



**fidh**



# Food is Not a Game: Serious violations to the human right to food in Venezuela



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# ACRONYMS

<b>CBRV</b>	Constitution of the Bolivarian Republic of Venezuela
<b>CEAC</b>	Food Packaging Centre (in Spanish "Centro de Empaquetado de Alimentos")
<b>CLAP</b>	Local Supply and Production Committees (in Spanish "Comité Local de Abastecimiento y Producción")
<b>CPI</b>	Consumer Price Index
<b>CPR</b>	Civil and Political Rights
<b>DGCIM</b>	Directorate General of Military Counter-Intelligence (in Spanish "Dirección General de Contrainteligencia Militar")
<b>ECLAC</b>	United Nations Economic Commission for Latin America and the Caribbean
<b>ELN</b>	National Liberation Army (in Spanish "Ejército de Liberación Nacional")
<b>ENCOVI</b>	National Life Conditions Survey (in Spanish "Encuesta Nacional de Condiciones de Vida")
<b>ESCR</b>	Economic, Social and Cultural Rights
<b>FANB</b>	Bolivarian National Armed Forces (in Spanish "Fuerzas Armadas Nacionales Bolivarianas")
<b>FAO</b>	Food and Agriculture Organization
<b>FIDH</b>	International Federation for Human Rights
<b>FONDEN</b>	National Development Fund (in Spanish "Fondo de Desarrollo Nacional")
<b>GDP</b>	Gross Domestic Product
<b>HDI</b>	Human Development Index
<b>HIV</b>	Human Immunodeficiency Virus
<b>HRP</b>	Humanitarian Response Plan
<b>ICESCR</b>	International Covenant on Economic, Social and Cultural Rights
<b>INN</b>	National Institute of Nutrition (in Spanish "Instituto Nacional de Nutrición")
<b>MINPPAL</b>	Ministry of the Popular Power for Food (in Spanish "Ministerio del Poder Popular para la Alimentación")
<b>NA</b>	National Assembly
<b>NCA</b>	National Constituent Assembly
<b>NGO</b>	Non-Governmental Organization
<b>OAS</b>	Organization of American States
<b>OCHA</b>	Office for the Coordination of Humanitarian Affairs in Venezuela
<b>OHCHR</b>	Office of the United Nations High Commissioner for Human Rights
<b>ONCDOFT</b>	National Office against Organised Crime and Terrorism Funding (in Spanish "Oficina Nacional Contra la Delincuencia Organizada y Financiamiento al Terrorismo")
<b>OVP</b>	Venezuelan Observatory of Prisons (in Spanish "Observatorio Venezolano de Prisiones")
<b>OVSP</b>	Venezuelan Observatory of Public Services (in Spanish "Observatorio Venezolano de Servicios Públicos")
<b>PDVAL</b>	Venezuelan Food Producer and Distributor (in Spanish "Productora y Distribuidora Venezolana de Alimentos")
<b>PDVSA</b>	"Petróleos de Venezuela, SA"
<b>PoUI</b>	Prevalence of Undernourishment Index
<b>Provea</b>	Programa Venezolano de Educación Acción en Derechos Humanos (in English "Venezuelan Program of Education Action on Human Rights")
<b>PSUV</b>	United Socialist Party of Venezuela (in Spanish "Partido Socialista Unido de Venezuela")
<b>SAMAN</b>	Surveillance, Alert and Care in Nutrition and Health System (in Spanish "Sistema de Monitoreo, Alerta y Atención en Nutrición y Salud")
<b>SERN</b>	Education and Nutritional Recovery Services (in Spanish "Servicios de Educación y Recuperación Nutricional")
<b>SISVAN</b>	Food and Nutritional Supervision System (in Spanish "Sistema de Vigilancia Alimentaria y Nutricional")
<b>SUNDEE</b>	National Superintendence for the Defence of Socio-Economic Rights (in Spanish "Superintendencia Nacional para la Defensa de los Derechos Socioeconómicos")
<b>UNHCR</b>	United Nations High Commissioner for Refugees
<b>Unicef</b>	United Nations Children's Fund
<b>WFP</b>	World Food Program

# EXECUTIVE SUMMARY

This report is presented by the International Federation for Human Rights (FIDH) and its member organisation in Venezuela, the Venezuelan Program for Education and Action on Human Rights (*Programa Venezolano de Educación Acción en Derechos Humanos*, "Provea"). It is the result of a fact-finding mission conducted by a multidisciplinary team during the year 2021 and presents a thorough analysis of the level of compliance of the Venezuelan state's obligations regarding the right to food, in particular between the years 2016 and 2021.

The research carried out in the drafting of this report collected data from a variety of widely recognised documentary sources. It also involved 17 interviews with different actors, including representatives of non-governmental organisations, humanitarian organisations, farmers' organisations, academics, community activists, and journalists focused on issues pertaining to food.

The enquiry into the situation of the right to food in Venezuela formulated in this report is based on the obligations established in article 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), as well as its interpretation and development by the UN Committee on Economic, Social and Cultural Rights (CESCR), in particular in General Comment 12 of 1999.

The report begins with a description of the food and nutrition situation in the institutional and economic context of Venezuela, dating from the beginning of the Bolivarian Revolution to the emergence of the current complex humanitarian emergency. It then analyses the level of compliance of the obligations arising from the right to food (to respect, protect and fulfil); and the fundamental principles that ensure the full enjoyment of the right to food. The report identifies the effects of policies adopted by the Venezuelan state on the food security and nutritional situation of the Venezuelan people.

The report concludes that there are reasonable grounds to believe that serious violations of the right to food have been committed in Venezuela since 2016.

## Complex humanitarian emergency

In the last six years, the Venezuelan economy has contracted by more than 80% of its Gross Domestic Product ("GDP"), representing one of the deepest economic crises in the world outside the context of an armed conflict. This has been coupled with hyperinflation for more than three years. In the last two years, there has been a monthly increase in the price index by 50%; and, in 2019, annual inflation reached 39,113%. The result of this economic situation has been the development of a complex humanitarian emergency. This crisis is characterised by overwhelming poverty, food insecurity, child malnutrition and an extensive wave of migration that has led to the exodus of almost six million people out of the country.

Poverty has increased exponentially, reaching 94.5% of the population in 2021, which has caused the proportion of households that do not have access to the basic food basket to grow at a faster rate. This has caused serious consequences, as a significant part of the population has great difficulty in accessing minimum food requirements for subsistence. Likewise, multiple sources have reported extensively on the malfunctioning of public services such as water, electricity, and domestic gas, which has caused repercussions on the nutrition of Venezuelans. This situation has had a disproportionate effect on the most vulnerable populations.

Sectoral sanctions imposed by the US have not been the cause of the complex humanitarian emergency. However, the sanctions have had a catalytic effect, worsening pre-existing conditions, and producing unintended effects.



## Non-compliance with right to food obligations

The Venezuelan state has taken various measures and adopted public policies that have hindered the access to adequate food. In particular, the report details the public policies that have been put in place since the entry into force of the Law on Costs and Fair Prices (*Ley de Costos y Precios Justos*) of 23 January 2014, which had a severe impact on agricultural and industrial productivity. This regulation put forth a framework of numerous controls on the production, distribution, and commercialisation of a wide range of food items.

The Venezuelan state's public policies based on price controls, inspection and control measures, including the criminalisation of certain producers and traders, as well as the state's decision to prefer supply through imports to the detriment of national production, have caused a strong negative impact on national food production and an increase in shortages and food insecurity for all households in the country. All of this constitutes a violation by the Venezuelan state of its obligation, under ICESCR, to respect existing access to adequate food, as these measures and public policies, taken as a whole, have had the effect of making access to adequate food more difficult for a large part of the population.

In relation to the obligation to protect, which entails the adoption of measures to ensure that individuals do not deprive people of access to adequate food, the Venezuelan state, through the CLAP programme,<sup>1</sup> has not implemented the necessary controls to guarantee the quality and safety of the imported products that are distributed. Beneficiaries of the CLAP bags who were interviewed during the course of the mission stated that the products they receive are of poor quality.

The right to adequate food depends on the realisation of other rights in an interdependent manner. In this sense, the right to food is closely related to the right of access to other resources such as land, water, and certain basic services, as well as access to health care and sanitation services. In this regard, it was documented that - by 2021 - the supply of water distributed through the aqueduct network had fallen by 90%. 70% of the population faces deficiencies in access to drinking water, 54.8% faces severe restrictions in the service, and 82% is exposed to the consumption of non-drinking water. In terms of electricity, generation of electricity has fallen by 74%: during 2021 alone, 174,000 blackouts were recorded, affecting 74.2% of the population. According to the same report, a shortage of gas cylinders for cooking forced 5.4 million people in Venezuela to cook with firewood.

Regarding the Venezuelan state's obligation to fulfil, this obligation has been affected by an extensive set of regulations, decrees and frameworks adopted by the state. Few of these regulations have actually resulted in facilitating an effective access to food for the population, especially in the case of children. These regulations have been especially focused only on the management of scarce food, but have not addressed nutrition for wellbeing. These policies have been focused on the organisation of the People's Power (*Poder Popular*). The import processes for food have resulted in large-scale corruption, which has been publicly denounced. Most of these regulations, while originally designed to facilitate the right to food, have in contrast had a regressive effect on the effectiveness of the food system.

The food situation of groups which depend entirely on the state, such as the prison population in Venezuela, have worsened beyond their usual precariousness, in particular since 2020. In a context where the working population is unable to access food because of its high cost, the situation of the prison population is even more precarious. In these cases, the state also has an obligation to fulfil the right to food, since this population is unable to do so by its own means. This obligation is not being fulfilled and responsibility has been transferred to family members, who are impoverished like the rest of the population. The result has been a palpable deterioration in the conditions of the population under state guardianship, without any measures being taken to mitigate the damage.

In addition, numerous sources have reported a significant reduction in food expenditure by the population, including those living in extreme poverty and the "non-poor". This is evidence that households are spending less and less on food, with an impact on both the quantity and quality of the diet. The coping strategies that

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1 Local Supply and Production Committees (Comités Locales de Abastecimiento y Producción - CLAP) created in 2016 by the Venezuelan government as a way of distributing food to address the shortage in the formal supply chains.

the most vulnerable households have used to overcome the food crisis range from changes related to the quality and quantity of food – “they buy less food, invent new recipes and substitute ingredients they cannot afford” – to resorting to sacrificing the food of certain household members so that others can eat, seeking support from relatives or community organisations, and, in extreme cases, searching for food in rubbish dumps, among other measures that do not go unnoticed due to their frequency, unprecedented nature and severity.

The report also reveals a complete lack of transparency in the management of food policies for the time period under analysis. The absence of official figures regarding nutrition and the impact of the plans and programmes that have been implemented, prevents the adequate evaluation of these plans and their efficient adaptation to the needs of the Venezuelan population. Further, this lack of transparency in information regarding the use of resources and the execution of programmes creates a favourable environment for corruption, as it makes citizen oversight difficult.

Indeed, Venezuela is ranked as one of the most corrupt countries in the world, according to an index by the NGO Transparency International. Endemic corruption in Venezuela has permeated all state institutions, giving rise to what some liken to the phenomenon of state capture, which in turn has become an incentive to obtain personal benefits through the consolidation of a scheme of serious and systematic human rights violations. Thus, corruption has been a determining factor in affecting the Venezuelan population's right to an adequate standard of living, and the right to adequate food, as one of its essential components.

Regarding the nutritional status of children, UNICEF reported in October 2020, in its report on the humanitarian situation in Venezuela, that for 4,625 children under the age of 5,700 (15.3%) were acutely malnourished, 516 (11.1%) were moderately malnourished, and 516 (4%) were severely malnourished. This data suggests a nutritional emergency, according to international standards. The patterns of malnutrition that most clearly reveal the severity of food deprivation and the chronic nature of this situation were published by Caritas Venezuela in May 2021, referring not to acute malnutrition, but to the stunting in growth of Venezuelan children in the poorest strata. These patterns reveal that more than 30% of the children who have been admitted to Caritas' nutritional protection programme were already stunted in their growth upon arrival. Many of them were younger than 6 months, which reflects the nutritional deficits of their mothers during pregnancy. These patterns of linear stunting indicate that the food deprivation of Venezuelan families began at least as early as 2014. This nutritional deficit causes great deterioration in the cognitive development of children and will determine a biological, social and affective backwardness that will be inherited by future generations and signifies a grave violation of the very right to life.

#### Conclusions and recommendations:

While the food situation is complex and the result of multiple economic, political and social factors, both the measures adopted and the omissions of the Venezuelan state have resulted, as a whole, in violations to the right to adequate food.

While the government has established certain programmes designed to alleviate the food problem, most notably the CLAPs, these lack the quality required under international law, have been implemented in a discriminatory manner, and have been used as an instrument of social control.

At the same time, the responsibility of other States Parties must be recognised. In this regard, it is essential that any sanctions regime imposed by third countries contain explicit humanitarian exceptions and provide for regulatory and control mechanisms to prevent over-compliance by companies and governments.

On March 8, the government declared that it was going to restart negotiations with all political, economic, social and cultural actors. In this sense, to improve the nutritional situation of the population, this report makes the following recommendations:

Five recommendations are addressed to the Venezuelan state:

1. Facilitate humanitarian action in the country by national and international organisations, opening spaces for meetings and joint work to strengthen the humanitarian response plan, which should be expanded to tend to the population under the protection of the state, especially the prison population.

This requires an end to criminalisation, among other obstacles that limit immediate action to recover vulnerable populations and prevent the deterioration of their rights vis-à-vis food.

2. Work together with the private sector and civil society to promote dialogue and reactivate the food system, including by adopting policies that have a positive impact on food production and the food market, as well as social policies that strengthen the purchasing power of the population and promote access to adequate food. Promote policies that foster new sources of employment that allow wages to be raised substantially, to ensure the population has a minimum income to satisfy the food needs of workers and their families. In the context of the resumption of negotiations, we call for prioritisation of the Social Roundtable (*Mesa Social*) that had been agreed upon in the negotiation process initiated in Mexico.

3. Ensure permanent and quality access to health services, safe water, sanitation, electricity, and domestic gas, which are necessary to ensure food safety, adequate nutrition, and healthy living conditions.

4. Diversify programmes in food, nutrition and related sectors, including cash transfers commensurate with the cost of the basic food basket and basic services, as well as strengthening existing official food programmes. These programmes should have adequate transparency in their management to allow for monitoring, evaluation, and accountability.

5. Reactivate the functions of the National Statistics System (*Sistema Estadístico Nacional*) in such a way that the food and nutrition security situation is made known and the most vulnerable population is identified, including children and adolescents, pregnant women and nursing mothers, older adults, and people with disabilities, also prioritising by geographical area.

#### Recommendations to Third States and the International Community:

1. Thoroughly review the financial sanctions imposed on the Bolivarian Republic of Venezuela, requiring that they expressly provide for exceptions on transactions intended for humanitarian purposes. Sectoral sanctions that limit access to fuel and other products essential for food production and distribution should be revoked.

2. To urge, within the Human Rights Council, the Venezuelan State to honor its offer to host the visit of 10 special procedures rapporteurs, including the Rapporteur on the Right to Adequate Food and the Rapporteur on Extreme Poverty and Human Rights.





Sergio González © Provea

## INTRODUCTION

This report is based on the results of a fact-finding mission carried out by the International Federation for Human Rights (FIDH) and its member organisation in Venezuela, Provea. The deterioration of the social situation in the country due to hyperinflation, poverty triggered by a fall in purchasing power and the serious insufficiency of the Venezuelan state from the provision of essential public services such as drinking water, electricity and health services, has led to increased malnutrition and food insecurity. This situation has also provoked mass displacement of large contingents of the population. According to UNHCR, 5.9 million Venezuelans have left the country as migrants or refugees.<sup>2</sup>

Although this humanitarian crisis was in the media spotlight and on the agenda of the international community in 2018, the outbreak of the Covid-19 pandemic and the lack of political progress have resulted in it being relegated to the background. This report aims to demonstrate the urgent need to address violations of the right to food of which Venezuelans are victims. In order to contribute to a better understanding of how this situation arose and to move beyond a statistical description of the humanitarian emergency, this report identifies breaches of the obligations and principles in relation to the right to food established under the International Covenant on Economic, Social and Cultural Rights (ICESCR).

The report starts with a presentation of the institutional political context and the economic policies that have been developed in the country since 2000 which have had an impact on the food situation. The second section of the report provides an analysis of fulfilment of the obligations concerning the right to food of the Venezuelan state and other duty bearers since 2016. Finally, the report examines the effects of the breaches documented, both on food security and on the food situation of the Venezuelan population

2 UNHCR, Venezuela Situation. Available at: <https://www.UNHCR.org/situacion-en-venezuela.html>

and provides a series of recommendations addressed to the Venezuelan state aimed at guaranteeing the population's right to food.

## METHODOLOGY

The framework of analysis for this report is based on international standards including the ICESCR and General Comment No. 12 of the Committee on Economic, Social and Cultural Rights (CESCR) which sets out obligations concerning the right to food. The information gathering exercise and the structure of the report are grounded in the right to food as a human right, seeking to examine its various elements in detail. Thus, the report does not focus on a description of the food security situation, rather it analyses the legislation, policies and actions or omissions of the Venezuelan state and other actors in terms of their obligations to respect, protect and fulfil the right to food. Analysis of these obligations under the ICESCR focuses on the state's actions as the main duty bearer. It then examines the damage caused by non-compliance in relation to various aspects of the exercise of the right and the food situation of the population.

Research was carried out by a multidisciplinary team, drawing on various documentary sources, including annual reports on the right to food published by Provea, reports by other non-governmental organisations and international organisations, and academic publications. In addition, 17 interviews were conducted with relevant actors: human rights organisations, humanitarian organisations, rural organisations, academics, specialized journalists, and community activists from various areas of the country (Caracas, Lara, Yaracuy and Zulia). The interviews were held virtually, given the pandemic context.

The information obtained from these sources was supplemented with press reviews on specific topics and official national and international documents. The information gathered was structured to enable analysis of the various aspects of the right to food in the country.

# I. POLITICAL AND SOCIO-ECONOMIC CONTEXT: THE SITUATION IN VENEZUELA FROM 1999

This section provides an overview of the institutional political context and economic situation in Venezuela which forms the background to the emergence of a prolonged economic crisis in the country, causing a complex humanitarian emergency.

