: the first is the Qualification Hearing, a file may be qualified as procedural, inadmissible, inadmissible or rejected. And the second, a file that has been qualified and will be processed for a hearing on the merits, that is to say, the controversy is resolved so that it can be declared founded or unfounded:

On the day of the hearing:

The roll is taken of the attorneys who requested an oral report; they are identified; then the hearing begins, in which the rapporteur gives a report on the file. The President of the Chamber begins the oral report, granting the reporting attorneys a period of five minutes.

Phase 3: Issuance and validation of the decisions - executory judgments (qualification hearing / merits hearing). This process is carried out in the magistrates' offices, however, the rapporteur's area is also involved. This stage begins when the Reporter's Area sends the programmed files to the office of the supreme magistrates so that they may be evaluated, studied, analyzed and debated, with the final decision being made at the Qualification Hearing or Hearing on the Merits.

Phase 4: Notification management process, signature legalizations, returns and booklet archiving.

This process is carried out in the Court Clerk's Office, which receives the files and the briefs with their respective rulings-executory decisions, preliminary rulings or orders for the corresponding physical or electronic notification to the procedural parties until they are sent to the Clerk's Office for the scheduling of the hearing on the merits, if applicable, or the return of the main concluded files to the specialized court or superior court of origin, with the subsequent final filing of the briefs.

4 METHOD

The qualitative methodology has been used, which has allowed understanding the way in which the members of a research appreciate the phenomena or events (Hernández-Sampieri and Mendoza (2018); it is aimed at a more complete knowledge through the understanding of the primordial aspects of the phenomena, of the facts under observation or of the relationships established by the subjects.

Following Hernández-Sampieri and Mendoza (2018), the level of this research is descriptive, due to the fact that this is the main objective; that is, the way in which the variable is manifested in the research. The design was the study of cases or processes oriented in the experiences in the supreme judicial activity, which will help to understand the phenomenon studied.

The following categories and subcategories were established:

Category 1: Vulnerability, subcategories: Physical condition, Health, Elderly.

Category 2: Procedural burden, subcategories: Degree of complexity, Human Resources, Logistics and infrastructure.

Category 3: Principle of celerity, subcategories: Time limits for the resolution of the cassation appeal, cassation pronouncement. (Table 1).

Table 2: *Aprioristic categorization matrix*

Specific objective	Categories	Subcategories	Evidence	Questions to the user	Questions to the Specialist	Questions to the Litigant
Describe how vulnerable people are cared for in the First Constitutional and Social Transitory Court of the Supreme Court of the Republic, in Lima - 2021.	Vulnerability	<ul style="list-style-type: none"> Physical condition Health Elderly 	<ul style="list-style-type: none"> Certificate of disability Medical certificate Reniec file 	How is the care received at 1SDCST?	How is care provided to a person in a vulnerable condition?	How are people in vulnerable conditions cared for at the 1SDCST?
Explain the procedural burden in the First Chamber of Constitutional and Social Transitory Law of the Supreme Court of the Republic, in Lima - 2021.	Procedural burden	<ul style="list-style-type: none"> Degree of complexity Human Resources Logistics and infrastructure 	<ul style="list-style-type: none"> Appeals filed for resolution. Understaffing Reduced space and lack of logistics. 	What do you consider the procedural burden of the 1SDCST to be?	How is the processing of the procedural burden in the attention of cases filed by people in vulnerable conditions?	What do you consider to be the cause of the delay in the attention given to the cases filed by people in vulnerable conditions?

Explain how the principle of celerity is applied in the First Chamber of Constitutional and Social Transitory Law of the Supreme Court of the Republic, in Lima - 2021.	Principle of celerity	<ul style="list-style-type: none"> • Time limits for the resolution of the appeal in cassation • Cassatory pronouncement 	<ul style="list-style-type: none"> • Duration of the process from admission to the pronouncement of the supreme magistrate. 	How is the principle of celerity applied in cases decided by the 1SDCST?	What do you consider to be the cause of the delay in the attention of the cases filed by people in vulnerable conditions?	Is the attention given to the cases filed by people in vulnerable conditions at the 1SDCST prompt?
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The participants were the professional officials working in the First Constitutional and Social Transitory Chamber of Constitutional and Social Law who intervene in the attention of cases in which people in vulnerable conditions also participate.