## a. Two decades of political conflict and weakening of institutions.

Venezuela is experiencing a systemic crisis with political, economic, and social elements, which has been escalating since 2015. The background to this crisis is a history of political confrontation and sustained erosion of institutional capacity in the name of the so-called Bolivarian Revolution led first by President Hugo Chávez (1999-2013) and, subsequently, by Nicolás Maduro (2013-present). This has led to a process of gradual autocratic consolidation.<sup>3</sup>

The first presidential term of Hugo Chávez, from 1999, marked the beginning of a new political period in the country, with the adoption of the Constitution of the Bolivarian Republic of Venezuela in December of that year. Although it maintains the principles of the independence of the branches of government and establishes extensive human rights guarantees, this constitutional text concentrates increased power in presidency than was the case in the 1961 Constitution, gives greater possibility of political participation to the military, abolishes public funding of political parties, reduces the National Assembly to a single chamber, and grants legislative control to the executive. On the basis of this combination of factors, specialists consider that the new institutional framework reduced the spaces for settling political conflicts and favoured the emergence of the political polarisation that has characterised the country for the last two decades.<sup>4</sup>

The first conflicts during the early part of the Chávez administration occurred over the approval of an Enabling Law (*ley habilitante*) in 2001 which authorised a new Hydrocarbons Act and the Land Act.<sup>5</sup> Tensions gradually escalated leading to the coup in April 2002 and the oil strike at the end of that year. The failure of both the April coup and the oil strike meant that the central power and its control over the oil industry were strengthened. The atmosphere of conflict continued with the opposition political leadership and sectors of Venezuelan civil society mobilising to call for the constitutionally mandated recall referendum, while the various branches of government introduced new requirements and delayed the process. The referendum was finally held in 2004 and President Chávez was victorious with 60% of the votes. This electoral victory coincided with an increase in oil prices which allowed his government to pursue social policies, seeking to increase the political support of the population.

The *Coordinadora Democrática*, the main leadership body of the opposition political parties and organisations at that time, never accepted the referendum results and allegations of fraud were made, which could not be proven. On this basis, several opposition political parties decided not to participate in the 2005

3 See: Alfaro Pareja, F. J. (2020). Political archipelagos under the storm in Venezuela: Coalitions, actors and autocratisation. *European Review of Latin American and Caribbean Studies*, (109), 21–40. DOI: <http://doi.org/10.32992/erlacs.10568>; Corrales, J. (2020). Democratic backsliding through electoral irregularities: The case of Venezuela. *European Review of Latin American and Caribbean Studies*, (109), 41–65. DOI: <http://doi.org/10.32992/erlacs.10598>; Marsteintredet, L. (2020). With the cards stacked against you. Challenges to a negotiated transition to democracy in Venezuela. *European Review of Latin American and Caribbean Studies*, (109), 87–106. DOI: <http://doi.org/10.32992/erlacs.10553>.

4 Bejarano, A. M. (2005). Transformations of democracy in Venezuela: a critical reading of the 1999 Constitution. *Challenges*, Volume 12, pp. 132-144. Available at: <https://www.redalyc.org/pdf/3596/359633157007.pdf>.

5 The purpose of the Lands Act was to fight against large estates and it established the reclamation of public land or expropriation of private land if the National Land Institute certified that it was lying idle. The ambiguity of the law and its regulations and the power of the NLI to make discretionary decisions caused significant legal insecurity for agricultural producers.



legislative elections, with the result that the ruling party won all seats in the National Assembly. Thus, appointments to the Electoral Authority, the Public Prosecutor's Office, the Office of the Comptroller General of the Republic and the Ombudsperson's Office were made to people directly linked to the ruling party. The outcome was a situation which lacked independence or checks and balances to the executive branch. In this context, Hugo Chávez declared the socialist aims of the Bolivarian Revolution, proposed a constitutional reform for the creation of the Communal State (*Estado Comunal*), which was rejected in the 2007 consultative referendum, and began to implement policies under which control of the economy and direct state participation in various types of companies were made possible by the boom in oil revenues.

This model of strong intervention in the economy and the increase in social programmes, known as missions (*misiones*), had harmful effects on domestic production, as will be described in greater detail in the next section. In terms of social programmes, the aim was to address the deficits of the past, but there was little investment in public education and health networks. Instead, parallel structures were created to serve vulnerable populations, such as the *Barrio Adentro* mission for the health sector and the *Robinson, Ribas* and *Vuelvan Caras* missions aimed at the adult population who had not completed formal education. In short, policies that could increase the autonomy of vulnerable groups were not prioritised, rather preference was given to promoting policies aimed at increasing household consumption, with a view to obtaining increased political support.

Economic prosperity and this social policy approach resulted in significant popular support for Hugo Chávez's government. Shortly after his re-election in 2012, Chávez retired from public life on health grounds and delegated leadership of the Bolivarian process to Nicolás Maduro. Chávez's death was announced in March 2013 and fresh presidential elections were held. The result was tight: Maduro won with a small percentage of votes and a period of uncertainty began over the functioning of the political system in the absence of Chávez. In 2014, mass protests took place under the slogan "*La Salida*" ("The Departure"), calling for the resignation of Nicolás Maduro. Unlike previous periods of conflict, this time repression by the security forces resulted in killings and mass arrests of demonstrators. According to data from *Foro Penal Venezolano*, 3,383 arrests were recorded in 2014 in the context of the demonstrations<sup>6</sup> and extrajudicial executions.

Following these protests, the opposition political leadership went back to the electoral process and, in December 2015, obtained a qualified majority in the National Assembly. Authoritarian practices began when, a few days before the recently elected parliamentarians had been sworn in, the 2010 elected Assembly appointed new judges to the Supreme Court of Justice without respecting the procedures and requirements established under the Constitution and legislation.<sup>7</sup> The Supreme Court of Justice declared the annulment of the electoral results in Amazonas State in order to prevent the opposition qualified majority from declaring the National Assembly in contempt and declared all its actions null and void.<sup>8</sup> In the years that followed, the National Executive stopped presenting its reports and accounts to the Assembly and stopped submitting a Public Budget Act to the legislature for approval.

The year 2016 saw renewed mobilisation and collections of signatures calling for another recall referendum, but this initiative was blocked by court actions.<sup>9</sup> Judgements 155 and 156<sup>10</sup> of the Supreme Court of Justice in 2017, which effectively dissolved parliament, were rejected by the Office of the Attorney General of the Republic which considered them a "breach of the constitutional order".<sup>11</sup> These measures triggered a new wave of demonstrations, in which the repression escalated: *Foro Penal Venezolano* recorded 5,517 arrests

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6 Venezuelan Penal Forum (2014). Arbitrary arrests, torture and other cruel, inhuman and degrading treatment (February/October 2014). Available at: <https://foropenal.com/detenciones-arbitrarias-torturas-y-otros-tratos-cruels-inhumanos-y-degradantes-febrerooctubre-2014/>

7 Access to Justice. Appointment of new judges violates the entire legal system. Available at: <https://accesoalajusticia.org/designacion-de-nuevos-magistrados-viola-todo-el-ordenamiento-juridico/>

8 Access to Justice. Hears the principal orders of the SCJ which declare the National Assembly in contempt. Available at: <https://accesoalajusticia.org/conoce-las-principales-sentencias-del-tsj-que-declaran-el-desacato-de-la-asamblea-nacional/>

9 <https://www.bbc.com/mundo/noticias-america-latina-37725038>

10 <https://runrun.es/nacional/303324/tsj-borro-sentencias-155-y-156-de-su-web-pero-estas-fueron-publicadas-en-medios-impresos/> [SCJ removes orders 155 and 156 from its web page but these were published in the printed media]

11 <https://www.bbc.com/mundo/noticias-america-latina-39459905>

and 102 killings in the context of the protests.<sup>12</sup> Eventually the national government decided to call a controversial election to a National Constituent Assembly (*Asamblea Nacional Constituyente* - ANC), a supra-constitutional body, without prior consultation of the population and according to terms that violate the principles of proportionality and one-person-one-vote, with the aim of ensuring over-representation of the governing party and non-participation of the opposition.<sup>13</sup> The election of the ANC and state repression brought the cycle of protests to an end, with a new legislative body imposed over the legitimate National Assembly.

In this context of high political tension, presidential elections were called seven months before the end of the presidential term. Given the existence of the ANC and irregularities in the notification of elections, a significant portion of the opposition political parties decided not to participate in the election and many countries and international institutions refused to recognise its legitimacy.<sup>14</sup> On these grounds, the National Assembly declared that the office of president was being usurped and swore in the President of the National Assembly, Juan Guaidó, as Interim President.<sup>15</sup> Thus, the political conflict came to be expressed in institutional duplication: two Presidents and two legislatures. The practical consequence is that the country's democratic institutions have been destroyed. Although the Interim Government was weakened after the election of a new National Assembly in 2020, the effect of this duplication continues, as well as that of policies that were intended to promote sanctions against the Venezuelan government as a means of forcing a political transition which, as we will see, have had an impact on the humanitarian situation.

## **b. A Complex Humanitarian Emergency caused by the economic model and the political and institutional crisis**

### **i. The shaping of the Chavismo economic model**

The economic situation in Venezuela has been steadily deteriorating since 2014, due to the breakdown of the economic model established by the Venezuelan government since the beginning of the 21<sup>st</sup> century. This model was based on price controls, currency overvaluation, distribution of international ground rent and policies centralised in the figure of the president.

Price control policies were intended, in theory, to facilitate access to basic necessities for the population most in need.<sup>16</sup> Over time, such controls were extended to more production chains and, although they caused shortages, these could be alleviated by redistributive policies and massive imports.

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12 Venezuelan Penal Forum (2018). Report on the repression in Venezuela in 2017. Available at: <https://foropenal.com/reporte-la-represion-venezuela-2017/>

13 Straka, T. (2017). Account of a self-coup. Nueva Sociedad. <https://nuso.org/articulo/cronica-de-un-autogolpe/>

14 <https://www.france24.com/es/20180519-elecciones-venezuela-maduro-comunidad-internacional> [Elections-Venezuela-Maduro-international-community]

15 <https://www.bbc.com/mundo/noticias-america-latina-46979540>

16 Decree No. 6,092, with Range, Value and Force of Law for the Protection of Persons in Accessing Goods and Services; Decree No. 8,331, which issued the Decree with Range, Value and Force of Law on Fair Costs and Prices; Organic Fair Prices Law Official Gazette 40,340.





People loot a supermarket in Maracay, Aragua state, Venezuela on June 27, 2017. FEDERICO PARRA / AFP

Foreign exchange controls centralised the distribution of oil revenue according to criteria determined by the central government and became a significant mechanism for transferring international ground rent through currency overvaluation.<sup>17</sup> The redistribution of wealth was carried out through new public institutions, many of them operating in parallel to existing Venezuelan state bodies. The best-known are the social missions which addressed specific social issues under the leadership of the national executive, in many cases with parallel budgets, characterised by a lack of transparency.<sup>18</sup>

Another significant form of redistribution were the policies on expropriation of companies and lands considered strategic for the national government, which were transferred to the central administration. With the adoption of the Land Act in 2001, the government initiated the battle against large estates (*latifundio*) that sought the de-concentration and democratisation of land tenure. At first, domestic production increased, as did the emergence of new production units, in some cases, in the form of collective ownership. However, consumption also increased and, given the price controls, product shortages became endemic, while parallel markets emerged in various items, stimulating inflation.<sup>19</sup>

The food policies implemented since 1999 failed in their "systematic programming", despite the political communication success that they enjoyed at the start.<sup>20</sup> As with other aspects of social policy, frequent changes in policy and programme approaches contributed to reducing their impact.

17 Dachevsky and Kornblihtt (2017). The reproduction and crisis of capitalism in Venezuela under Chavismo. *Latin American Perspectives*, 44(1), 78-93.

18 Venezuela - Transparency <https://transparencia.org.ve/venezuela-mantiene-la-opacidad-en-materia-presupuestaria/> [Venezuela maintains lack of budget transparency]; Chirinos 2018.

19 Howard-Hassmann, R. E. (2015). The right to food under Hugo Chávez. *Human Rights Quarterly*, 37(4), 1024-1045.

20 Aponte, C. (2016). The social policy formulated during the presidential administrations of Hugo Chávez: 1999-2012. *Public Spaces*, vol. 19, No. 45, January-April

Food distribution policies varied during the Chávez administration, first with targeted welfare policies such as the Bolívar Plan 2000, a civil-military alliance that sought to address urgent problems in the health, employment and food sectors, through care mechanisms aimed at communities in need. In addition, popular markets were promoted, in connection with production cooperatives. Under the Bolívar Plan 2000, the Armed Forces were involved in the implementation of social policy for the first time and led to controversy due to the emergence of many cases of corruption. A report by the Office of the Comptroller General of the Republic found non-existent companies, altered invoices, lost or stolen cheque books in the 26 regional offices of the programme.<sup>21</sup>

Subsequently, in 2003, the central government established the Mercial Mission and other social missions to supply basic food to the population. The Mercial Mission relied mainly on products purchased by the state from private producers and government imports. In 2007, the Food Mission replaced the Mercial Mission, with a broader scope due to direct state participation in the production and marketing phases as a result of progress in expropriations of strategic companies. In 2008, PDVSA (*Petróleos de Venezuela*) was commissioned to establish a parallel food programme as a subsidiary of the company, called PDVAL. In 2010, PDVAL became part of the Ministry of People's Power for Food (*Ministerio del Poder Popular para Alimentación*), still with direct funding from PDVSA.<sup>22</sup> Increased state participation in food production and distribution occurred in tandem with the use of a central tool in Bolivarian economic policy: overvaluation of the bolívar and distribution of preferential currencies for the import of capital and consumer goods. The Food Mission was the social policy "with the greatest coverage and the most recipients/beneficiaries in Venezuela".<sup>23</sup>

Progress in expropriations significantly affected the production system in the national countryside, especially after the nationalisation of the seed and fertiliser oligopoly Agroisleña in 2010.<sup>24</sup> The grain, dairy and meat production chains were affected while the final costs of products continued to rise in the shadow of price controls. The academic Howard-Hassmann explains this dynamic: "The tighter the price controls, the more prices on the black or informal market went up when products were not to be found in the *mercales*. Thus, in a vicious circle, price controls stimulated increases in the parallel markets which, in turn, led to more controls and shortages".<sup>25</sup>

In addition to shortages, cases of corruption and inefficiency in the food sector were endemic. In 2010, for example, between 130,000 and 170,000 tons of rotting food were found in PDVAL warehouses, in Puerto Cabello, Carabobo State. The use of preferential currencies for the acquisition of imported food created a financial incentive to purchase sub-standard or out-of-date products or to exceed the state's storage and distribution capacity.<sup>26</sup> In addition, there was little institutional capacity to monitor and control public investment and spending, since the mechanisms for transparency and accountability were undermined.

In 2012, the Social Missions System was changed, with the creation of "Great Missions" (*Grandes Misiones*) and the "Joint General Staff" (*Estado Mayor Conjunto*) mechanism. In the area of food, the Great AgroVenezuela Mission was established, with the aim of consolidating national production bases and incorporating the people into the production process in order to ensure food sovereignty and security by providing loans, agricultural machinery, supplies and technical advice. However, the effects of the economic situation soon began to be felt and this programme did not achieve sustained increases in national production.

The redistribution and centralisation policies were maintained for at least a decade, by restructuring of the budget by law and channelling national revenue through *ad hoc* mechanisms that were not subject to the traditional oversight of popularly elected bodies. First, the government applied a conservative estimate of the price of a barrel of oil in the national budget, creating an artificial revenue surplus that,

21 El Estímulo <https://www.elimpulso.com/2013/06/23/especial-i-de-ii-los-escandalos-del-gobierno-en-los-ultimos-anos/> [Government scandals in recent years]

22 Official Gazette 39,474, by Decree 7.54

23 Aponte, C. (2016). FOOD MISSION (2003-2016): EXPLORATION OF ITS SCOPE.

24 Purcell, T. (2017). The political economy of rentier capitalism and the limits to agrarian transformation in Venezuela. *Journal of Agrarian Change*, 17(2), 296-312.

25 Howard-Hassmann 2015, p. 1029

26 Venezuela - Transparency <https://transparencia.org.ve/project/de-pdval-a-pudreval/>

instead of being used to increase the stabilisation funds created to alleviate the traditional vulnerability of the oil basket, were used by the executive on a discretionary basis.<sup>27</sup> Similarly, in 2005, the central government amended the Central Bank of Venezuela Act and introduced new concepts of “necessary reserves” and “surplus reserves” which allowed the government to create a bypass in external accounts and establish special funds without institutional oversight for social investment, development projects and even international cooperation policies.<sup>28</sup>

Through the financial and political control of PDVSA and the establishment of extraordinary funds parallel to the budget, the government had a powerful social investment tool.<sup>29</sup> This financial structure represented the backbone of the Bolivarian economic model that facilitated huge social transfers and the sustained importation of consumer goods. On the other hand, the inefficiencies in the system were clear even at times of apparent expansion. From 2007 onwards, there were frequent reports of shortages of various items, especially those subject to controls.

Transfers of currency to the National Development Fund (Fondo de Desarrollo Nacional - FONDEN) and the use of newly contracted debt, mainly with Chinese financial institutions, were used for the expansion of final consumption and housing construction. At the end of 2012, the rationing of currency to the private sector began, raising the exchange rate on the parallel market.

## **ii. Breakdown of the model based on controls and income distribution**

It was possible to maintain this Bolivarian economic model based on controls and the redistribution of wealth on the basis of two fundamental pillars: high oil prices and extensive foreign funding through private investments in the oil industry and commercial and bilateral debt (acquired in particular with China). However, these conditions gradually changed. Firstly, the international capital markets began to close for Venezuela, initially due to the low ratings from credit rating agencies that drove the interest rates on Venezuelan bonds. Subsequently, with China's decision to halt loans to the country because of the difficulty of expanding oil extraction capacity and, therefore, payments. And, finally, with the financial sanctions imposed by the U.S. in August 2017 which prevented the re-negotiation of the debt and the acquisition of new loans. Meanwhile, oil prices fell steadily from 2014.

Even before the drop in oil prices and the imposition of financial sanctions by the U.S., the Bolivarian economic model was confronting a serious crisis. In the face of massive public spending entailed by the 2012 presidential election and the above-mentioned difficulties in increasing foreign funding, the Venezuelan government covered the deficit with the issuance of inorganic money. Between 2013 and 2018, the Venezuelan monetary base multiplied by a factor of 225. Economist Francisco Rodríguez explains this process: “[Venezuela] has spent six years in a row with an expanded public sector deficit (including extra-budgetary funds) greater than 10 points of GDP”. When foreign borrowing ceased to be an option “and in view of the refusal to adjust the variables that determine fiscal revenue, such as the price of petrol on the domestic market, the government started to print money to finance the deficit”.<sup>30</sup> In 2013, clear evidence of a financial crisis emerged with a severe impact on inflation, shortage of basic necessities and loss of real value of the monetary unit.<sup>31</sup> This crisis has its most immediate roots in the marked increase in public spending in 2012 on the eve of the presidential election that Chávez won for the third time.