S1: President of the supreme instance under study. Functions: represents and directs this instance.

S2: Supreme Vocals. Functions: They are those who intervene in the cases in process as an integral part of the Collegiate, issuing orders or sentences as the case may be.

S3: Rapporteur of the Supreme Court. Functions: She is the representative and responsible for the Reporter's Area in charge of receiving the files and briefs submitted for processing, coordinates with the supreme vocals and president of the chamber, on the operation of this organ of the State, she is also in charge of the programming and filing and custody of the cassation booklets.

S4: Secretariat of the Supreme Court. Functions: Responsible for the notification of the executions delivered to it by the Clerk's Office, as well as for the return of the main files to the court of origin in coordination with the Public Prosecutor's Office.

S5: Head of PM. Functions: Receives and processes the files and pleadings submitted by the parties to the proceedings in order to refer them to the Clerk's Office for further processing. Attends to the public.

S6: Trial attorneys. They are those who litigate before the Judiciary in the processes in which they sponsor their clients.

S7: Users. These are the procedural parties that seek effective and timely jurisdictional protection by the Judicial Branch.

Among the instruments used for data collection were the interview guide, texts, journals and legal norms. The study had its origin in an inductive process of analysis of the reality in the processing of the jurisdictional processes handled in the aforementioned Chamber.

The technique used was the interview, based on a guide of questions previously elaborated and formulated to the jurisdictional specialists of this Supreme Court and teachers knowledgeable on the subject, as well as to the litigants and users of this institution. Likewise, the technique of analysis and systematization of journals, research, texts and legal regulations has been used to describe the problem under study. On the other hand, the data collection instrument has been the same interview guide that is based on a printed or unprinted sheet of paper, taking into account the current circumstances of COVID 19.

The sample is given within a qualitative process, proceeding to collect information from a group of people in their condition as either magistrate or defendant, which is fundamental for the population under study. In this sense, the procedure used was to consider the essential ethical contexts, with the respective permission of the immediate head of the jurisdictional body under study, that is, with the authorization of the President of the Supreme Court that is the subject of this research; likewise, the officials, lawyers and users who participated in this research were informed of the objectives and what was expected to be obtained from them.

In order to discover the phenomenon that is the subject of this study, several interviews were conducted using virtual platforms such as Google meet and ZOOM, among others, as well as face-to-face interviews in the case of some of the actors involved, obtaining favorable results to learn about the processing, causes and form of attention in this supreme judicial body and, especially, about the attention in the processing of persons in condition of vulnerability.

5 RESULTS AND DISCUSSION

The Judicial Branch has as its primary function the administration of justice, for which it guarantees the validity and respect for the rights of the individual through its different levels of organization. And in relation to the proposed objective of preferential attention to people in vulnerable conditions, over 75 years of age, disabled, among others, it has been observed that at least there are more than three thousand judicial processes in process, in the First Constitutional and Social Transitory Court, which meet the requirement of being over 75 years of age, which makes it impossible to implement this condition in an optimal way.

Having jurisdiction over the processes that are referred to the matters of public labor law, as well as social security and social security law, causes that every year a considerable number of new processes enter to be known and qualified; for example, in 2015, 11450 files entered; in 2016, there were 10356; in 2017, there were 12202; in 2018, 12807; in 2019, 13621 and, until June 2020, there are 1776 as shown in the following table:

Table 3: *Annual file receipts*

	2015	2016	2017	2018	2019	2020*
Charge start of year	0	6,927	540	5,223	10,092	--
Income	11,450	10,356	12,202	12,807	13,621	1776**
Procedural burden	11,450	17,283	12,742	18,030	23,713	--

* As of June 15, 2020.

** Projected annual intake of 8,243 cases. Table based on data provided by the Court.

Observing an annual increase of 4% in the number of cases filed, and a 16.3% increase in the annual procedural load, taking as a historical period the files filed and the procedural load from 2015 to 2018. In addition, that the final total procedural load until 2019 was 23,713 judicial files.

Likewise, a large number of these are filed by plaintiffs who are currently 75 years of age or older; Since, in the file of the Office of the Rapporteur of the aforementioned Supreme Court, there are 440 files pending to be scheduled in which the plaintiffs meet the requirement of being 75 years of age, 1673 processes are between 76 to 80 years of age, 1325 are between 81 to 90, and 195 are between 91 and more years of age, for a total of 3. 438 judicial processes that are pending to be scheduled, and that meet the requirement of being equal to or older than 75 years of age, 438 judicial processes that to date are pending to be scheduled, and that meet the requirement of being 75 years of age or older, who should be given preferential and priority treatment in the processing of their judicial file, and should be scheduled, exceptionally, immediately for their qualification or merits hearing, as shown in the following table:

Table 4: *Claimant over 75 years of age*

years of age	Qualifications			
	2018	2019	2020*	TOTAL
75	34	317	89	440
76 -80	133	1185	355	1673
81 -90	116	966	243	1325
91 TO MORE	22	124	49	195
TOTAL	283	2468	687	3438

Until December 2020.

Data obtained from the room under study

However, it is due to such circumstance that it is difficult, and even impossible, for the referred Supreme Court to comply in full with the provisions of Administrative Resolution N°213-2013-CE-PJ dated October 02, 2013; since, since 2017, it has been scheduling approximately a total of 11,000 annual hearings, of which 8,360 are qualification hearings and 2,640 are background hearings, based on 190 qualifications and 60 weekly backgrounds, as noticed in the following table:

Table 5: *Weekly audience programming*

05 SUPREME JUDGES				
MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY
40 RATINGS	40 BACKG ROUND VIEWS	40 RATINGS	40 BACKG ROUND VIEWS	40 RATINGS
		150 RATINGS - DOWNLOAD		
WEEK: 350 FILES (270 RATINGS. AND 80 FUNDS)				
MONTH: 1,400 FILES (1,080 RATINGS AND 320 FUNDS)				
*YEAR: 15,400 FILES (11,880 RATINGS AND 3,520 FUNDS)				

*The month of February is not included, due to the annual vacation break. Table based on data provided by the Board

It should be noted that, although 150 hearings were scheduled weekly by the discharge group; however, its matters are referred to low complexity processes, such as special bonus for class preparation and evaluation based on Article 48 of Law No. 24029, FONAVI, payment of salary increases granted by the Central Government for the years 1988 to 1992 to ESSALUD workers, differential bonus for work in rural urban areas based on Article 184 of Law No. 25303, among others; These do not include legal proceedings on pension matters, such as the recognition of contributions and/or the granting of pensions by the National Pension System, which should be granted to appellants who are 75 years of age or older or suffer from a serious illness.

This has evidenced a major problem on the part of the Judiciary, as also referred to by Núñez et al (2019) and Andrew (2014), by not being able to optimally prioritize the processing of all files involving the interests of people in a state of vulnerability, such as the cases of adults over 75 years of age or people suffering from a serious illness.

Now, for the development of this research work, which was the interview, it is based on a guide of questions that was asked to fourteen (14) participants: four specialists: two (02) teachers, one (01) Chief of area and one (01) Judge of the Supreme Court of Justice; five (05) trial lawyers; and five (05) users, obtaining answers from each perspective, which were summarized, categorized and interpreted, in order to verify whether the objectives set out in this research are reflected in the data obtained.

For the purpose of analyzing "vulnerability", we will say in principle that this is basically characterized by the condition that people present, based on their age, physical or mental condition, gender or ethnic, social, cultural or economic circumstances, and that for this reason they are in special conditions and present difficulties to fully exercise their rights, for which reason, they deserve special attention. In this sense, this group includes the "senior citizen", a subcategory that is oriented to the age of the plaintiff, when filing the cassation appeal, as part of the judicial process he/she is following before this branch of the State.

However, from the answers given by the interviewees, they agreed that the health and physical condition factors contribute positively to the preference in the processing of pending cases in the institution under investigation; however, they also noted that this does not cease to coincide with the fact that many of the current applicants may also, due to their age, suffer from health problems that place them in a condition of vulnerability and make it difficult to distinguish between them for prompt and timely attention by the Judiciary.