When Nicolás Maduro was elected president in 2013, he had to confront the economic crisis left by his predecessor. First, Maduro decided to expand the model, attempting to address the symptoms of the crisis

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27 Rosales, A. (2016). Deepening extractivism and rentierism: China's role in Venezuela's Bolivarian developmental model. *Canadian Journal of Development Studies / Revue Canadienne D'études Du Développement*, 1–18. <https://doi.org/10.1080/02255189.2016.1208605>.

28 Central Bank of Venezuela Act, 2005

29 Urbaneja (2013). *Income and claim: essay on oil and political economy in Venezuela*. Caracas: Alfa.

30 Rodríguez, F. (2019). Sanctions and the Venezuelan economy: What the data say. *Latam Economics Viewpoints*, Torino Economics

31 Vera, L. (2015). Venezuela 1999-2014: Macro-Policy, Oil Governance and Economic Performance. *Comparative Economic Studies*, 57(3), pp. 539-568. <https://doi.org/10.1057/ces.2015.13>



with measures focused on price and profit margin controls and regulations. The main economy control mechanism, strict foreign exchange control that centralised the sale of dollars at a price far below their market value, was maintained, but became more limited over time, with the scarcity of foreign currency. This strategy gave rise to greater restrictions on the supply of goods while the Central Bank continued to cover PDVSA's cash flow shortages through the purchase of bonds denominated in national currency.<sup>32</sup> The increase in the monetary base was accompanied by a reduction in supply, thus aggravating the inflation crisis and the shortage of products. At the same time, the drop in oil prices from October 2014 further complicated the outlook, wiping out international reserves. Indeed, in the last six years, reserves have been depleted, falling from 20 billion USD to around 5 billion USD, most of which is made up of monetary gold.

Falling reserves, accompanied by increased liquidity, pushed up the market exchange rate, and this translated into a vicious circle of price increases for consumers.<sup>33</sup> In addition, incentives for arbitrage trading rose substantially with the increased premium offered by the parallel exchange rate as compared to the official exchange rate. During this time, allegations of corruption multiplied in relation to over-invoicing for imports of basic necessities or the existence of phantom companies that obtained resources in dollars without consideration in the real economy.<sup>34</sup>

Over six years, the Venezuelan economy contracted by more than 80% of its Gross Domestic Product (GDP), which is one of the deepest economic contractions outside the context of armed conflict.<sup>35</sup> The Venezuelan economy also faced hyperinflation over more than three years. According to data from the Central Bank of Venezuela, Venezuela recorded inflation rates of 50% per month after December 2017 and peaked in January 2019, with price increases of 196% per month<sup>36</sup>, in a context of adjustment that includes informal dollarisation, a fall in public spending and general deterioration of services from the provision of health and education to energy, transport and telecommunications.

In addition to hyperinflation, the collapse of the economic model caused a persistent shortage of basic goods, especially food, medicines, and personal hygiene products. The shortages affected not only the network of private establishments but also the public Food Mission network. Despite these effects, the government was unwilling to change its control policies, so it decided to create a new mechanism for the distribution of basic food to the most vulnerable populations.

In 2016, under the emergency decree (*decreto de excepción y emergencia nacional*), which gives the executive extraordinary powers, the government created the Local Supply and Production Committees (*Comités Locales de Abastecimiento y Producción* - CLAP).<sup>37</sup> This was devised as a new way of distributing food to address the shortage in the formal supply chains. Initially conceived as an interim measure, it later became the flagship food distribution programme. Over time, it became the most important and, at times, only social protection policy. Although it was regarded as "a remnant of the Food Mission", it was included in the 2017 national budget<sup>38</sup> and it represented the completion of the mission.<sup>39</sup> It was then converted into a "strategic part of the revolutionary social policy" and the programme with mechanisms related to large-scale economic, administrative, and political corruption.

32 Balza Guanipa, Ronald. 2015. On centralised planning for regulation of the economy: proposed gradual transition for Venezuela. In R. Balza Guanipa (Ed.), *Venezuela 2015: political economy and society*. Caracas: Fundación Konrad Adenauer Universidad Católica Andrés Bello.; Vera, L. (2015). Ob. Cit.

33 Saboin García, J. L. (2017). Factors determining the parallel exchange rate in Venezuela: an empirical approach. In R. Balza Guanipa y H. García Laralde (Eds.), *Fragments of Venezuela: 20 writings on economy*. Caracas: Universidad Católica Andrés Bello

34 Dreier, H. and Goodman, J. (2016, 28 December). "Venezuela military trafficking food as country goes hungry". Available at: <http://bigstory.ap.org/article/64794f2594de47328b910dc29dd7c996/venezuela-militarytrafficking-food-country-goes-hungry>

35 Puente Camba, J. M., y J. A. Rodríguez (2020). Venezuela at Stage of Macroeconomic Collapse: An Historical and Comparative Analysis. *Latin America Today*, Vol. 85, July 2020, pp. 55-72, doi:10.14201/alh.21992.

36 Official data available at: <http://www.bcv.org.ve/estadisticas/consumidor>

37 2016 Exceptional circumstances and national emergency decree

38 Aponte (2016) The social policy, op. cit.

39 Encovi 2017



A woman walks between the empty shelves of a supermarket in Caracas on January 11, 2018. JUAN BARRETO / AFP

Under this scheme, the government centralised the distribution of rationed and subsidised foods. The Armed Forces had a key role in the control of food distribution networks. In the context of strict price controls and severe shortages, the acquisition of subsidised food and sale of it at market prices became a lucrative business for those with access to the products. In 2016, which represented a high point in terms of high costs and shortages, Associated Press reports documented how agents of the Armed Forces were part of food smuggling networks.<sup>40</sup>

### iii. Characteristics of the Complex Humanitarian Emergency

The result of these economic conditions has been the development of a Complex Humanitarian Emergency in Venezuela. As described below, this crisis is characterised by staggering figures for poverty, food insecurity, child malnutrition and a migration crisis that has driven out almost six million people in the last five years.<sup>41</sup> To illustrate the gravity of the situation, we present here a summary of the statistics that are discussed extensively throughout this report. The World Food Programme's 2020 Report shows that more than nine million Venezuelans cannot access food due to its cost. According to *Encuesta Nacional de Condiciones de Vida en Venezuela* (National Survey of Living Conditions in Venezuela -ENCOVI), in 2021, 59.7% of households were moderately or severely food insecure and this survey also indicates a fall in food consumption for all socio-economic groups. Caritas Venezuela's "sentinel" monitoring of acute malnutrition in the country shows that acute child malnutrition increased during 2020, reaching 14.4% acute malnutrition in children under five.

According to the Economic Commission for Latin America and the Caribbean (ECLAC), in 2017, poverty levels rose, income poverty was at 87%, recent poverty at 56%, and chronic poverty at 30%. Furthermore, data from ENCOVI show that this indicator increased by more than 40 percentage points between 2014 and 2021, going from 52.6% to 94.5%. Extreme poverty tripled in this same period, going from 25.2% to 76.6%

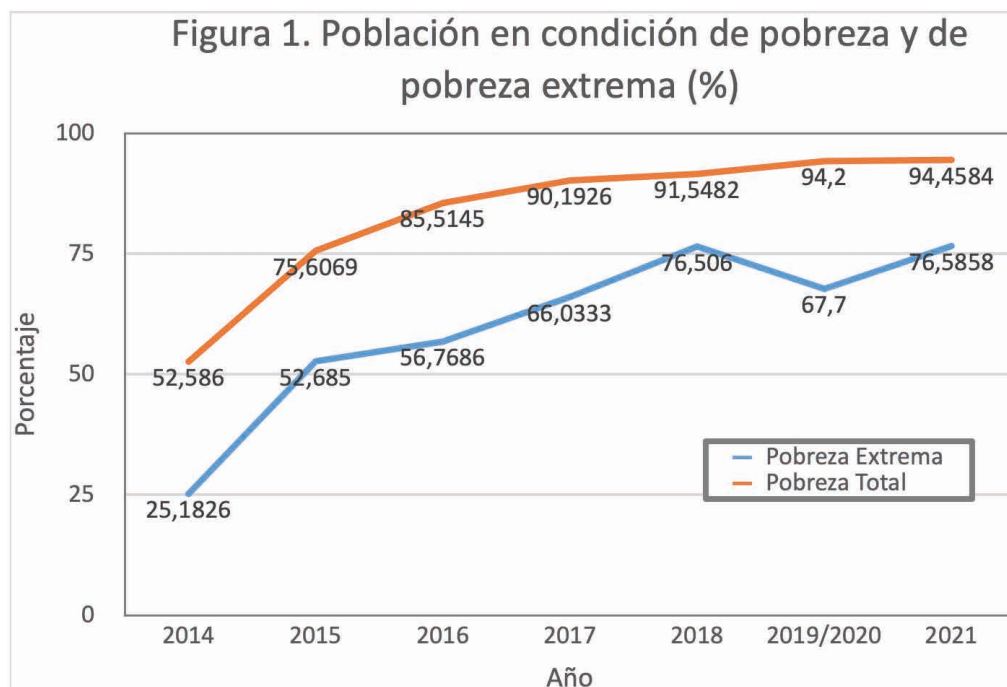
40 Dreier, H. y Goodman, J. (2016, 28 de diciembre). "Venezuela military trafficking food as country goes hungry". Available at: <http://bigstory.ap.org/article/64794f2594de47328b910dc29dd7c996/venezuela-militarytrafficking-food-country-goes-hungry>

41 ENCOVI, 2020; Venezuela Situation, UNHCR, ver: <https://www.unhcr.org/venezuela-emergency.html>



(Figure 1). This increase in poverty levels has caused the proportion of households without access to the "basic food basket" (*canasta alimentaria básica*) to grow at a faster rate, which has serious implications since a significant part of the population has great difficulties in meeting minimum subsistence needs.

Figure 1. Population in condition of poverty and extreme poverty (%)



Source: Conditions of Life Survey. Own preparation.

In addition to poverty, Venezuela has also been declining in terms of equality. This increased inequality is explained by the growing gap between the population that receives income in dollars and can therefore access the goods and services that have begun to appear since partial liberalisation of the controls in 2019 and the population that only has income in bolivars and whose consumption capacity continues to decrease. According to ENCOVI calculations, the Gini index, the standard measure of inequality in income distribution, which varies between 0 (no inequality) and 1 (maximum inequality), was 0.567 in 2021, making Venezuela the country with the highest inequality in Latin America.<sup>42</sup>

This process of impoverishment and increased inequality has even caused setbacks in the social achievements that Venezuela had accumulated since the middle of the 20<sup>th</sup> century. Indicators such as school attendance, teenage pregnancy and infant and maternal mortality have regressed as the population's income has decreased. A synthetic indicator such as the Human Development Indicator (HDI) can be used to illustrate this trend. Although Venezuela used to rank among the countries with the best profile in this index, since 2015 this trend has reversed, going from 0.769 in 2015 to 0.711 in 2019. In 2019, it was therefore lower than the average of the countries in the high human development group (0.753) and lower than the average of the Latin American and Caribbean countries (0.766).<sup>43</sup>

Another consequence of the crisis in Venezuela is the severe deterioration in public services, which has been recognised by human rights bodies. Both the United Nations High Commissioner for Human

42 2021 Living Conditions Survey, available at: [https://assets.website-files.com/5d14c6a5c4ad42a4e794d0f7/6153ad6fb92e4428cada4fb7\\_Presentacion%20ENCOVI%202021%20V1.pdf](https://assets.website-files.com/5d14c6a5c4ad42a4e794d0f7/6153ad6fb92e4428cada4fb7_Presentacion%20ENCOVI%202021%20V1.pdf)

43 UNDP: United Nations Development Program (2020). 202 Human Development Report The next frontier: human development and the Anthropocene. Bolivarian Republic of Venezuela Available at: [http://hdr.undp.org/sites/all/themes/hdr\\_theme/country-notes/es/VEN.pdf](http://hdr.undp.org/sites/all/themes/hdr_theme/country-notes/es/VEN.pdf)

Rights and the United Nations Under-Secretary-General for Humanitarian Affairs have warned about the precarious situation in the country and the consequences that the situation has generated for the population. Officials point to the "diversion of resources, corruption and lack of maintenance of the public infrastructure, as well as underinvestment".<sup>44</sup> As a result, in 2021, there are 15.7 million Venezuelans suffering from major water service restrictions.<sup>45</sup>

Similarly, various unofficial sources, both national and international, have provided information on the inadequate functioning of these services. In relation to water, in 2019, the World Food Programme (WFP) reported that "four out of ten households had recurrent interruptions in the water service" and "25% of households did not have sustainable access to [drinking] water"; 72% of households had an irregular gas supply; and 43% had reduced the number of meals because of a lack of this resource.<sup>46</sup> As detailed below, although households have the infrastructure for access to services, difficulties arise in frequency and quality, which is a severe problem in most cases.

Such interruptions in public services have been documented by various civil society organisations, such as the *Observatorio Venezolano de Servicios Públicos* (Venezuelan Observatory of Public Services). In its monitoring of public services carried out in April-May 2021, among 7,479 people in 12 cities, it recorded that, although 98.7% of those surveyed had access to pipes, only 24.9% had a permanent water supply and 54.3% received water four times a week or less. In relation to the electricity service, 75.4% of those surveyed reported service failures on a daily basis or up to 6 days a week. 74.5% of those surveyed received gas at intervals of more than one month or gas cylinders were not delivered to their community. With regard to the sanitation service, although 67.8% had formal access to it, only 9.4% received the service on a daily basis.<sup>47</sup>

It is important to stress that, although the economic, public services and food crisis affects the whole population, the crisis has a differentiated effect on the most vulnerable populations, the poorest, women generally and elderly women in particular. During the period of greatest shortages, the crisis had a particularly adverse effect on women "who are the main caregivers and/or heads of households, and who dedicate an average of 10 hours per day queuing for food. Local sources reported some women being compelled to exchange sex for food".<sup>48</sup>

The loss of purchasing power, food shortages and increasing difficulties in accessing basic public services have prompted an unprecedented process of emigration in Venezuela. Since 2000, the successive political conflicts had been driving migration processes, but until 2014, it mainly concerned highly qualified people who emigrated in search of better employment opportunities in countries such as the U.S., Spain or Canada. With the onset of the humanitarian emergency, the phenomenon extended to poor people who embarked on journeys to other countries in South America.<sup>49</sup> According to the most recent UNHCR data, there are 6.03 million Venezuelan refugees and migrants in other countries around the world. Of these, 82.7% are in countries in Latin America and the Caribbean.<sup>50</sup>

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44 OHCHR (2019) Report of the United Nations Office for human rights on Venezuela urges the adoption of immediate measures to stop and remedy serious breaches of rights. Available at: <https://www.ohchr.org/SP/NewsEvents/Pages/DisplayNews.aspx?NewsID=24788&LangID=>

45 HumVenezuela 2021 June Report. Available at: <https://humvenezuela.com/wp-content/uploads/2021/09/Informe-HumVenezuela-junio-2021-2.pdf>

46 WFP: World Food Programme (2020). Venezuela Food Security Assessment. Available at: <https://www.wfp.org/news/venezuela-food-security-assessment>

47 Venezuelan Observatory of Public Services. June 2020 Informative Bulletin. Available at: [http://www.observatoriovsp.org/wp-content/uploads/boletin-25\\_4-comprimido.pdf](http://www.observatoriovsp.org/wp-content/uploads/boletin-25_4-comprimido.pdf)

48 OHCHR 2019, p 4.

49 Serbin, A (2018). The humanitarian crisis in Venezuela and its regional impact: migration, security and multilateralism. Regional Economic and Social Research Coordinator (CRIES). Available at: <http://www.cries.org/wp-content/uploads/2018/09/010-Andrei.pdf>

50 UNHCR (2021). Refugees and Migrants from Venezuela. Available at: <https://www.r4v.info/es/refugiadosymigrantes>

#### iv. Effects of international sanctions

This overview of the Venezuelan administration's economic policies and the chronology of the onset of the crisis demonstrates that the sectoral sanctions imposed by the U.S. were not the cause. However, sanctions have had a catalytic effect, in some cases worsening pre-existing conditions and, in others producing unintended effects. According to the OHCHR report, the economic sanctions have exacerbated "further the effects of the economic crisis and thus the humanitarian situation", due to the contraction of "foreign exchange earnings [that] derive from oil exports, many of which are linked to the U.S. market". With regard to unintended effects, as a consequence of the oil sanctions imposed by the U.S. administration in 2019,<sup>51</sup> Nicolás Maduro's administration began a process of economic reform.<sup>52</sup> These reforms were conceived as a response to restrictions which were no longer only financial (which commenced in 2017) but also applied to sale of crude oil that took around 400,000 barrels of oil exports to the U.S. subsidiary CITGO out of the market.<sup>53</sup> First, the government abolished foreign exchange controls and gradually accepted the use of the U.S. dollar in the retail economy and it has been opening up to banking and the acquisition of foreign currency debt to a limited extent. Price controls were also relaxed, facilitating the purchase of food and other goods in dollars.