Coinciding with the information gathered, the interviewees stated that a reengineering of the procedures implemented in the administrative litigation process is required, specifying that the current form of processing needs to be improved, leading to timely justice in the solution of the controversies that are submitted to its jurisdiction.

It is also important to note that the specialists specified that, despite having such conditions of vulnerability, the voluminous number of cases pending in this entity under study prevents them from accessing judicial protection for access to their pensions or their readjustment.

In the category of "procedural burden", it is characterized by the number of cassation appeals that are filed for review by this supreme court. In this sense, according to Gilmore and Glenon (2018), the procedural burden is the number of cases to be resolved that has a direct impact on the work of the jurisdictional servants and is closely related to judicial productivity. For which, the action of the subcategory "Human Resources" is required, which refers to the human potential, that is, the personnel that each State entity has for the development of its objectives and purposes (Munday, 2018). In other

words, it can be defined as the group or set of people who provide their services to a particular employer. Thus, any physical person (natural) who has a link where he provides his services to an organization, sector or part of the economy, is considered as a human resource. In turn, within the administration of the State, this concept refers to the management that it performs or executes with its workers.

In addition, the "complexity" factor must be taken into account, a subcategory that refers to the complexity of the matter to be resolved in the judicial process, determined by the application of factual and legal factors with respect to the specific case. For example, a case will be more or less complex if it refers to: (i) the clarification and/or establishment of the facts, which may be simple or complex, i.e., the facts under dispute are not identified with medium clarity; (ii) the legal analysis of these, e.g., there is no legal rule to resolve the matter or the validity of the rules or their constitutionality for the particular case is discussed; (iii) the evidence, which may be difficult to obtain, i.e., necessarily lengthy or difficult to access; and (iv) the plurality of parties and matters to be discussed.

On the other hand, it is important to emphasize that both logistics and infrastructure are instruments that, correctly and optimally used, allow increasing the competitive advantages in order to reduce the cost and time in the exercise of the functions that are executed by the Human Resources of each entity or company. In addition, it can simplify processes and satisfy users.

From the interviews collected for this study, two trial lawyers emphasized that there is a need for specialized jurisdictional personnel not only in the legal field, specifically in matters of administrative litigation, but also in process management to contribute to the processing of pending cases, giving priority to people in vulnerable conditions.

In addition, they considered that, if there is a contentious-administrative labor process, the State must urgently commit itself to comply with its obligations as an employer, providing the worker with everything necessary for his work; another measure was to provide constant training to the judicial officers so that they comply with the capacity standards in order to resolve the processes within the term granted by the law.

On the other hand, all those interviewed agreed that the current procedural load not only in this Supreme Court, but in the entire Judicial Branch exceeds the human resources to be able to resolve the cases in process, since they indicate that this exceeds what can be humanly processed by the personnel of the Court, who follow a circuit of work until the file is returned to its place of origin.

In this particular case, the main cause is the procedural overload that has caused that the cases that reach the Supreme Court cannot be attended promptly, seen from the perspective of the litigants and users of the administration of justice, is that the Supreme Court in general functions as a "third instance" to which finally all or almost all the cases of the conflicts of its competence arrive, at a national level. This logically causes the burden to exceed what is humanly digestible within the time limits provided by law.

Regarding the subcategory of degree of complexity, the interviewees pointed out that this is an element that contributes to the high demand for the resolution of disputes in process and that the manager in the processing of cases in cassation can create work teams to handle cases of less complexity; one of the specialists interviewed recommended the formulation of sheet resolutions in which up to 20 or 30 similar cases of the same subject matter could be resolved, which would provide timely attention to several users through a single shorter and not so extensive resolution.

Finally, it is worth noting the opinion of the interviewed specialist, Professor Olenka, who stated that in view of the high procedural burden, the number of jurisdictional bodies should be increased, in order to help provide a timely and efficient response to the population of users of justice, especially if the number of users in this courtroom is characterized by their age.

The "principle of celerity", which Jarama et al (2018) refer to, is linked to the procedural principles that have as meaning the haste in time for the resolution of the cases in process. This is neither attenuated nor diminished, but rather, due to errors of some lawyers, who saturate the justice system by filing cassation appeals in processes that do not merit it, they only overload the jurisdictional function; this results in the delay of the same.