Despite this easing of restrictions, major obstacles remain for producers and distributors. These include fuel shortages and recurrent power cuts. Furthermore, the government, in an attempt to curb hyperinflation, has ordered draconian monetary control measures, essentially removing bank credit and forcing high levels of anchor.<sup>54</sup> Thus, the use of foreign currency in cash has been forced on those who have access to it, while the national currency is disappearing. However, credit lines have been restricted and small and medium producers are unable to access funding in dollars. Businesses with a larger mobility capacity have used accounts in roubles and lira, strengthening the existing geopolitical alliance with Russia and Turkey. Similarly, new investors from Iran and Syria have taken advantage of the relative openness to create new enterprises in the food retail sector in alliance with the government.<sup>55</sup>

Targeted liberalisation of the economy has included the re-privatisation of expropriated public companies and the return of land to its previous owners.<sup>56</sup> However, under the Anti-Blockade Act (*Ley Antibloqueo*) passed by the ANC in October 2020, the government has *carte blanche* to sell assets, privatise state companies and change the composition of joint ventures in the hydrocarbon sector without going through a public bidding process or obtaining parliamentary approval.<sup>57</sup>

Informal dollarisation and targeted liberalisation have several effects. First, they increase inequality. Although it is true that shortages have been alleviated and goods are increasingly available, many of these are unaffordable for people whose income is in bolivars. Inequality also has geographical features, since the penetration of the dollar or other convertible currencies such as the Colombian peso and the Brazilian real, is concentrated in large urban centres and border states. Secondly, new production chains have been created that are relatively informal in that they do not necessarily undergo formal accounting or contribute foreign currency to the national treasury, thus limiting the state's capacity for social reinvestment. The expansion of business with imported goods, known as *bodegones*,<sup>58</sup> has created escape valves for relatively lavish consumption but without addressing the basic needs of the most vulnerable sectors, as the OHCHR has repeatedly underlined.<sup>59</sup> Thirdly, the creeping liberalisation and privatisation programme raises doubts as to the terms of transfer of previously expropriated properties. The new owners and the operation of the

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51 E.O. 13850

52 Bull, B. y Rosales, A. (2020). Into the shadows: sanctions, rentierism, and economic informalization in Venezuela. *European Review of Latin American and Caribbean Studies*, (109), 107–133. <https://doi.org/10.32992/erlacs.10556>

53 Rodríguez, F. 2019. Sanctions and the Venezuelan economy: What the data say. *Latam Economics Viewpoints*, Torino Economics

54 Official Gazette No. 41.560; Official Gazette No. 42.050

55 Olmo 2020 <https://www.bbc.com/mundo/noticias-america-latina-53604561>

56 Seijas Meneces, C. (2021, January). *Chavismo* reprivatises companies that it expropriated and brought to collapse. <https://talcualdigital.com/a-la-calladita-el-chavismo-reprivatiza-empresas-que-expropio-y-llevo-al-colapso/>

57 ANC 2020. Anti-Blockade Law

58 Convenience stores supplied with food and a wide variety of other personal and household items, all imported.

59 The OHCHR 2019 Report documents violations of the right to food and health in Venezuela. Report available at: <https://www.ohchr.org/SP/NewsEvents/Pages/DisplayNews.aspx?NewsID=24788&LangID=S>

"strategic alliances" that the national government has established in the shared management of some of these companies are unknown.<sup>60</sup>

This section provided a brief summary of the political, economic and food policy context over the past two decades. In the next section, we will focus on the last five-year period to analyse the extent to which the Venezuelan state has complied with its international obligations regarding the right to food.

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60 Seijas Meneces, C. (2021, January). Chavismo reprivatises companies that it expropriated and brought to collapse. <https://talcualdigital.com/a-la-calladita-el-chavismo-reprivatiza-empresas-que-expropio-y-llevo-al-colapso/>

## II. OBLIGATIONS OF THE VENEZUELAN STATE AND OTHER CO-GUARANTORS IN RELATION TO THE RIGHT TO FOOD

### a. Legal framework of the right to food in Venezuelan legislation and international law

Food security in Venezuela acquired constitutional status in 1999, under Article 305 of the Constitution of the Bolivarian Republic of Venezuela (CBRV). In terms of the connection between the right to food and the agricultural economy, the CBRV promotes sustainable agriculture as a way to guarantee food security (also within the competence of the National Public Power- *Poder Público nacional*), while promoting overall rural development, the well-being of the rural population and affirming the fight against large estates (*latifundia*). Article 305 of the Constitution provides that: "The State shall promote sustainable agriculture as the strategic basis for overall rural development, in order to guarantee the food security of the population, defined as the sufficient and stable availability of food at the national level and timely and continuous access to it for consumers."

Furthermore, Article 306 provides that the state will promote "conditions for overall rural development, for the purpose of generating employment and ensuring the rural population an adequate level of well-being, as well as their inclusion in national development. It shall likewise promote agricultural activity and optimum land use by providing infrastructure projects, supplies, loans, training services and technical assistance." In addition, in Articles 55 and 115, the Constitution guarantees the right to property, whilst establishing fair compensation in the event of expropriation on the grounds of public benefit or social utility.<sup>61</sup>

At the international level, the right to food is addressed most extensively in the International Covenant on Economic, Social and Cultural Rights (ICESCR), which recognises in Article 11(1) "the right of everyone to an adequate standard of living for her/himself and her/his family, including adequate food [...]" and requires states to take "appropriate steps to ensure the realisation of this right," including international cooperation.<sup>62</sup> Article 11(2), "recognizing the fundamental right of everyone to be free from hunger" requires states to adopt specific programmes to improve methods of production, conservation and distribution, disseminate knowledge of the principles of nutrition and develop or reform agrarian systems. As explained in further detail below, given that Venezuela ratified the Covenant on 10 May 1978, the Venezuelan state has an obligation to respect, protect and facilitate the right to food.

This set of obligations under the ICESCR is binding on the Venezuela state not only because it ratified the Covenant in 1978, but also by virtue of Article 23 of the Constitution which provides: "The treaties, covenants and conventions on human rights which have been signed and ratified by Venezuela have a constitutional rank, and prevail over internal legislation, insofar as they contain provisions concerning the enjoyment and exercise of such rights that are more favourable than those established by this Constitution and the laws of the Republic, and shall be immediately and directly applied by the courts

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61 CBRV 1999

62 International Covenant on Economic, Social and Cultural Rights, Adopted and opened for signature, ratification and accession by the General Assembly in its Resolution 2200 A (XXI), of 16 December 1966. Other human rights instruments that recognise the right to food, whether directly or indirectly, are the Universal Declaration of Human Rights (Article 25, right to an adequate standard of living), the International Covenant on Political and Civil Rights (Article 6, right to life, ratified by Venezuela in 1978) and the Declaration on the Right to Development (Article 8, "States should undertake, at the national level, all necessary measures for the realization of the right to development and shall ensure, inter alia, equality of opportunity for all in their access to basic resources, education, health services, food ...").





"Que el silencio no nos alcance", 6 November 2019. Luis Hidalgo, Provea.

and other organs of the Public Power." Accordingly, the ICESCR has constitutional status and no national legislation or public policy may contradict its principles and obligations.

The definition of the right to food refers to the right to *adequate* food, which implies the availability of food in a quantity and quality sufficient to satisfy the dietary needs of individuals.<sup>63</sup> The term dietary needs implies "that the diet as a whole contains a mix of nutrients for physical and mental growth, development and maintenance, and physical activity that are in compliance with human physiological needs".<sup>64</sup> Food products must be safe, meaning that they are free from adverse substances, and the state must take regulatory and protective measures to prevent contamination of foodstuffs "through adulteration and/or through bad environmental hygiene or inappropriate handling at different stages throughout the food chain".<sup>65</sup>

The right to food, as is the case of the other rights enshrined in the ICESCR, imposes an obligation on the state to take steps "to achieve *progressively* the full realization of the right to adequate food".<sup>66</sup> Although states may realise the right to food progressively, they have "a core obligation to take the necessary action to mitigate and alleviate hunger ... even in times of natural or other disasters".<sup>67</sup> Furthermore, a state would

63 Committee on Economic, Social and Cultural Rights, General Comment 12 ("The right to adequate food (Art. 11)"), E/C.12/1999/5, 12 May 1999, paragraph 8.

64 Committee on Economic, Social and Cultural Rights, General Comment 12 ("The right to adequate food (Art. 11)"), E/C.12/1999/5, 12 May 1999, paragraph 9.

65 Committee on Economic, Social and Cultural Rights, General Comment 12 ("The right to adequate food (Art. 11)"), E/C.12/1999/5, 12 May 1999, paragraph 10.

66 Committee on Economic, Social and Cultural Rights, General Comment 12 ("The right to adequate food (Art. 11)"), E/C.12/1999/5, 12 May 1999, paragraph 14.

67 Committee on Economic, Social and Cultural Rights, General Comment 12 ("The right to adequate food (Art. 11)"), E/C.12/1999/5, 12 May 1999, paragraph 6.

be in breach of Article 11 of the ICESCR if it does not guarantee a “minimum essential level required to be free from hunger”.<sup>68</sup> These specific points make it clear that the state's obligation as the guarantor of the right to food is primarily to guarantee the right of the population to feed itself autonomously, and not the right to be fed (the latter applies only to populations whose circumstances mean they are deprived of a livelihood or are in a situation of total dependence on the state).

Although responsibility to guarantee the right to adequate food in Venezuela lies principally with the Venezuelan state, others also have responsibility as co-guarantors of the right as set out in the ICESCR. First, it should be noted that other States parties have a responsibility to take steps to respect the enjoyment of the right to food in other countries and this includes facilitating access to food and refraining from measures that endanger access to food in those countries.<sup>69</sup> Others such as international organisations, private companies, the food industry, and the media also have a responsibility with regard to the right to food.<sup>70</sup>

As with other human rights, the right to food imposes three levels of obligation: the obligations to respect, protect and fulfil. We will analyse the level of compliance with these obligations by the Venezuelan state or other duty-bearers. We also examine the Venezuelan state's obligation to facilitate and permit humanitarian action in the country and to observe, when fulfilling its obligations, the principles of non-discrimination, transparency, participation and decentralisation. We also look at corruption and its effect on the right to food.

## **b. The obligation to respect**

The obligation to respect existing access to adequate food requires states parties not to take any measures that result in preventing such access.<sup>71</sup> This requires a state to refrain from taking measures that may deprive people of such access, for example, by ensuring that those who produce their own food have access to the resources necessary to undertake that production (including land and water), or by ensuring that those who have the income to buy food are not deprived of that possibility by restrictions on the supply of food or its movement.<sup>72</sup> General Comment 12 recognises a responsibility on the part of other states to refrain at all times from food embargoes or similar measures which endanger access to food in other countries.<sup>73</sup>

### **i.**

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68 Committee on Economic, Social and Cultural Rights, General Comment 12 (“The right to adequate food (Art. 11)”), E/C.12/1999/5, 12 May 1999, paragraph 17.

69 Committee on Economic, Social and Cultural Rights, General Comment 12 (“The right to adequate food (Art. 11)”), E/C.12/1999/5, 12 May 1999, paragraphs 36-37.

70 Committee on Economic, Social and Cultural Rights, General Comment 12 (“The right to adequate food (Art. 11)”), E/C.12/1999/5, 12 May 1999, paragraphs 36-41; Provisional report of the Special Rapporteur on the right to food, Mrs Hilal Elver, A/71/282, 3 August 2016, paragraph 67.

71 Committee on Economic, Social and Cultural Rights, General Comment 12 (“The right to adequate food (Art. 11)”), E/C.12/1999/5, 12 May 1999, paragraph 15.

72 Provisional report of the Special Rapporteur on the right to food, Olivier De Schutter, 7 August 2013, paragraph 11, A/68/288. A clear and extreme example of a breach of the obligation to respect access to the right to adequate food would be when a government at war with part of its own population deprives the part of the population that it considers “hostile” of access to food. See Report of the Special Rapporteur on the right to food, Jean Ziegler, E/CN.4/2001/53, paragraph 27.

73 Committee on Economic, Social and Cultural Rights, General Comment 12 (“The right to adequate food (Art. 11)”), E/C.12/1999/5, 12 May 1999, paragraphs 36-37.

i. **The obligation of the Venezuelan State to respect**

In the case of Venezuela, the state has taken several steps and adopted policies that have resulted in preventing access to adequate food. As detailed above, over the last two decades, economic policies have been characterised by the introduction of multiple controls and these policies have had a significant effect on national food production and its distribution, seriously affecting both the availability of food in the country and the population's access to it. In this regard, the adoption of various price control measures had a decisive impact, as did the establishment of requirements and controls that restrict the movement of food and supplies in the territory.

The Decree with the status and force of law (*decreto con rango y fuerza de Ley*) on Fair Costs and Prices (*Costos y Precios Justos*) was published in Official Gazette No. 40.340 of 23 January 2014, following approval by the National Assembly of the first Enabling Law (November 2013) of President Nicolás Maduro's administration. This law establishes a formula for calculating the "fair price" of various goods and services and stipulates a maximum profit margin of 30%. This law also creates the National Superintendence for the Defence of Socio-Economic Rights (*Superintendencia Nacional para la Defensa de los Derechos Socioeconómicos* - SUNDEE) which has the power to determine, change and control the prices of all goods and services produced in the country. Moreover, the offences of stockpiling, speculation, resale of basic necessities, smuggling and destabilisation of the economy were created, with sentences of up to 14 years' imprisonment.

These restrictive provisions affected the operations of food producers, with production falling in the main agricultural sectors. The strictness of this policy of controls and the discretionary nature of its application by SUNDEE led to growing food shortages and, although the Law on Fair Costs and Prices was partially amended in November 2015, the maximum profit margin was maintained, as well as the creation of offences and penalties.

This legal framework was replaced by the Constitutional Law on Sovereign Supply and Agreed Prices (*Ley Constitucional de Abastecimiento Soberano y Precios Acordados*), passed by the ANC in 2017<sup>74</sup>. The purpose of this new law was to ensure the availability of prioritised products and to guarantee food security and sovereignty (Article 1), by promoting sectoral agreements between the National Executive and producers on prices, quality, provision, distribution and supply of prioritised goods and services (Article 7). This new regulatory framework can be understood as the institutional response to the increased shortages that the country suffered between 2016 and 2017.

This law may appear less restrictive than previous laws because it does not establish a maximum amount of profit and allows for variations in profit according to economic sectors, productivity or distribution in the territory (Article 9). However, the Transitory Provision maintains the price monitoring mechanisms through SUNDEE and the penalties established in the Law on Fair Costs and Prices. In addition, there were many allegations that the agreed prices published in the Official Gazette were below production prices, thus affecting the capacity to produce and replace stocks. In this way, the state sought agreements with producers while reserving the power to repress and to restrict economic freedoms contained in the laws in force since 2014. These laws remain in force even though, since April 2020, the agreed prices have no longer been published in the Official Gazette.

In 2017, the peak year for intensity of attacks against producers and businesses, the *Observatorio Venezolano de la Propiedad* (Venezuelan Property Observatory) recorded 11,852 actions contrary to the right to economic freedom of those involved in the national food system, which added to the cumulative figures recorded between 2012 and 2021, of 105,178 inspections of companies and 51,426 breaches in various types of economic sector: expropriations, interventions, temporary occupations, confiscation regulations, fines, encroachments, company closures, looting and confiscations,<sup>75</sup> which violated the

74 Extraordinary Official Gazette No. 6.342 dated 22 November 2017. The National Constituent Assembly (ANC) was a body created in a context of social and political conflict and it meant the de facto replacement of the powers of the democratically elected National Assembly. The ANC only had representation from pro-governmental allies.

75 Further details in the Observatory of Rights to Property of CEDICE, Available at: <https://paisdepropietarios.org/propietariosve/observatorio/estadisticas/>

substance of Article 115 of the National Constitution and the substantive aspects of the economic and social freedoms of these companies.

The interviews conducted revealed the impact of these inspections, which not only affected the availability of certain items but also criminalised producers and traders:

"In 2018, we recorded how, overall, they arrested several supermarket managers, how in 2018, more than 410 bakeries were inspected in Caracas and the bread disappeared and the same thing happened throughout the country."<sup>76</sup>

Inspection and control measures have been maintained or even increased<sup>77</sup> despite the opening-up of economic policies resulting from the informal dollarisation of the economy. Moreover, they appear to have a political objective, as one of the experts interviewed put it, because the inspections or arrests do not occur at random but at times when the attack may be more profitable in political terms:

"There is a seasonal aspect to the attacks... in December against stores that sell the ingredients for *hallacas*,<sup>78</sup> in August and September against those that sell school supplies and uniforms."<sup>79</sup>

The publicity that the official media gave to the inspections and orders to reduce prices for certain types of establishments or items, led to episodes of violence against traders, especially in the years of greatest food shortages (2016 and 2017). Although there is no evidence that lootings were encouraged by government authorities, several people interviewed said that they suspected this.<sup>80</sup>

The controls on food producers do not solely relate to the prices established in the legislation but also include the requirement to have the approval of the Venezuelan state in order to distribute food in the national territory. Each lorry that carries food must have a "Mobilisation Guide" that indicates where the goods are to be distributed and this guide must be officially approved. A manual of the steps that businesses must take in order to transport both supplies and final goods produced is available online (Figure 2).<sup>81</sup>

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76 FIDH, Interview 20210617. AC. LG. E1, paragraph 15.

77 FIDH, Interview 20210617. AC. LG. E1, paragraph 13.

78 Traditional Venezuelan dish, consisting of a cornmeal dough stuffed with meat, typically eaten during Christmas season.

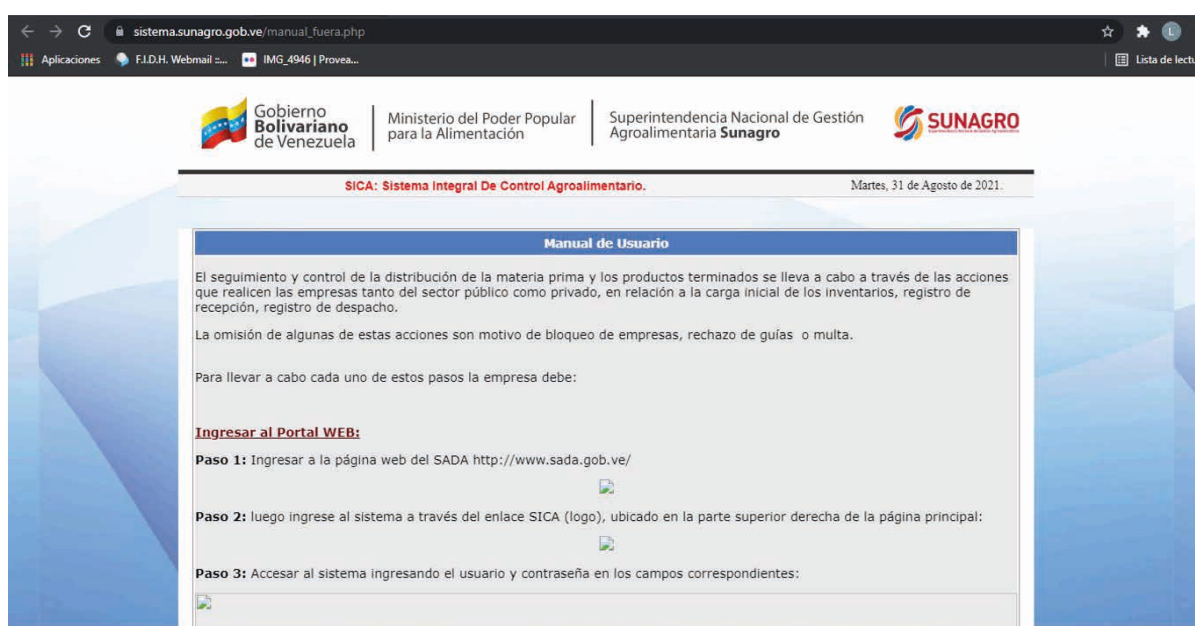
79 FIDH, Interview 20210617. AC. LG. E1, paragraph 13.

80 FIDH, Interview 20210616. LM. JR. E1, paragraph 35 and FIDH, Interview 20210617. AC. LG. E1 paragraph 15.

81 Available at the following link: [https://sistema.sunagro.gob.ve/manual\\_fuera.php](https://sistema.sunagro.gob.ve/manual_fuera.php). Accessed on 31.08.2021.



Figure 2. Comprehensive Agri-Food Control System



The procedure does not only consist of the authorities certifying or registering the destination but in many cases this destination is imposed on the producer by the authorities, which has an impact not only on the regions that receive more or fewer products but also on the decision to continue producing:

"One of the reasons they say that animal slaughter has decreased is because of the state's intervention in their destination. As a producer, I go to move the animals to an abattoir where I have negotiated the price but, when I ask for the mobilisation guide they give me, they tell me not to go to that abattoir but to another one, so I don't take my animals out. Because that abattoir belongs to a person who pays commission."<sup>82</sup>

In addition to the control that the distribution guides involve, throughout the territory security force roadblocks (*alcabalas*) restrict the free movement of goods, and it is reported that they ask for money or part of the cargo in order to allow products to pass<sup>83</sup> and that these costs are transferred to the final price that consumers have to pay. The presence of roadblocks and reports of charging have increased since 2020 due to the quarantine measures ordered by the executive.<sup>84</sup>

An additional factor that has breached this obligation to respect existing access to food in the country relates to policies that have favoured food importation over domestic production<sup>85</sup>.

This prioritisation of food imports is even more apparent in the case of food intended for CLAP bags or boxes which initially consisted almost exclusively of imported items.<sup>86</sup> With the fall in oil revenues and, accordingly, in importation capacity and possibly also due to sanctions, the availability of food in the territory decreased and the agricultural sector's possibilities of rapidly increasing production was

82 FIDH, Interview 20210709. RA. LG. E1, paragraph 16. In the colloquial language of Venezuela, the payment of backhanders or bribes to police officers is called commissions.

83 FIDH, Interview 20210709. RA. LG. E1, paragraph 17.

84 Provea, Interview with Manuel Gómez (*Acción Campesina*). Available at: <https://provea.org/interviews/interview-el-matraqueo-es-la-mejor-cosecha-que-hacen-policias-y-militares/>

85 FIDH, Interview 20210616.LM.JR.E1, paragraphs 10 and 11; FIDH, Interview 20210625.MT.LG.E1, paragraph 23; FIDH, 20210622.WG.AR paragraph 4.

86 FIDH, Interview 20210616.LM.JR.E1, paragraph 21, FIDH, Interview 20210622. WG. AR. E1 paragraph 19, FIDH, Interview 20210625.MT.LG.E1, paragraphs 23 y 38. Aponte (2020). The CLAP and the Greta Corruption of the XXI century in Agro-Alimentary Venezuela Vol. 26, No. 50, p. 147-166.



diminished after the long years of crisis.

In this regard, the policies of the Venezuelan state based on price controls and inspection and control measures, including the criminalisation of certain producers and traders, as well as the state's decision to prefer provision through imports to the detriment of national production, had a strong negative impact on national food production and caused increased shortages and food insecurity for all households in the country. All of this constitutes a violation by the Venezuelan state of the obligation to respect existing access to adequate food, as these measures and policies taken as a whole have had the effect of making access to food more difficult for a large part of the population.

In terms of the obligation to respect, one of the main breaches by the state as guarantor involved indigenous peoples and the natural resource base from which they obtain their food.

In the land demarcation processes, these groups have seen some fertile lands recovered but without a comprehensive development policy, which has had negative effects. The few land demarcations which took place, were not carried out according to a comprehensive approach that would guarantee the rights of indigenous peoples, maintain production and improve the conditions of workers who depended on livestock production. This resulted in generalised effects on various sectors, especially in the Perijá areas, and perpetuation of structural socio-economic problems.<sup>87</sup>

Similarly, mining activity, whether formally promoted by the state or by irregular groups operating in the Orinoco Mining Arc is another of the most significant violations of the right to food of indigenous peoples. Their water sources, pipes and arable land have been contaminated by mining activity and many have been forced to migrate.<sup>88</sup>

## ii. **The obligation of other states to respect**

As mentioned above, the obligation to respect the right to food imposes on States Parties to the ICESCR an obligation not to impose measures that prevent access to adequate food not only for their own population, but also outside their territory. In other words, all States Parties of the ICESCR must ensure that their policies or practices do not result in violations of the right to food of people who live in other countries.<sup>89</sup> In particular, states must "refrain at all times from food embargoes or similar measures which endanger access to food in other countries".<sup>90</sup>

The report on Venezuela presented in October 2021 by the Special Rapporteur on the negative repercussions of the unilateral coercive measures on the enjoyment of human rights, Alena Douhan, states that sanctions have exacerbated the pre-existing social crisis.<sup>91</sup> However, the document does not specifically describe the impact of sanctions on the right to food.

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87 Provea. 2018 Right to Food Report

88 <https://www.business-humanrights.org/es/%C3%BAltimas-noticias/venezuela-impacto-ambiental-y-social-en-ind%C3%ADgenas-por-miner%C3%ADa-en-el-arco-minero-del-orinoco/> [Latest news/Venezuela-environmental and social impact on indigenous people of mining in the Orinoco Mining Arc]

89 Report of the Special Rapporteur on the right to food, Hilal Elver, 12 January 2015, A/HRC/28/65, paragraph 43.

90 Committee on Economic, Social and Cultural Rights, General Comment 12 ("The right to adequate food (Art. 11)"), E/C.12/1999/5, 12 May 1999, paragraphs 36-37. See also FAO, 'The right to food within the international framework of human rights and country constitutions' (2014), paragraph 1.4.4, <http://www.fao.org/3/i3448e/i3448e.pdf>.

91 Report on the Visit to Venezuela presented at the 48th period of Sessions of the United Nations Human Rights Council. Available at: <https://undocs.org/es/A/HRC/48/59/Add.2>

A report released by Provea in November 2020 on the effect of the sanctions on the humanitarian situation<sup>92</sup> shows that the sanctions have reduced access to international credit and have been associated with a significant drop in food and medicine imports. However, it is difficult to assess the net effect of these measures because at the same time oil revenues have fallen, not only as a result of the sanctions but also due to the decline of the oil industry, the main source of revenue of the Venezuelan state. Therefore, the main emphasis of the experts interviewed was on the impossibility of importing fuel and the effect of this on food production and distribution within the country.

According to respondents, with the opening-up of the economy and unofficial dollarisation allowed by the government since 2019 in the context of sanctions, producers and traders have been able to import more products, yet access to credit in dollars is restricted and reduces options for the state and private entities, while raising transaction costs. Executive Order 13,884 of August 2019 which blocks the use of Venezuelan state assets in the U.S. has led to a series of difficulties because of over-compliance by companies that trade with Venezuela (in the case of humanitarian exceptions). At the end of 2020, the Office of Foreign Assets Control of the U.S. Department of the Treasury banned licences to foreign operators in Venezuela to import fuel such as diesel and gasoil as they allegedly contravened the sanctions regime. This measure has resulted in fuel shortages in the country, which has inevitably had a negative effect on producers' access to the fuel that they need for their operations.

An expert in agricultural production explained the effect of the sanctions:

"I think it is affected by the fuel issue, by diesel oil. This is a difficult matter to submit to public opinion. Fuel is a basic input for production in the field. The small amount that is sown is jeopardised. In under 15 days, the sowing period in Portuguesa will end and we are not going to be able to sow the whole of the small surface area that we wanted to sow – which was planned – because there is no diesel oil for the machinery."<sup>93</sup>

The effects of these measures add to the already precarious situation of public services. The same expert said:

"When there was no electricity, milk and processed cattle were lost. What did [the producers] do? They purchased electricity plants. Because electricity is needed for everything, even to transport water that is going to be used from the reservoirs they create. That affected the costs structure of agricultural production and that was passed on to the consumer. As we do not have gas, petrol or diesel oil, there is no way to get the electricity plants working but now there are people working with solar energy. The fuel issue restricted maize production this year."<sup>94</sup>

The above shows that the sanctions have had an impact on the right to food. These measures have affected food availability because of reduced imports and the difficulties that they create for national production. The implementation of these sanctions therefore mean that other states have failed to fulfil their obligation to respect the Venezuelan population's access to food.

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92 Available at: <https://provea.org/publicaciones/investigaciones/informe-especial-las-sanciones-economicas-contra-venezuela-consecuencias-crisis-humanitaria-alternativas-y-acuerdo-humanitario/> [publications/research/special-report-economic-sanctions-against-Venezuela-consequences-humanitarian-crisis-alternatives-and-humanitarian-agreement]

93 FIDH interview 20210622.WG.AR.E1, paragraph 15.

94 FIDH interview 20210622.WG.AR.E1, paragraph 17.

### c. The obligation to protect

The obligation to protect requires the State Party to adopt legislative and other measures to ensure that companies or individuals do not deprive people of access to adequate food.<sup>95</sup> For example, states must prevent third parties from destroying food sources through air or soil contamination and they must ensure that food for sale is safe and nutritious.<sup>96</sup>

As described above, a large proportion of the food distributed within the CLAP subsidised food system is imported and does not go through the health controls needed to ensure its quality and safety<sup>97</sup>. This is a breach by the Venezuelan state of the obligation to protect the right to adequate food. The standards of the FAO's Codex Alimentarius (or "Food Code")<sup>98</sup> are not applied in Venezuela when selecting foods for food packages subsidised by the state, as well as those subject to import, including inspection and ensuring that these foods comply with the fortification standards established for the country. In view of this, the question arises: why have international bodies not called for compliance with these regulations?<sup>99</sup>

The absence of health controls on the food imported for this programme has had repercussions on the food received by the Venezuelan population, including its most vulnerable population in socio-economic terms. Beneficiaries of the CLAP bags who were interviewed during the course of the mission stated that the products that they receive are systematically of very poor quality<sup>100</sup> and this assessment was confirmed through research: a multidisciplinary group conducted analyses of samples of various commercial brands of milk that are distributed in the CLAP bags and found that none of the assessed samples complied with existing regulations.<sup>101</sup>

In the last three years, Venezuela has endured continuous price increases, at hyperinflationary levels (defined as averages of 50% inflation per month for more than three months). Hyperinflation erodes the population's incomes, in particular of those people who depend on income in national currency. Most of those consulted for the purposes of this report affirm that, while the availability of food provided by the private and deregulated sector of the economy has increased since 2019, the main obstacle to accessing food has been lack of income. Measures taken to comply with the state's obligation to protect the population from the effects of income erosion have proved insufficient and, at times, counterproductive. The government has focused on issuing irregular aid bonds, but the criteria to receive them are not transparent and, in the absence of other stabilisation measures, accountability and access to external funding, they end up contributing to further inorganic issuances of money, thus keeping the inflation alive. In addition, the above mentioned credit crunch and the unequal and non-transparent grant of import licences to the private sector create further inequality. In this context, the absence of social protection measures leaves the most vulnerable population in a situation of abandonment.

The policy for subsidised food distribution through the CLAPs can be seen as clientelist and dependency-based rather than generating autonomy and development. It was not even sufficient as a protection programme during the crisis. On the basis of all these elements, it can be concluded that the Venezuelan state has not fulfilled its obligation to protect the right to food. Given that the CLAP programme is the main mechanism for acquiring food for the majority of the country's low-income communities, the Venezuelan state has favoured the mass purchase of food from foreign companies, mainly based in Latin American countries such as Brazil, Panama, Mexico and Nicaragua,<sup>102</sup> as well as from other allied

95 Committee on Economic, Social and Cultural Rights, General Comment 12 ("The right to adequate food (Art. 11)"), E/C.12/1999/5, 12 May 1999, paragraph 15. See also <http://www.fao.org/3/i3448e/i3448e.pdf>, p. 6.

96 <https://www.ohchr.org/Documents/Publications/FactSheet34en.pdf>, p. 18.

97 FIDH, Interview 20210709.RA.LG.E1, paragraph 15, FIDH; Interview 20210706.MH.LG.E1, paragraph 8.

98 Set of rules and procedures to ensure food quality and safety. For more details, see: <http://www.fao.org/fao-who-codexalimentarius/about-codex/es/#c453333>.

99 FIDH, Interview 20210625.MT.LG.E1, paragraph 15.

100 FIDH, Interview 20210614.AP.LG.E1, paragraph 10; FIDH, Interview 20210616.LM.JR.E1, paragraph 15; FIDH, Interview 20210618.AF.LG.E1, paragraph 9.

101 Hernández, P., Marciano, P., & Deniz, R. (2019). Evaluation of the nutritional content of milk products in Venezuelan food programme. Latin American Nutrition Archives, 69(2). Available at; <https://www.redalyc.org/jatsRepo/1992/199264891009/199264891009.pdf>.

102 Venezuela - Transparency (s./f.). The CLAPs: Dominance delivered door to door. Available at: <https://transparencia.org.ve/project/los-clap-la-dominacion-se-entrega-puerta-puerta/>

countries such as Turkey.<sup>103</sup> As described above, this food is distributed without checking the quality and safety of products through procedures established in the national law. This is a flagrant violation of the state's obligation to protect and presents a major risk to the health and nutrition of the Venezuelan people. In the absence of controls, the state has promoted the profit of the companies that supply the products, instead of ensuring the safety of the food distributed through what is currently the principal social programme of the Venezuelan government.

## **d. The obligation to fulfil**

The obligation to fulfil the right to adequate food includes the obligation to facilitate and the obligation to provide.<sup>104</sup>

### **i. The obligation to facilitate**

This obligation of States Parties, as described in CESCR General Comment No. 12, requires states to initiate activities aimed at strengthening the population's access to and use of the means and resources to ensure their livelihood, including food security.<sup>105</sup> In this regard, it must be recognised that fulfilment of the right to adequate food, like other rights enshrined in the ICESCR, depends on the fulfilment of other rights. The right to food is closely connected to the right of access to other resources such as land, water, and certain basic services, as well as access to health care and sanitary services.<sup>106</sup>

The humanitarian situation in Venezuela is not only caused by the economic policies that have led to the impoverishment of the population, as described in the preceding sections, but it has been exacerbated by the crisis in basic public services. In June 2021, the *Observatorio Venezolano de Servicios Públicos* (Venezuelan Observatory of Public Services -OVSP) reported that, although the surveyed population had access to water, 62.6% rated it as of low quality and only 24.9% reported having a constant supply of water. The same is true of the electricity service, regarded by 56.0% of those interviewed as of low quality. The main problems identified are power cuts, rationing and its intermittency. 57.7% of those interviewed reported interruptions of between 2 and 6 hours. Domestic gas is used for cooking by 90.6% of those interviewed, 48% describe this service as of low quality and 74.8% receive a gas cylinder less than once a month<sup>107</sup>.

The public services situation is also described in the various international reports on Venezuela. In 2019, the WFP reported that 25% of households did not have access to a stable supply of water and that 4 out of 10 suffered daily interruptions in supply and had to buy bottled water or use water trucks in order to have drinking water at home. 72% of households reported an irregular gas supply and 43% had reduced the number of meals because of a lack of this resource.<sup>108</sup>

More recently, the Monitoring Report on the Impacts of the Complex Humanitarian Emergency in Venezuela in the context of the COVID-19 pandemic, as of June 2021, records that the supply of water distributed through the aqueduct network has dropped by 90%; 70% of the population face deficiencies in the drinking water service; 54.8% face severe restrictions in the service and 82% are exposed to the consumption

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103 El Nacional (2018, 16 September). 69% of CLAP food comes from Turkey. Available at: [https://www.elnacional.com/economia/los-alimentos-clap-proviene-turquia\\_251966/](https://www.elnacional.com/economia/los-alimentos-clap-proviene-turquia_251966/).

104 Committee on Economic, Social and Cultural Rights, General Comment 12 ("The right to adequate food (Art. 11)"), E/C.12/1999/5, 12 May 1999, paragraph 15.

105 Committee on Economic, Social and Cultural Rights, General Comment 12 ("The right to adequate food (Art. 11)"), E/C.12/1999/5, 12 May 1999, paragraph 15.

106 Provisional Report of the Special Rapporteur on the right to food, Olivier De Schutter, 7 August 2013, paragraphs 6-7, A/68/288.

107 Observatory of Public Services. (2021). Available at: [http://www.observatoriovsp.org/wp-content/uploads/boletin-25\\_4-comprimido.pdf](http://www.observatoriovsp.org/wp-content/uploads/boletin-25_4-comprimido.pdf)

108 WFP <https://reliefweb.int/report/venezuela-bolivarian-republic/wfp-venezuela-food-security-passessment-principal>





BARQUISIMETO, VENEZUELA - APRIL 29: A man cooks using wood to light a fire on April 29, 2019 in Barquisimeto, Venezuela. Apart from blackouts, neighbors of Barquisimeto suffer shortage of gas. (Photo by Edilson Gamez/Getty Images via AFP)

of unsafe water.<sup>109</sup> With regard to the electricity service, electricity generation has fallen by 74%, so that during 2021, 174,000 power cuts were recorded that affected 74.2% of the population. According to the same report, the shortage of gas cylinders for cooking forced 5.4 million people to cook with firewood.<sup>110</sup>

Beyond these statistics that present a bleak picture for Venezuelan households, the testimonies of community activists interviewed offer further details of the implications of this situation in terms of food for Venezuelan families.

"(...) [T]here are entire communities without regular access to water. This affects food preparation, not just hygiene. We have a lot of problems with water turbidity. We have undertaken activities with the Engineers' Association in Lara State and the water arrives with mud from the reservoir, it is not safe to drink, and this has had very serious consequences. How do you boil water without gas? You have to light a fire. And, because it has rained, the wood is wet, it doesn't light. You can't light an electric cooker because the electricity has been off for two to four hours. All these problems add up and affect food supply."<sup>111</sup>

109 Monitoring Report on the Impacts of the Complex Humanitarian Emergency in Venezuela with the COVID pandemic (2021). Available at: <https://humvenezuela.com/wp-content/uploads/2021/09/Informe-HumVenezuela-junio-2021-1-1.pdf>

110 Ibidem.

111 FIDH, Interview 20210614.APLG.E1, paragraph 20.

"Water is a serious problem. There are 18 communities [in La Guajira] that went through a difficult and critical time because they used the pools [*jaguey*] where animals drink, for bathing and also for drinking. That made them ill. The government tank does not reach all communities."<sup>112</sup>

"I recently talked to a woman in a community in La Victoria ... she has a respiratory infection. It's been some time since she received domestic gas and now she has chronic asthma. This is a reality that a lot of communities are living in, where the domestic gas service is insufficient – and they don't have the resources to buy an electric cooker. So, they have to go to the mountains, to cut wood. This situation ends up impacting their right to health."<sup>113</sup>

"Half of this community has not had electricity for two years. We are going back to colonial times, when there were no services of the kind we know today."<sup>114</sup>

"Until two weeks ago, we had gone for four months without water (...). Allegedly, a motor had burnt out. It is always the same excuse. Two weeks ago, they supposedly installed a new motor. They supplied water on Thursday, for six hours, on Friday and tomorrow, who knows? It's quite irregular."<sup>115</sup>

"Gas is a long-standing problem because of the lack of maintenance. (...). In Las Torres, a friend cooks with firewood because gas doesn't reach her house. People have to queue for more than 18 hours to buy a gas cylinder."<sup>116</sup>

As these testimonies illustrate, without basic services such as drinking water, electricity and gas for cooking, it is not possible for families to feed themselves adequately, even if they have sufficient and timely access to basic foods. The most recent report of the Office for the Coordination of Humanitarian Affairs in Venezuela (OCHA) states that the lack of availability of drinking water is one of the factors that most affects the nutritional situation of the Venezuelan population, not just children or the most vulnerable groups.<sup>117</sup> The massive lack of investment in basic infrastructure in recent decades and the consequent deterioration of services represent a clear breach of the Venezuelan state's obligation to facilitate the conditions that are essential for the health and nutrition of Venezuelans.