The "time limits in the resolution of the cassation appeal" refers that the current regulations in the administrative litigation process prescribe that this has a duration of 09 months; however, in fact, due to the high burden of the cassation process in this judicial instance, it can be seen that they are not met and, therefore, tend to be delayed, as will be observed below, for more than 2 years while waiting for a pronouncement.

This subcategory is linked to the so-called "cassatory pronouncement", which is none other than that which is contained in a judicial resolution - supreme judgment - which puts an end to the judicial process in our territory.

In this sense, in this point referring to the subcategory "time limits in the resolution of cassation appeals" and the "cassation pronouncement" as part of the category of the principle of celerity, it can be seen that the interviewees consider that the attention of the Supreme Court in general is far from celerity, due, logically, to the disproportionate workload, since they relate that the greater the procedural load, the longer the response time of the jurisdictional body. The greater the procedural burden, the slower the process. Undoubtedly, the procedural burden has a negative influence on the principle of celerity.

Therefore, with respect to the question: What do you consider to be the cause of the delay in the attention of the cases filed by people in vulnerable conditions, they unanimously responded that it is the excessive procedural burden in the administrative litigation process that generates a long delay, which affects the principle of celerity.

Another specialist argued that it is of great importance to implement measures to reduce the procedural burden in order to achieve procedural speed, because this has a positive impact on the values of the process, specifically, on effective procedural protection, one of the essential components being the right to obtain a ruling within a reasonable period of time. It is worth highlighting what was indicated by the interviewed specialist, Judge Elvira, who pointed out, from her experience, three important factors that generate the delay in the attention to the litigants in this court: i) the extreme and unnecessary litigiousness, b) the misunderstood use and even abuse of the right of access to justice and c) the procedural ritualisms.

6 JUDICIAL REALITY: DURATION OF THE PROCESS

After what was pointed out by the actors, an analysis was made on the files that are before this court and to observe how long a process takes approximately in this supreme body, for which the following was done: firstly, it was analyzed what the Single Text of the Contentious Administrative Procedure (Supreme Decree No. 013-2008-JUS), Civil Procedure Code, and the Organic Law of the Judiciary establishes; regulations with which, the current processes subject of knowledge of the supreme court, object of study of the present work, are under review. Secondly, the reality of the facts was analyzed

and described, taking as reference two cases, 1) Cassation No. 25566-2019 (not concluded) and 2) Cassation No. 23901-2018 (concluded).

According to the aforementioned regulations, it can be seen that from the moment the file is received, there are two assumptions by which it is elevated to the Supreme Court. The first arises when the cassation appeal is filed before the Superior Court where the process originated; the second is when the extraordinary appeal is filed before the same Supreme Court, in which case, the Superior Court of origin must submit the file within a period of no more than 3 days; After which, and after the file has been received by the parties' desk and the Reporter's Area (Phase 1 and 2), the term to set a date for hearing the case is 30 days from the date the file is ready to be resolved by the supreme magistrates (article 131° - Organic Law of the Judiciary); however, in the processes referring to writs, complaints, competence disputes and others, the term to set the date for hearing the case is within the fifth day.

On the other hand, the parties may request an oral report within 3 days of being notified with the resolution that sets the date and time for the hearing of the case (article 391° CPC), a request that is resolved within the same term indicated above to summon the attorneys or the parties that have requested the report (LOPJ).

The deadline for sentencing is 50 days (Article 395 of the Code of Civil Procedure). It should be noted that the voting of the cases, with or without oral report, may take place on the same day of the hearing of the case; likewise, those processes with hearing of the case without oral report (case of the qualifications), if the case is left to vote, it must be resolved in a period not exceeding 15 days, extendable for the same term, for which the president of the Chamber is required to indicate it, when one of the members so requests (Articles 133° and 140 of the LOPJ).

In total, the maximum period in which cases must be resolved by the supreme review body is three calendar months, which is non-extendable.