In addition to the provision of services that facilitate the processes in the Venezuelan Food System, social protection policies aimed at the welfare of the most vulnerable population also come under the obligation to fulfil. These measures have been grouped together by the country's administration since 1999 in the "Missions" and, as mentioned above, the most relevant food programme at present is the CLAPs.

In an emergency situation such as that described above, where hyperinflation and wage stagnation have caused mass impoverishment of the population, this obligation to facilitate translates into a need to implement appropriate public policies to mitigate the effects of the crisis on the most vulnerable population and to ensure, at least, a minimum level of effective protection against hunger.

The most important measure in terms of policies and legislation concerning the right to food is the creation of the Local Supply and Production Committees – CLAPs. As described above, the programme was initiated in 2016 as an alternative food distribution mechanism in response to acute shortages and the collapse of the Food Mission networks. The objective of the CLAPs is the distribution of food from house to house through community organisation. In 2017, the *Carnet de la Patria* (homeland card) was created as a mechanism to access the programme and, in 2018, the ANC passed a Constitutional Law on the CLAPs.<sup>118</sup>

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112 FIDH, Interview 20210621.JG.LG.E1, paragraph 16.

113 FIDH, Interview 20210618.PH.LG.E1, paragraph 21.

114 FIDH, Interview 20210618.PH.LG.E1, paragraph 26.

115 FIDH, Interview 20210618.AF.LG.E1, paragraph 29.

116 FIDH, Interview 20210618.AF.LG.E1, paragraph 31.

117 OCHA, November 2021 Situation Report. Available at: <https://reports.unocha.org/es/country/venezuela-bolivarian-republic-of/>.

118 Official Gazette No. 41.330 dated 29 January 2018



The objective of this Law is to guarantee social welfare and food security. It also establishes the structure and profile of members of the CLAPs (Article 7), which includes representatives of organisations connected to the ruling party (PSUV), such as the spokespersons of the Bolívar Chávez Battle Units<sup>119</sup> and the Francisco de Miranda Front<sup>120</sup>. However, the structure is not only a matter of concern because of its politicization but also because of the inclusion of a member of the Bolivarian National Militia.<sup>121</sup> This contributes to the militarisation of food distribution, as well as to the risk of linking it to the *colectivos*<sup>122</sup> and other armed groups. Two interviewees stated that the 23 January *colectivos*<sup>123</sup> control CLAP distribution in the area.<sup>124</sup> Similarly, criminal gangs control programme distribution in other areas of Caracas, such as Cota 905.<sup>125</sup>

The militarisation of this programme is obvious in its implementation strategy. The logistics of this structure are managed by the Bolivarian National Armed Forces (*Fuerzas Armadas Nacionales Bolivarianas* - FANB), initially at the Food Packaging Centre (*Centro de Empaquetado de Alimentos* - CEAC) in Fuerte Tiuna, and then decentralised to five centres in four of the country's states.<sup>126</sup>

The functions of these committees include creating and supervising supply mechanisms, promoting socio-productive organisations and promoting a new food culture (Article 10). However, in practice, the CLAPs have been restricted to the distribution of food provided by the state and have not contributed to local production, given that, as discussed above, several studies have shown that the food distributed through this programme is mainly imported.

As public imports decreased because of the drop in fiscal revenue, quotas were imposed on agro-industry, requiring 70% of production at regulated prices for assignment to the CLAP. There were also seizures regulated products in municipal markets in order to allocate them to the CLAPs in nearby parishes.<sup>127</sup> All this exacerbates the legal uncertainty faced by food producers and, thus, the reduction of food availability in the country.

Although the Constitutional Law on the CLAPs provides that the programme must give priority to families with members with special conditions (Article 11), independent studies have shown that there are households in extreme poverty that do not receive this subsidy (5% of those living in extreme poverty do not receive the CLAP box, while 22% of people who do not live in extreme poverty do receive it, according to the 2019–2020 National Living Conditions Survey (ENCOVI).

119 According to the definition of the United Socialist Party of Venezuela, PSUV, these battle units comprise the basic organisational core of the party. See Jaua, E. (2013). The UBCH [Translator's Note: Hugo Chávez Battle Units]. Available at: <http://www.psuv.org.ve/temas/noticias/ubch/>.

120 Organisation engaged in the cadre formation of the PSUV, founded in Havana by Hugo Chávez and Fidel Castro in June 2013. See León, A. (2020). Francisco de Miranda front reaches 17 years, assuming with commitment and loyalty the legacy of Fidel and Chávez. Available at: <http://www.mpppst.gob.ve/mpppstweb/index.php/2020/06/29/frente-francisco-de-miranda-cumple-17-anos-asumiendo-con-compromiso-y-lealtad-el-legado-de-fidel-y-chavez/>

121 This emerges as the regularisation of reserve corps as their own administrative structure was created by order of Hugo Chávez in April 2005. It took the name of Bolivarian National Militia in April 2009 by resolution of the Ministry of Defence and, in the Constitutional Bolivarian National Armed Forces Law passed in 2020, the Bolivarian National Militia was made the fifth member of the Bolivarian National Armed Forces.

122 *Colectivos* are social organisations of popular communities. Many are cultural or community groups but a group of them are armed people who control territory and support the Bolivarian Revolution. There have been complaints about the participation of these *colectivos* in the repression of opponent demonstrators, especially in the 2017 protests. García Marco, D. (2017, 7 July). What are *colectivos* and how do they operate to "defend the Bolivarian revolution" in Venezuela on BBC Mundo. Available at: <https://www.bbc.com/mundo/noticias-america-latina-40527998>.

123 The 23 de Enero Parish is a populous sector in the west of Caracas, a working-class area with state-subsidized housing built during the '50s.

124 FIDH, Interview 20210616.LM.JR, paragraph 16 and FIDH, Interview 20210705.VZ.LG.E1, paragraph 4.

125 Cota 905 is a sector located in mountainous areas to the south west of Caracas. The housing in this area is self-built by the people living there. It is one of the so-called "barrios" (*favelas* or shantytowns) in the city of Caracas. A criminal gang was established in this sector led by El Koki. It engaged in heavy confrontations with the security forces during 2021. See Singer, F. A. (2021, 18 July). Life in Caracas under the power of El Koki, the gangster who defies *chavismo* in El País. Available at: <https://elpais.com/internacional/2021-07-19/la-vida-en-caracas-bajo-el-poder-del-koki-el-pandillero-que-desafia-al-chavismo.html>. FIDH, Interview 20210705.VZ.LG.E1, paragraph 16.

126 Provea. (2018). 2017 Annual Right to Food Report. Available at: <https://provea.org/publicaciones/informes-anuales/informe-anual-enero-diciembre-2017/>

127 Provea. (2019). 2018 Annual Right to Food Report. Available at: <https://provea.org/publicaciones/informes-anuales/informe-anual-enero-diciembre-2018-2/>

In 2018, the CLAP-associated strategies were intensified. It became the main social programme for the welfare of the population during the Complex Humanitarian Emergency. The state became the sole provider of subsidised food to the population, which allowed it to maintain political control in a context of social conflict. The state strategically extended its coverage at the expense of food quality. This loss of quality manifested in smaller quantities and less diversity of foods delivered. Experts interviewed affirmed that the capacity to protect the most vulnerable population through this programme is very low due to the decrease in the number of products, the irregular frequency with which it is distributed and the limited variety of products, which are poorly adapted to the nutritional requirements of the population.<sup>128</sup>

Two testimonies from vulnerable communities illustrate this:

"Sometimes you do the maths: the CLAP bag arrives in Barquisimeto every three months, that's about four bags per year. [The CLAP programme] is deficient, it's not enough to feed a family and that's why there's so much malnutrition in sectors in the west of Barquisimeto."<sup>129</sup>

"The bag is supposed to be delivered to your house. But now you have to travel a long way to pick up the bag, in the early hours of the morning. They charge you for them from one day to the next – and they give you 12 hours to get the money. One million 400."<sup>130</sup>

"When you get oil in the bag, you have to celebrate. The bag holds about ten products. But the flour is terrible, there is no longer any sugar, the milk – we receive a sachet of poor quality. But we still celebrate because we haven't had one for a long time. We connect its arrival to the upcoming election process."<sup>131</sup>

The testimonies also show that not all the vulnerable population receive the programme, as in the case of La Guajira where inhabitants do not have enough income to buy the bag<sup>132</sup> or in the case of children who stay behind after their parents have emigrated, who stop receiving the bag that their family used to receive.<sup>133</sup>

Another strategy used by the Venezuelan state in the midst of the crisis is to deliver vouchers via the *Carnet de la Patria*. Households receive vouchers each month, such as those allocated under the *Misión Hogares de la Patria* (Homes of the Homeland Mission), but these permanent allowances are smaller in amount than vouchers without specific periodicity that are delivered under the *Carnet de la Patria*.<sup>134</sup> These monetary transfers have increased in recent years and, although the transfer value varies between 1 USD and 5 USD, they represented 45% of the income of households in extreme poverty in 2019<sup>135</sup>. In rural and indigenous areas, these vouchers are the main or only income<sup>136</sup> although, among these populations, access to vouchers is limited by the requirement to have a smartphone and internet access.<sup>137</sup>

128 FIDH, Interview 20210617.MP.AR.E1, paragraph 18, 20210621.JM.LG.E1, paragraph 22, 20210705.VZ.LG.E1, paragraph 12, FIDH Interview 20210706.MH.LG.E1, paragraph 8.

129 FIDH, Interview 20210614.APLG.E1, paragraph 10

130 FIDH, Interview 20210618.AFLG.E1, paragraph 22.

131 FIDH, Interview 20210618.AFLG.E1, paragraph 21.

132 FIDH, Interview 20210621.JG.LG.E1, paragraph 10.

133 FIDH, Interview 20210618.APLG.E1, paragraph 9.

134 FIDH, Interview 20210617.MP.AR.E1, paragraph 18.

135 National Living Conditions Survey (ENCOVI). Available at: [https://assets.website-files.com/5d14c6a5c4ad42a4e794d0f7/5f03875cac6fc11b6d67a8a5\\_Presentaci%C3%B3n%20%20ENCOVI%202019-Pobreza\\_compressed.pdf](https://assets.website-files.com/5d14c6a5c4ad42a4e794d0f7/5f03875cac6fc11b6d67a8a5_Presentaci%C3%B3n%20%20ENCOVI%202019-Pobreza_compressed.pdf)

136 FIDH, Interview 20210618.PH.LG.E1, paragraph 20 and FIDH, Interview 20210621.JG.LG.E1, paragraph 6.

137 FIDH, Interview 20210621.JG.LG.E1, paragraph 12.



Sergio González © Provea

The criteria for selecting households to benefit from each new voucher announced by the government are not known.<sup>138</sup> Some households receive them and others do not. According to the estimates of one humanitarian organisation interviewed:

"(...) [E]ven if the state gives vouchers, we have done the maths: if a family gets all the vouchers, that would make 32 USD. And, with 32 USD, it is very difficult to survive in Venezuela."<sup>139</sup>

The extensive set of regulations, decrees, and frameworks that the state has introduced in the past two decades, described above, are connected to the obligation to facilitate. However, few of these regulations have resulted in facilitating adequate food for the population, especially children. These regulations were focused on the management of scarce food, rather than on nutrition for well-being. These policies have been concentrated on the organisation of the so-called *Poder Popular* (People's Power) surrounding these processes and the import machinery that has resulted in major corruption mechanisms that have been publicly denounced, and have been administered without clear criteria for allocation and accountability.

Most of these regulations, originally designed to facilitate the right to food, have instead had a regressive effect on the effectiveness of the food system.

138 FIDH, Interview 20210621.JM.LG.E1, paragraph 18.

139 FIDH, Interview 20210621.JM.LG.E1, paragraph 10.



## ii. The obligation to provide: to protect against hunger

When it is not possible for an individual or group to enjoy the right to adequate food by the means at their disposal, autonomously, the state has an obligation to provide (fulfil) that right directly, including in situations of natural or other disasters and to feed people who are dependent, in particular, those in services under the guardianship of the state, such as hospitals and prisons.<sup>140</sup>

General Comment No. 12 clarifies that a state violates the ICESCR when it fails to ensure “the satisfaction of, at the very least, the minimum essential level required to be free from hunger”.<sup>141</sup> Accordingly, although the obligation of a state to fulfil the right to adequate food may be realised progressively, given budgetary constraints, a state must, nevertheless, ensure that all persons under its jurisdiction have “access to the minimum essential food which is sufficient, nutritionally adequate and safe, to ensure their freedom from hunger,” and this must be guaranteed immediately.<sup>142</sup>

In these cases, where groups are fully dependent on the State, the responsibility for their well-being corresponds exclusively to the State, as set forth in the relevant human rights treaties and in Venezuelan legislation.

Of all these populations under the State's jurisdiction, persons deprived of liberty are the most numerous and the situation of their rights has been vastly documented.

Although the Organic Penitentiary Code provides that three good quality meals a day must be supplied in prisons, the budget allowed for this obligation is insufficient and so the food that is given to detained persons is scarce and non-nutritious<sup>143</sup>.

The situation is worse in custody centres in police stations, where the lack of resources and infrastructure is more chronic because they were designed as temporary facilities, with cells that were only designed to house prisoners until they are presented before a Judge at the preliminary hearing. However, in view of overcrowding and the fact that new prisons have not been built, these facilities have been converted into centres of permanent detention<sup>144</sup>. In both types of imprisonment centres, the main food source for prisoners depends on family members who are allowed to visit them<sup>145</sup>.

This dependence on what relatives can bring is a breach of the rights of prisoners and of the Venezuelan State's obligations because it endangers the people who do not have any relatives and those who are detained far from the place where the family lives. Vulnerability is widespread throughout the prison population when visits are not possible, as occurred in 2020 when the pandemic started<sup>146</sup>, or at times when the shortage of transport, fuel or cash becomes more acute, as this limits access to prisons.

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140 Committee on Economic, Social and Cultural Rights, General Comment 12 (“The right to adequate food (Art. 11)”), E/C.12/1999/5, 12 May 1999, paragraph 15.

141 Committee on Economic, Social and Cultural Rights, General Comment 12 (“The right to adequate food (Art. 11)”), E/C.12/1999/5, 12 May 1999, paragraph 17.

142 E/1991/23-E/C.12/1990/8, annex III; E/C.12/1999/ Committee on Economic, Social and Cultural Rights, General Comment 12 (“The right to adequate food (Art. 11)”), E/C.12/1999/5, 12 May 1999, paragraph 10. Provisional report of the Special Rapporteur on the right to food, Olivier De Schutter, 7 August 2013, paragraph 18, A/68/288.

143 FIDH, Interview 20210705.CN.AR.E1, paragraph 4.

144 FIDH, Interview 20210705.CN.AR.E1, paragraph 14.

145 FIDH, Interview 20210624.CG.LG.E1, paragraph 3.

146 FIDH, Interview 20210624.CG.LG.E1, paragraph 4 y FIDH, Interview 20210705.CN.AR.E1, paragraph 4.

The precariousness of the food situation of the prison population in Venezuela increased beyond its usual state after 2020. The organisation *Una Ventana a la Libertad* [A Window on Freedom] records that among the 273 custody centres in 19 states of the country -during the first six months of 2020- 89% had suspended visits and, in more than 90%, access to drinking water depended on supplies from relatives<sup>147</sup>. On health campaigns that this organisation was able to undertake in 7 custody centres in Caracas, La Guaira and Miranda, 18% of prisoners were in a situation of malnutrition according to the deficit in their Body Mass index<sup>148</sup>.

The reports of both *Una Ventana a la Libertad* and the *Venezuelan Observatory of Prisons* disclose dependence on relatives for food (82%, according to the records of *Una Ventana a la Libertad*) and, in both reports, tuberculosis and malnutrition appear as the main illnesses recorded in the prison population<sup>149</sup>.

In this already precarious situation, there are reports that custody officers withhold food sent by relatives and this has caused violence. The massacre in the Los Llanos prison in Guanare, which occurred in May 2020 and which ended with a toll of 47 deceased and 75 wounded because of a riot, is evidence of this. This event started with a protest by prisoners because they were not receiving the food delivered by their relatives<sup>150</sup>.

This population which is so vulnerable and unprotected is not one of the priorities in the country's humanitarian action plans. The interviewed humanitarian organisations stated that they have not been allowed to go into the prisons with humanitarian aid and that their activities are limited to giving food to prisoners' relatives whilst they are waiting to make their visits<sup>151</sup>.

Geriatrics, psychiatric hospitals and home protection boards have also been affected by food insecurity. A survey conducted in the Capital District and Miranda State in 2017 reported that, in 95% of the 76 centres that were surveyed, there were severe limitations on food supply, which, in many cases, caused suspension of the overnight stay services and changes to the day care system<sup>152</sup>. According to the interviews held, at the present time, the level of malnutrition in these centres is alarming<sup>153</sup>.

In a context where the population that can work cannot gain access to food because of its high cost, the situation of vulnerable people dependent on the State is even more insecure. In these cases, the State also has the obligation to fulfil the right to food since these people cannot do so by their own means. This obligation is not being fulfilled and it has been transferred to relatives, who are poor like the rest of the population. The result has been a palpable deterioration in the conditions of the population under the care of the State and no measures of any kind are being taken to mitigate the harm.