On the facts: Cassation No. 25566-2019

In this case, it can be seen that the plaintiff is 72 years old; that is to say, he is a person in a vulnerable condition; whose judicial process from his admission to the table of parties on September 19, 2019 to the date on which his qualification was scheduled, January 08, 2020, had a duration time of: 03 months and 19 days; likewise, between the scheduling of the qualification and the date of qualification, January 22, 2020, 14 days passed; and from its qualification hearing to its vote by the Supreme Collegiate and issuance of the order of inadmissibility, it is noticed that not even one day passed, since this entire process was carried out on the same day of its qualification date that is, January 22, 2020. The total duration of the process from its entry through the table of parties until the issuance of the order of proceeding: 4 months and 4 days, being the case to be specified that it is the qualification stage, but not the merits.

Case No. 23901-2018

In this case, it can be appreciated that the appellant, has an age of 83 years, that is to say, he is a person in a vulnerable condition; whose judicial process from its entry to the table of parties, on August 10, 2018, to the scheduling of its qualification, on April 30, 2019, 8 months and 20 days elapsed; and between the latter and the qualification, voting and issuance of the order of proceeding, which took place on May 15, 2019, passed: 1 month and 15 days; and between the procedural order issued on May 15, 2019, to the scheduling, of the date of hearing on the merits, on July 15, 2020, 1 year and 2 months elapsed; then, from this to the hearing on the merits, voting and issuance of executory judgment, on

August 11, 2020, 26 days elapsed, and between the latter and its return to its place of origin, on January 13, 2021, a time of 5 months and 2 days elapsed. In total, we have that the qualification and merits process lasted 2 years, 5 months and 7 days.

From which, it is noticed that, in the Peruvian judicial reality, as also stated by Beal (2016) and Morrissey (2015), in studies conducted within the American justice system, the procedural deadlines indicated by the regulations applicable to the cases heard in the Supreme Court under study are not met, a fact that coincides with what was pointed out by the participants who collaborated in the interview guides.

7 CONCLUSIONS

It was found that the delay in the attention of the processes of people with the condition of "vulnerability" that are heard before the First Constitutional and Social Transitory Chamber of the Supreme Court of the Republic, in Lima - 2021, is due to the high procedural load existing in said institution, most of whom present health and age problems; therefore, they deserve preferential attention from the administration of justice.

It was determined that the attention given to vulnerable persons in the First Constitutional and Social Transitory Court of the Supreme Court of the Republic, in Lima - 2021, is deficient; that is, it is not prompt and this affects compliance with the deadlines set forth in the legal regulations in force, of the administrative litigation procedure.

The Judiciary has evidenced a major problem in not being able to optimally prioritize the processing of all the files involving the interests of people in a state of vulnerability, such as those of adults over 75 years of age or people suffering from a serious illness.

From the perception of specialists, lawyers and users, it is unanimously noted that there is a close relationship between the procedural overload and the principle of speed, in the attention of vulnerable people in the First Constitutional and Social Transitory Chamber of the Supreme Court of the Republic, in Lima - 2021.

It was possible to explore that the procedural overload generates that there is no timely attention to people in vulnerable conditions due to the high number of processes that reach this instance, many of them without having met the minimum admissibility or procedural requirements to be elevated to the Supreme Court.

The interviewees emphasized the identification of the institutional factor as the main cause of the high procedural burden, in this particular case, being the main cause that litigants and users of the administration of justice see the Supreme Court as a "third instance", which causes the burden to exceed what is humanly manageable by the jurisdictional personnel to comply with the deadlines set forth in the law.

With respect to the excessive procedural burden in the administrative litigation process, it generates a long delay, which affects the principle of procedural speed, which generates uneasiness in the public user who requires a prompt solution to their specific case, especially if we are talking about elderly people, 75 years old or older, who cannot possibly be waiting for a response for more than 10 years.

8 REFERENCES

ANDREW, Richard. *Celerity in the Courts: The Application of Fuzzy Logic to Model Case Complexity of Criminal Justice Systems*. Publisher: Springer Berlin Heidelberg. 2014.

BOCANEGRA, Tania. "Implementation of TICS in the Judiciary: electronic notification and biometric control in the years 2013 to 2016". Degree thesis Pontificia Universidad Católica del Perú. 2020. URI: <http://hdl.handle.net/20.500.12404/17843>.

CANELO, Gherman. *Derecho del trabajo*. Lima: Lex & Iuris S.A.C. 2018.