147 Una Ventana a la Libertad, 1st six months of 2020 Report. Available at: <http://unaventanaalalibertad.org/wp-content/uploads/2020/08/Informe-I-Semestre-2020-VERSION-FINAL.pdf>

148 Una Ventana a la Libertad, Report on Health Days and Monitoring of the Medical Situation in Custody Centres (2020). Available at: <http://unaventanaalalibertad.org/wp-content/uploads/2020/04/UVL-Informe-JornadasdeAtencionM%C3%A9dica-MARZO-2020.pdf>

149 Una Ventana a la Libertad, 2020 Annual Report. Available at: <http://unaventanaalalibertad.org/wp-content/uploads/2021/02/Informe-Anual-2020-OK-1.pdf> y Observatorio Venezolano de Prisiones, Informe Anual 2020, Available at: <https://oveprisiones.com/informes/>

150 Human Rights Watch, 2020 : <https://www.hrw.org/es/news/2020/05/04/decenas-de-muertos-y-heridos-durante-motin-carcelario-en-venezuela>. [Dozens of dead and wounded during prison riot in Venezuela].

151 FIDH, Interview 20210621.JM.LG.E1, paragraph 30.

152 El Nacional: Grandparents suffer hunger and lose 1.7 kilos a month. Edgar López. Online <[http://www.el-nacional.com/noticias/sociedad/abuelos-pasan-hambre-pierden-kilos-cada-mes\\_61989](http://www.el-nacional.com/noticias/sociedad/abuelos-pasan-hambre-pierden-kilos-cada-mes_61989)> Consulta del 30.04.17. [Consultation of 30.04.17].

153 FIDH, Interview 20210621.JM.LG.E1, paragraph 29.



## e. The obligation to allow humanitarian action

In relation to humanitarian action, according to General Comment 12, “violations of the right to food can occur through the direct action of States or other entities insufficiently regulated by States. These include: ... the prevention of access to humanitarian food aid in internal conflicts or other emergency situations ...”<sup>154</sup>.

With the reports sent to the Universal Periodic Review of Venezuela in 2016, Venezuelan civil society organisations started to raise the alert about the serious deterioration of life conditions suffered by the population. Even though the evidence that indicated the existence of an emergency in the country increased in the following years, the government initially denied these humanitarian needs<sup>155</sup> and put obstacles on the admission of humanitarian aid, for example, by refusing to allow the World Food Programme into the country until 2020, and also by opposing the receipt and distribution of humanitarian aid through the opposition parties represented on the National Assembly elected in 2015<sup>156</sup>. Both political players are guilty of politicising humanitarian aid but, in the case of the government, the responsibility is greater because it has a legal obligation to allow humanitarian aid pursuant to the ICESCR and General Comment 12<sup>157</sup>.

The first humanitarian response plan coordinated by the United Nations was not formalised until mid-2019, some 5 years after the population’s needs had become more acute. The second response plan suffered obstacles imposed by the COVID-19 pandemic and the 2021 plan confronted new difficulties and so was published with six months delay. The difficulties and delays in publication were mainly due to the lack of access to up-to-date official information on the humanitarian and basic services situation and the government’s refusal to accept the validity of the information generated by the civil society organisations.

According to the latest reports on access to humanitarian action from the United Nations Office for the Coordination of Humanitarian Affairs in Venezuela (OCHA), most of the obstacles to their activities relate to processes and procedures for which the State is responsible, from denial of humanitarian needs to confiscations and raids, going through bureaucratic processes and regulations to control aid organisations<sup>158</sup>.

Despite this, in this framework of humanitarian action, it is important to stress the growing participation of national and international civil society organisations, which went from 61 in 2019 to 144 in 2021, to deal with 98 and 223 projects, respectively.<sup>159</sup>

Just as the national authorities initially resisted accepting the magnitude of the crisis and the need for humanitarian aid<sup>160</sup>, obstructions to the admission of the humanitarian organisations have become evident. The most recent case was the floods that occurred when the River Mocotíes in Tovar Municipality, Mérida State, burst its banks on 24 August 2021. The ecclesiastical authorities of Mérida State publicly

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154 Committee on Economic, Social and Cultural Rights, General Comment 12 (“The right to adequate food (Art. 11)”), E/C.12/1999/5, 12 May 1999, paragraph 19.

155 As an example of this refusal, at the Hearing on the Right to Food in Venezuela convened on its own initiative by the Inter-American Commission on Human Rights in the 167th Sessions Period, the Venezuelan government’s speech was based on denying the existence of a humanitarian emergency. The video of the speech is available at: <http://www.oas.org/es/cidh/audiencias/Hearings.aspx?Lang=es&Session=1158>

156 Wallace, A. (2019, 22 February). Aid for Venezuela or political manoeuvring by Guaidó against Maduro?: the polemic caused by the “humanitarian avalanche” of 23 February on BBC Mundo. Available at: <https://www.bbc.com/mundo/noticias-america-latina-47321771>

157 Uzcátegui, R. (2019). Nine clarifications on the humanitarian issue in Venezuela. Available at: <https://provea.org/opinion/rafael-uzcategui-nueve-precisiones-sobre-el-tema-humanitario-en-venezuela/>

158 <https://reliefweb.int/report/venezuela-bolivarian-republic/venezuela-reporte-de-incidentes-de-acceso-humanitario-enero> [Venezuela - report of humanitarian access incidents – January]

159 Humanitarian Response. Venezuela. Available at: <https://www.humanitarianresponse.info/en/operations/venezuela>

160 An example of this pattern can be found in the speech of the Venezuelan government at the Hearing (convened on its own initiative) on the Right to Food and Health in Venezuela made during the 167th Sessions Period of the Inter-American Commission on Human Rights on 27 February 2018. Available at the following link: <http://www.oas.org/es/cidh/audiencias/Hearings.aspx?Lang=es&Session=1158>

reported that the officers stationed in the area were preventing deposit of the donations that they had received to give aid to the affected families<sup>161</sup>.

The humanitarian response did not manage to obtain the funding required to achieve the proposed goals for multiple reasons, such as the lack of transparency in use of the resources by the national authorities or politicisation of the aid. Some of this politicisation is the result of the fact that the humanitarian matter is used as one of the issues of confrontation between politicians<sup>162</sup>. In addition, there have been reports of use of the humanitarian aid by the national government for political purposes<sup>163</sup>.

For these reasons, in 2019, only 30% of the funds sought could be obtained<sup>164</sup> and, as a result, in the first quarter of 2021, it was only possible to provide assistance to 24% of the target population. However, in the following months, the capacity to give aid increased significantly and, in September 2021<sup>165</sup>, of an estimated 4.5 million people who were targeted, 3.1 million had been attended, thus achieving 68% coverage.

After two years of requests to the government, the World Food Programme entered the country, starting operations with a goal of 185,000 girls and boys with school food in 2021, which could be extended to 1.5 million children in 2023. The programme, which began its operations in Falcón State, is already expanding to Barinas and Yaracuy States.

The government's restrictive measures on the normal progress of the work of national and international NGOs in the territory intensified after 2020, with the imposition of restricted operating permits<sup>166</sup>, and the occurrence of cases of harassment against humanitarian organisations in the country. The most emblematic cases of this recent trend are described below:

On 7 September 2021, the headquarters of *Acción Solidaria* was raided. This is an organisation that works in the area of health and which forms part of the United Nations humanitarian response plan in the country. Eight employees of the organisation were detained for several hours and the medication destined for providing humanitarian aid that was in the office was seized<sup>167</sup>. On 24 November 2020, the central office of the *Alimenta la Solidaridad* organisation was raided. This organisation has people's canteens in various states in the country and it also forms part of the humanitarian response plan. Its bank accounts were frozen and, in addition, the home of its director, Roberto Patiño, was raided<sup>168</sup>. On 15 December 2020, the central office of *Convite, AC* was raided. This organisation is engaged in the rights of the elderly population. Its computers and files were confiscated and its director and administrative manager were detained for several hours<sup>169</sup>.

In the above cases, the acts of harassment did not have greater consequences. The case of the *Azul Positivo* Organisation was much more serious. *Azul Positivo* is an organisation which has worked for 16 years in Zulia State, where it initially worked with HIV carriers and, more recently, because of its location on a border state and in highly precarious conditions, it started to give support in various programmes

161 [https://www.radiofeyalegrianoticias.com/obispo-de-merida-denuncio-atropellos-de-militares-en-tovar/\[Merida bishop condemns military crimes\]](https://www.radiofeyalegrianoticias.com/obispo-de-merida-denuncio-atropellos-de-militares-en-tovar/[Merida bishop condemns military crimes])

162 Hernández, A. (2019, 9 of February). "Humanitarian managers criticise the politicisation of humanitarian aid in Venezuela". Available at: [https://www.elconfidencial.com/mundo/2019-02-09/critica-politizacion-ayuda-humanitaria-venezuela\\_1814478/](https://www.elconfidencial.com/mundo/2019-02-09/critica-politizacion-ayuda-humanitaria-venezuela_1814478/).

163 Statement of the Venezuelan Society of Childcare and Paediatrics (2019, 26 November). Available at: <https://www.redhnaa.org/noticias/sociedad-venezolana-de-puericultura-y-pediatria-denuncio-malversacion-de-la-ayuda-humanitaria>

164 OCHA: United Nations Office for the Coordination of Humanitarian Affairs (2019) "About Venezuela". Available at: <https://www.unocha.org/venezuela/about-venezuela>

165 OCHA: United Nations Office for the Coordination of Humanitarian Affairs (2021) November 2021 Situation Report. Available at: <https://reports.unocha.org/es/country/venezuela-bolivarian-republic-of/>

166 Access to Justice. Available at: <https://accesoalajusticia.org/nuevo-registro-especial-de-ong-no-domiciliadas-en-el-pais-otro-golpe-contra-la-sociedad-civil/> [New special register of NGOs not domiciled in the country – another blow against civil society]

167 <https://talcualdigital.com/faes-detuvo-a-seis-integrantes-de-la-ong-accion-solidaria/> [FAES detained six members of the Acción Solidaria NGO]

168 <https://cronica.uno/allanan-la-casa-de-los-padres-de-roberto-patino-director-de-alimenta-la-solidaridad-y-congelan-cuentas-bancarias-de-la-organizacion/> House of the parents of Roberto Patiño, the director of Alimenta la Solidaridad, raided and the organisation's bank accounts frozen]

169 <https://talcualdigital.com/tribunal-cuarto-de-control-allana-sede-de-convite-y-piden-informacion-de-su-labor/> [Fourth control tribunal raids Convicted office and demands information on its work]

of UNHCR and the United Nations system in the country. On 12 January 2021, its director, Johan León Reyes, was summoned to make a statement because of the use of a prepaid cards which are assigned to vulnerable families identified by the organisation in order to facilitate their access to essential goods in shops in the area. After several hours of questioning, the organisation's equipment was seized and 6 other activists were arrested. On 14 January, the preliminary hearing took place and 5 of the detainees were given custodial sentences. In spite of the statements of the Office for the Coordination of Humanitarian Affairs in the country, the office of the United Nations Secretary General, international organisations such as the FIDH, Amnesty International and the Venezuelan civil society organisations, the employees of *Azul Positivo* remained in custody until 10 February, when they were made subject to a precautionary measure of parole, with the duty to attend to a judge every 30 days<sup>170</sup>.

With regard to the obligation to protect people defending Human Rights and civil society humanitarian organisations, further hazards have appeared. The most recent report of the High Commissioner for Human Rights confirmed 17 cases of violation of Human Rights against human rights defenders<sup>171</sup> in the last year studied. These violations are part of a pattern of closure of civic space and reduction of democratic liberties that have already been described on the first chapter of this report.

The most recent action in this regard is "Providence No. 002-2021 for the Unified Registration of Obligated Subjects with the National Office against Organised Crime and Terrorism Funding (ONCDOFT)", which requires NGOs to register with this authority. According to specialists, this measure comes within "unconstitutional acts and acts of abuse of law that seriously breach international human rights standards that the Venezuelan State is required to comply with"<sup>172</sup>.

This pattern shows that, even if humanitarian action is not formally prohibited, it is in good measure threatened by harassment, in the context of which Venezuelan civil society organisations operate, even when they work on the United Nations humanitarian response plan which was accepted by the government of Venezuela.

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170 Access to Justice. Chronology of the Azul Positivo NGO case]. Available at: <https://accesoalajusticia.org/cronologia-del-caso-de-la-ong-azul-positivo/>

171 See paragraph 46. The report is available at the following link: [https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session48/Documents/A\\_HRC\\_48\\_19\\_UnofficialSpanishVersion.docx](https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session48/Documents/A_HRC_48_19_UnofficialSpanishVersion.docx)

172 Access to Justice. Available at: <https://accesoalajusticia.org/providencia-administrativa-obliga-a-las-ong-a-inscribirse-en-un-registro-antiterrorista/> [Administrative ruling requires NGOs to register on an anti-terrorist register]

### III. PRINCIPLES THAT MUST BE OBSERVED IN THE FULFILMENT OF RIGHT TO FOOD

The ICESCR and General Comment 12 of the Committee on Economic, Social and Cultural Rights describes certain principles that must guide the decision-making and food policy implementation processes based on Human Rights. In the context of Venezuela, it is considered relevant to examine the principles of non-discrimination, transparency, participation and decentralisation. Finally, we will discuss the relationship between corruption and the Right to Food as an inherent dimension to the principle of accountability.

#### a. Principle of non-discrimination

The obligation of a State Party to respect, protect and fulfil the right to adequate food must be complied without discrimination.<sup>173</sup> As established in paragraph 18 of General Comment 12 to the ICESCR, "any discrimination in access to food, as well as to means and entitlements for its procurement, on the grounds of race, colour, sex, language, age, religion, political or other opinion, national or social origin, property, birth or other status with the purpose or effect of nullifying or impairing the equal enjoyment or exercise of economic, social and cultural rights constitutes a violation of the Covenant."<sup>174</sup>

It should be noted that the principle of non-discrimination requires a State not only to ensure that its laws do not contain discriminatory content but also to adopt the necessary measures to prevent, reduce and eliminate *de facto* discrimination in terms of economic, social and cultural rights.<sup>175</sup> Furthermore, we should note that discrimination can be direct or indirect. The latter occurs when laws or policies apparently neutral, in reality disproportionately affect certain categories or groups of people.<sup>176</sup> The need to prevent discrimination in access to food includes an obligation to encourage fair access to economic resources among various groups of the population, especially the most vulnerable, such as rural and indigenous sectors and women. This fair access to economic resources expressly includes access to a decent wage.<sup>177</sup>

Although in Venezuelan legislation or in the formal design of public policies there are no express measures that propose that some groups of the population should not have access to adequate food, which would constitute direct discrimination, the application of certain policies would -in practice- result in violation of the obligation to respect the right to adequate food by indirect discrimination. The first example of this was the measure implemented when the shortage of food began to be significant in 2015.

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173 ICESCR, Article 2(2).

174 Committee on Economic, Social and Cultural Rights, General Comment 12 ("The right to adequate food (Art. 11)"), E/C.12/1999/5, 12 May 1999, paragraph 18.

175 Committee on Economic, Social and Cultural Rights, General Comment 20 ("Non-discrimination in Economic, Social and Cultural Rights"), E/C.12/GC/20, 2 July 2009, paragraph 8 ("For example, ensuring that all individuals have equal access to adequate housing, water and sanitation will help to overcome discrimination against women and girl children and persons living in informal settlements and rural areas").

176 Committee on Economic, Social and Cultural Rights, General Comment 20 ("Non-discrimination in Economic, Social and Cultural Rights"), E/C.12/GC/20, 2 July 2009, paragraph 10.

177 Committee on Economic, Social and Cultural Rights, General Comment 12 ("The right to adequate food (Art. 11)"), E/C.12/1999/5, 12 May 1999, paragraph 26 ("The strategy should give particular attention to the need to prevent discrimination in access to food or resources for food. This should include: guarantees of full and equal access to economic resources, particularly for women, including the right to inheritance and the ownership of land and other property, credit, natural resources and appropriate technology; measures to respect and protect self-employment and work which provides a remuneration ensuring a decent living for wage earners and their families (as stipulated in article 7 (a) (ii) of the Covenant); maintaining registries on rights in land (including forests)").





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At this time, specific days were established for the purchase of food in establishments, assigned according to the identity card terminal<sup>178</sup>. Controls were also established on the maximum number of products that one could purchase each week, especially for essentials<sup>179</sup>, and these maximum amounts did not change according to the number of people living in the home, so they particularly affected more significantly numerous families. Both measures were applied by all the supermarket chains, and they even had print-tracking machines to identify and register people, in order to make sure that the same person could not buy more than was authorised for one week, in various commercial establishments.<sup>180</sup> The purpose of these measures was to reduce the queues to buy food that were forming at that time in front of shops, and to decrease the maximum number of buyers per day. However, the queues to acquire food continued whilst the population's access was limited.

Two phenomena influenced the reduction of queues to buy food and the disappearance of the purchasing restrictions: first, the widespread use of CLAP bags and boxes that distribute basic food to the most vulnerable sectors direct to their homes without going through the commercial distribution network and, secondly, the liberalisation and *de facto* dollarization of the economy and, the relaxation of some economic policies. However, during the quarantine measures, the method

178 FIDH, Interview 20210616. LM. JR. E1, paragraph 8.

179 El Estímulo (26/05/2015): "Government fixes the amount of food that can be bought each week". <https://elestimulo.com/elinteres/gobierno-fija-cantidad-de-productos-que-se-pueden-comprar-a-la-semana/> Consultation of 06.09.2021 and Cocuyo Effect (06/04/2015): "Buyers go through dual control in supermarkets" <https://efectococuyo.com/la-humanidad/compradores-pasan-por-doble-control-en-supermercado-plazas/> Consulta 06.09.2021. [].

180 Crónica Uno (29/xx/2015): "How is the installation of print-tracking in supermarkets going" <https://cronica.uno/como-va-la-instalacion-de-captahuellas-en-los-supermercados/> Consultation of 06.09.2021.

of purchasing food according to card number was re-established in some areas of the country<sup>181</sup>.

There are academics and experts who maintain that there is no systematic policy of discrimination in the distribution of CLAP boxes or bags in the communities<sup>182</sup>. However, even if there were no official policy to benefit only those who hold a political position favourable to the government, nor are there control measures to check that all homes in a vulnerable situation are actually receiving the programme and, ultimately, the discretionary nature of the discretionary mechanism of distribution through the local committees makes it possible to create exclusions on the grounds of political opinion. We found testimonies concerning communities where there is no discrimination on political grounds in the CLAPs<sup>183</sup>, but also several community activists who were interviewed in the context of this Research Mission stated that they had been excluded or that they had knowledge that sectors of their community who are perceived as being in opposition to the government receive fewer products in their CLAP bag<sup>184</sup>, or that people are usually threatened with not receiving the programme if they take part in anti-government protests<sup>185</sup>.

In addition to this practice of discrimination in the context of distribution of the CLAPs, we should also note the lack of resources and access to adequate food for the most vulnerable groups, in particular, indigenous communities and people in rural areas.