COLQUICHAGUA, Erika. "Gestión administrativa y carga procesal en materia penal: Juzgados de Juzgamiento, Provincia de Coronel Portillo, 2018". Universidad César Vallejo. 2018. URI <https://hdl.handle.net/20.500.12692/29588>.

DE LA CRUZ, Jessica. "Standardization of administrative processes and efficiency in the control of public works of a public entity, Lima-2016". Universidad César Vallejo. 2017. URI <https://hdl.handle.net/20.500.12692/12950>.

DOUSDEBÉS-SANTOS, Pablo. "Afectación en la tutela judicial por la inobservancia del principio de celeridad procesal". Graduate thesis Universidad Católica de Santiago de Guayaquil. Ecuador. 2016. URI: <http://repositorio.ucsg.edu.ec/handle/3317/5842>.

GARCÍA, Guillermo. "The role of knowledge management in the management modernization process". Degree thesis Pontificia Universidad Católica del Perú. 2018. URI: <http://hdl.handle.net/20.500.12404/12417>.

GILMORE, Stephen and GLENON, Lisa. *Hayes & Williams' Family Law*. 7th edition. 2018. Oxford University Press.

HERNANDEZ, Wilson. "La información y la toma de decisiones en la política pública judicial: una reflexión a partir del análisis de la carga procesal en el Perú". PUCP Law School Journal. N° 62, 2019. <https://doi.org/10.18800/derechopucp.200901.003>.

HERNANDEZ-SAMPIERI, Roberto. And MENDOZA, Christian. *Research Methodology. Las rutas cuantitativa, cualitativa y mixta*. Mexico: Mc Graw Hill Education. 2018.

HOYOS, Dany and RAMÍREZ, Henry. *Lack of protection of the elderly*. Señor de Sipán University. Chiclayo Perú. 2018. URI: <https://hdl.handle.net/20.500.12802/6032>.

JARAMA CASTILLO, Zaida; VÁSQUEZ CHÁVEZ, Jennifer and DURÁN OCAMPO, Armando. "El principio de celeridad en el código orgánico general de procesos, consecuencias en la audiencia. Universidad y Sociedad", 2019, 11(1), 314-323. Retrieved from <https://rus.ucf.edu.cu/index.php/rus/article/view/1127>.

Huabil, C. del P. G., Núñez Lira, L. A., Morillo Flores, J. J., & Fúster Guillén, D. (2022). Attention to vulnerable people in the First Constitutional and Social Transitory Chamber of the Supreme Court of the Republic in Lima.

MORENO DE GONZÁLES, Roxanita. "Administrative process and service quality in the local educational management unit of Alto Amazonas, Yurimaguas - 2020". Dissertation. Universidad César Vallejo. 2020. URI: <https://repositorio.ucv.edu.pe/handle/20.500.12692/48382>.

MUNDAY, Roderick. Cross and Tapper on Evidence. 13th edition. Oxford: Oxford University Press, 2018.

NUÑEZ, Luis; CASTILLO, Yasmín. and NÚÑEZ, Jesús. "Laundering of assets and the seizure of assets as a measure". Revista Vox Juris. 2020, 38(2) <https://doi.org/10.24265/voxjuris.2020.v38n2.06>.

PINOCHET, Osvaldo. "Citizen participation in local public management: the case of the commune of Pudahuel". Graduate thesis. Universidad de Chile. 2017. URI: <https://repositorio.uchile.cl/handle/2250/145052>.

SOLOTE, Helena and GRANÉ, Aurea. "Asistencia jurídica y turno de oficio para la víctima. In SOLOTE Helena & GRANÉ Aurea. La reparación económica a la víctima en el sistema de justicia". Madrid- Spain, 2019, pp. 23 - 97 <http://hdl.handle.net/10016/28327>.

VARGAS, Rosa and IDROGO, Teofilo. "El ejercicio abusivo del derecho y su relación en la sobrecarga procesal del Poder Judicial." *Science and Technology*. 2015, 11(4) <https://revistas.unitru.edu.pe/index.php/PGM/article/view/1154>.

VÁSQUEZ, Mónica. Procedural Law and Administration of Justice. Barranquilla- Colombia. Universidad del Norte.2016. URI <https://bit.ly/357vFLh>.