As we said at the beginning of the document, against the backdrop of the complex humanitarian emergency in the country, the Venezuelan population's income has declined. Figures reported by the National Life Conditions Survey (ENCOVI) indicate that general poverty increased more than 40 points between 2014 and 2021 whilst extreme poverty tripled in the same period<sup>186</sup>. This poverty was caused by wage stagnation during a period of hyperinflation. The minimum wage is fixed unilaterally by decree and, although periodic increases are announced, they are. At the beginning of 2022, minimum wage was increased to 126.32 bolivars (approximately 28.92 USD), slightly less than one dollar a day (0.96 USD); therefore, the minimum wage is still well below the poverty line set by the United Nations (1.9 USD per day).<sup>187</sup> The increase in the price of food has been particularly marked: for September 2021, the basket cost went up to US \$ 248, with an average annualised variation of 1,300% in the last year and the purchasing power of the average minimum wage was 0.69%<sup>188</sup>. Hyperinflation and poverty are closely related and these have made access to food worse for some of the Venezuelan population. Therefore, although the availability of food has improved in recent years, its high cost prevents access for the most vulnerable population<sup>189</sup>.

Difficulties in economic access to food are also established in the assessment report of the World Food Programme in 2019, which reported that one third of the population suffered from acute food insecurity in its moderate and severe form. For that same year and early 2020, ENCOVI stated that 69% of homes were in that position and, with the start of the pandemic, moderate or severe food insecurity reached 62.4%<sup>190</sup>. Although this situation improved slightly in 2021, dropping to 59.7%, it is worrying that severe food insecurity rose: almost 1 in 4 homes is in this position<sup>191</sup>. The most affected population is that situated on the lowest income strata, whose calorie intake is lower than the minimum level necessary for survival<sup>192</sup> and this situation has worsened during the pandemic because of the lockdown measures<sup>193</sup>. In

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181 Cocuyo Effect: "From 29 July, in Miranda, products will be sold according to card terminal" <https://efectococuyo.com/coronavirus/a-partir-de-este-29jul-en-miranda-venderan-productos-por-terminal-del-numero-de-cedula/> Consultation of 06.09.2021.

182 FIDH, Interview 20210705.VZ.LG.E1, paragraph 8,

183 FIDH Interview 20210618.PH.LG.E1, paragraph 16.

184 FIDH Interview 20210614.APLG.E1, paragraph 18 and FIDH Interview 20210618.APLG.E1, paragraph 18.

185 FIDH Interview 20210618.APLG.E1, paragraph 9.

186 ENCOVI. (2014-2021). Available at: <https://www.proyectoencovi.com/>

187 Crónica Uno (2022, March 3). Government increases the minimum wage and pensions to the equivalent of half a petro. Available at: <https://cronica.uno/gobierno-aumenta-el-salario-minimo-and-the-pensions-to-the-equivalent-to-half-petro/>

188 CENDA. 2019-2021. Cost of food basket. Available at: <http://cenda.org.ve/noticias.asp?t=1>

189 FIDH, Interview 20210709.RA.LG.E1, paragraph 8, FIDH, Interview 20210621.JM.LG.E1 20210726.MH.LG.E1, paragraph 4, FIDH Interview 20210616.LM.JR.E1, paragraph 8, FIDH, Interview 20210622.WG.AR, paragraph 6.

190 ENCOVI 2019-20. Food security and nutrition. Available at: <https://www.proyectoencovi.com>

191 Encovi 2021 Results. Available at: [https://assets.website-files.com/5d14c6a5c4ad42a4e794d0f7/6153ad6fb92e4428cada4fb7\\_Presentacion%20ENCOVI%202021%20V1.pdf](https://assets.website-files.com/5d14c6a5c4ad42a4e794d0f7/6153ad6fb92e4428cada4fb7_Presentacion%20ENCOVI%202021%20V1.pdf)

192 Ibidem. FIDH, Interview 20210617.MP.AR.E1, paragraph 5.

193 FIDH, Interview 20210617.MP.AR.E1, paragraph 6.

2021, ENCOVI recorded that the consumption of food of the population in a situation of extreme poverty decreased the most between 2020 and 2021 and this also reflected a significant increase in inequality<sup>194</sup>. Both factors are the result of the dollarisation process, which has widened the gaps between those who are paid in foreign currency and those who only have income in bolivars.

Activists in rural and indigenous areas interviewed during this research described a very insecure outlook for the rural population: difficulties in accessing seeds, fertilisers and other supplies decrease their production capacity<sup>195</sup>. In addition, transport and petrol shortage problems create a significant obstacle to selling the harvest of those who do keep producing<sup>196</sup> and, in many cases, they resort to exchange in order to acquire the basic goods that the families need. In these transactions, it is the peasant farmer who ends up losing out<sup>197</sup>.

Indigenous communities are in a similar situation: fuel shortages hinder transport to the nearby cities to acquire basic products but they also affect traditional activities of these communities, such as fishing, craftwork<sup>198</sup> or other businesses, for example, the sale of food<sup>199</sup>. In these populations, the bonds delivered through the "*Carnet de la Patria*" might be the only income but it is necessary to have a computer or a smart phone to access the system and, in indigenous communities, most people do not have these tools<sup>200</sup>. In both rural and indigenous communities, people who were interviewed reported increased hunger and malnutrition, especially in children<sup>201</sup>.

This situation is confirmed in the research conducted in 2021 by the La Guajira Human Rights Committee in the communities of El Arroyo and Laguna de Sinamaica<sup>202</sup>. In both, they found that most of the families ate less than three times a day. 72% of the families in El Arroyo ate twice a day and, in Laguna de Sinamaica, the situation revealed is much more serious because 83% of the families state that they only eat once a day.

Poverty and the loss of livelihood is clear in the country's various indicators. As we have seen, access to economic resources is not equal: national surveys show differences according to the socio-economic stratum but, in rural and indigenous areas, access to resources is even more insecure and there is total dependence on public subsidies in order to obtain any income.

In view of the existence of discrimination surrounding the CLAPs and the lack of fair access for rural and indigenous populations, the Venezuelan State has an obligation to adopt measures that will eliminate this *de facto* discrimination. The absence of measures to remedy political discrimination in the context of the CLAPs and the absence of measures that will allow access to adequate food, in particular, for rural and indigenous populations, constitute a violation of the State's obligation to prevent discrimination in access to food and to favour equal access to economic resources among the various population groups.

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194 Encovi 2021 Results. Available at: [https://assets.website-files.com/5d14c6a5c4ad42a4e794d0f7/6153ad6fb92e4428cada4fb7\\_Presentacion%20ENCOVI%202021%20V1.pdf](https://assets.website-files.com/5d14c6a5c4ad42a4e794d0f7/6153ad6fb92e4428cada4fb7_Presentacion%20ENCOVI%202021%20V1.pdf)

195 FIDH, Interview 20210726.MG.LG.E1, paragraph 7; FIDH, Interview 20210618.PH.LG.E1 paragraph 7.

196 FIDH, Interview 20210726. MG.LG.E1, paragraph 7.

197 FIDH, Interview 20210618.PH.LG.E1, paragraph 12.

198 FIDH, Interview 20210621.JG.LG.E1, paragraph 6.

199 FIDH, Interview 20210621.JG.LG.E1, paragraph 8.

200 FIDH, Interview 20210621.JG.LG.E1, paragraph 12.

201 FIDH, Interview 20210621.JG.LG.E1, paragraph 2; FIDH, Interview 20210618.PH.LG.E1, paragraph 7.

202 In process of publication.



## b. Principle of transparency, participation and decentralisation

According to General Comment 12, the formulation and implementation of public policies for the right to food “require full compliance” with the principles of transparency, people’s participation and decentralisation, among others,<sup>203</sup> all of which are based on international law.<sup>204</sup> Here, the previous United Nations Special Rapporteur on the Right to Food, Olivier De Schutter, has highlighted the importance of laws or measures that will ensure transparency and accountability in the execution of programmes relating to the right to food.<sup>205</sup>

On this subject, we have to stress that, in Venezuela, there is a National Statistics System established in the Decree on the Public Statistics Function<sup>206</sup>, which requires all State organs to obtain and produce statistical data relating to the exercise of their powers. In spite of this obligation laid down in national legislation on food and nutritional security, all official offices have stopped publishing information that is relevant to the follow-up and monitoring of the food situation.

The National Institute of Nutrition stopped publishing information from the Food and Nutritional Supervision System (SISVAN) from 2008<sup>207</sup> and the Food Balance Sheet has not been published since 2012. The National Institute of Statistics stopped publishing the survey on monitoring food consumption from 2015<sup>208</sup>, official estimates of poverty based on income were published up until that same year<sup>209</sup> and the cost of the regulatory food basket was only published up until September 2014<sup>210</sup>. The consequence of official lack of transparency in social and food matters because there is no official information on the life conditions of the population or its food situation. Accordingly, multilateral bodies and the humanitarian response plan must increasingly base their interventions on the figures produced by the academic sector, such as the ENCOVI, or those produced by humanitarian organisations such as Caritas.

The national budget law has not been made public since the National Assembly elected in 2015 assumed office and the same thing has happened with the Reports and Accounts of the various ministries. The absence of official data on the principal food programmes such as the CLAP boxes or the State monetary transfers (Carnet de la Patria) is particularly striking. The absence of information is such that academic research has to be based on the public speeches of Nicolás Maduro or on estimates based on surveys<sup>211</sup>.

The most recent report of the High Commissioner for Human Rights of September 2021<sup>212</sup> confirms this absence of official data on economic, social and cultural rights and states that this not only violates citizens’ right to information but also hinders the preparation of precise and opportune diagnoses for designing social policies aimed at the actual needs of the population. In the case of food policies, the absence of information prevents their assessment and, therefore, the implementation of corrective measures to effectively protect the most vulnerable population from the effects of the complex humanitarian emergency.

Another principle that should govern food policies is participation. Although the name of the principal food programme (Local Supply and Production Committees or CLAP) might give the idea of extensive

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203 Committee on Economic, Social and Cultural Rights, General Comment 12 (“The right to adequate food (Art. 11)”), E/C.12/1999/5, 12 May 1999, paragraph 23.

204 Committee on Economic, Social and Cultural Rights, General Comment 12 (“The right to adequate food (Art. 11)”), E/C.12/1999/5, 12 May 1999, paragraph 33 (“The right to food also contributes to policies aimed at eradicating hunger and malnutrition by ensuring that those policies adhere to the principles of participation, accountability, non-discrimination, transparency, human dignity, empowerment and the rule of law<sup>29</sup>. Each of these principles is based on international human rights rules, in particular, on the right to participate in public matters, on the right to an effective remedy and on the prohibition against discrimination”).

205 Provisional report of the Special Rapporteur on the right to food, Olivier De Schutter, 7 August 2013, paragraph 25, A/68/288.

206 Official Gazette No. 37.321 9 November 2001.

207 FIDH, Interview 20210625.MT. LG, paragraph 13.

208 FIDH, Interview 20210625.MT. LG, paragraph 14.

209 FIDH Interview 20210617.MP.AR. E1, paragraph 23.

210 FIDH Interview 20210617.MP.AR. E1, paragraph 23.

211 See Aponte, C (2020).

212 See paragraphs 42 y 43. The report is available at the following link: [https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session48/Documents/A\\_HRC\\_48\\_19\\_UnofficialSpanishVersion.docx](https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session48/Documents/A_HRC_48_19_UnofficialSpanishVersion.docx)



community participation in its management, according to the interviews held, this is not the case. The community's participation is limited to paying for and receiving the subsidised food bag. Being on the committee or giving opinions on how it should function in the community are activities that are restricted to government party activists<sup>213</sup> and, although the community might want to change the spokespersons, they are imposed again<sup>214</sup>.

From a macro viewpoint, it is not possible to find evidence of participation by a variety of people in the design or assessment of the food policies. Interviewed experts and academics<sup>215</sup> state that they have never had the opportunity to present proposals or suggestions to the government. In other words, the formulation of these policies has not been open to the participation of Venezuelan society, especially of those sectors that have the most relevant expertise.

Another of the principles that food policies must observe is the principle of decentralisation. Literature on public policies has shown that the programmes tend to be more efficient the shorter the distance between the decision-making body and the beneficiaries of the policies. However, in spite of the strategy of distributing food through committees in the communities, decision-making is highly centralised. Articles 16 and 17 of the Constitutional Law on the CLAPs provide as follows:

"The National Executive body responsible for the Local Supply and Production Committee will determine the various methods and levels of organisation, participation and integration of the Local Supply and Production Committee in the distribution and supply activities."<sup>216</sup>

"The National Executive body responsible for the Local Supply and Production Committee, in coordination with the competent authorities in matters of agreed prices, will determine the various methods and levels of organisation, participation and integration of the Local Supply and Production Committee in the activities to assess, control and inspect the mechanisms for the supply and distribution of foodstuffs and products."<sup>217</sup>

In these articles, it is clear that the main powers concerning the operation and assessment of the programme are reserved exclusively for the National Executive. Neither the committees in the communities nor the regional or local governments have decision-making power in relation to the programme. Furthermore, this legislation is an additional demonstration of the lack of transparency in the design and execution of food policies because it does not specify which national authority is responsible for the programme. Faced with this absence of clarity, it is impossible to know which public organisation accountability should be sought from.

Until now, we have seen that important principles such as transparency and participation are not an integral part of the food policies that the Venezuelan State has implemented. The failure to observe these principles has created a climate favourable to corruption, and this issue is addressed in the next section.

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213 FIDH, Interview 20210614.APLG, paragraph 18.

214 FIDH, Interview 20210618.AF.LG.E1, paragraph 23.

215 FIDH, Interview 20210617.MP.AR.E1, paragraph 28; FIDH, Interview 20210706.MH.LG.E1, paragraph 12; FIDH, Interview 20210701.ML.LG.E1, paragraph 57.

216 Constitutional Law on the CLAPs, Article 16 paragraph 2. Available at: <http://minci.gob.ve/wp-content/uploads/2018/04/LEY-CLAP-14-03-2018-ciudadcaracas.Alt-a-pdf.pdf>

217 Constitutional Law on the CLAPs, Article 17 paragraph 2. Available at: <http://minci.gob.ve/wp-content/uploads/2018/04/LEY-CLAP-14-03-2018-ciudadcaracas.Alt-a-pdf.pdf>

### c. Corruption and the right to adequate food

Although the fight against corruption is not expressly recognised as a principle in the ICESCR, corruption can have negative effects on the enjoyment of the Human Rights contained in the Covenant. This occurs in various ways: corruption can give rise to discriminatory access to public services, exclude vulnerable groups from access to resources and reduce the resources available for the progressive achievement of economic, social and cultural rights.<sup>218</sup> In this regard, as Anne Peters, director of the Max Planck Institute for Comparative Public Law and International Law, has argued, corruption may result in a breach of Article 2(1) of the ICESCR, which requires States to adopt measures "to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures."<sup>219</sup>

When the illegal diversion of available resources is encouraged or permitted by corruption, States violate their obligation to adopt measures to fulfil the rights and, in turn, they also violate their obligation to "achieve progressively" the realisation of the rights contained in the ICESCR; it is also argued that this is contrary to the obligation of the State to protect against human rights violations committed by third parties.<sup>220</sup>

Venezuela has been rated as one of the most corrupt countries in the world, according to the Transparency International measurement index<sup>221</sup>. According to the parameters of this organization, Venezuela qualifies as a case of grand corruption, understood as "high-level abuse of power that benefits a few at the cost of many and causes widespread and serious damage to individuals and society as a whole, usually remaining unpunished"<sup>222</sup>. Endemic corruption in Venezuela has permeated all state institutions, configuring what some assimilate to the phenomenon of state capture, which - in turn - has become an incentive to obtain personal benefits through the consolidation of a scheme of serious and systematic violations of Human Rights, as has been warned by the Independent International Fact-Finding Mission on the Bolivarian Republic of Venezuela<sup>223</sup>. The OHCHR has stressed that corruption has been a determining factor in affecting the right of the Venezuelan population to an adequate standard of living<sup>224</sup>.

The food system has been one of the areas where most complaints have been made about corruption. The registered grievances are of two types: first, corruption at high levels through organised networks that has allowed the enrichment of officials and of businesspeople related to the government party and, secondly, petty corruption that occur at various intermediate points in the food distribution structure.

In relation to the first type, the lack of transparency in information on use of the resources and execution of the programmes creates an environment favourable to corruption networks because it makes it difficult for citizens to audit this. In addition to this factor, legal provisions have been passed reducing the controls on public spending, such as the economic emergency decrees and, more recently, the Anti-Blockade Law.

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218 Final report of the Advisory Committee of the Human Rights Council on the negative consequences of corruption in the enjoyment of human rights, A/HRC/28/73, paragraph 20. In fact, in 2011, the Special Rapporteur on the right to food recognised corruption as one of seven serious economic obstacles to the fulfilment of the right to food. See report prepared by Mr Jean Ziegler, Special Rapporteur on the right to food, in accordance with resolution 2000/10 of the Human Rights Commission, 7 February 2001, E/CN.4/2001/53, paragraph 69.

219 ICESCR, Article 2(1).

220 Anne Peters, 'Corruption and Human Rights', Basel Institute on Governance, Working Paper Series No. 20, p. 17, [https://www.mpil.de/files/pdf4/Peters\\_Corruption\\_and\\_Human\\_Rights20151.pdf](https://www.mpil.de/files/pdf4/Peters_Corruption_and_Human_Rights20151.pdf), [http://hrp.law.harvard.edu/wp-content/uploads/2019/07/JimenaReyes\\_HRP\\_19\\_002.pdf](http://hrp.law.harvard.edu/wp-content/uploads/2019/07/JimenaReyes_HRP_19_002.pdf), <https://www.unodc.org/e4j/en/anti-corruption/module-7/key-issues/impact-of-corruption-on-specific-human-rights.html>.

221 Transparencia Venezuela (2021). Aumenta percepción de Venezuela como país corrupto. Disponible en: <https://transparencia.org.ve/aumenta-percepcion-de-venezuela-como-pais-corrupto/>

222 Ugaz, José (2019). La Gran Corrupción en Venezuela y su Impacto en la Región Latinoamericana. Disponible en: <https://transparencia.org.ve/wp-content/uploads/2019/11/La-gran-corrupcion-en-venezuela-y-su-impacto-en-la-region-latinoamericana.pdf>

223 Independent International Fact-Finding Mission on the Bolivarian Republic of Venezuela (2020). Detailed findings of the independent international fact-finding mission on the Bolivarian Republic of Venezuela, para 116 Available at: [https://www.ohchr.org/Documents/HRBodies/HRCouncil/FFMV/A\\_HRC\\_45\\_CRP11.pdf](https://www.ohchr.org/Documents/HRBodies/HRCouncil/FFMV/A_HRC_45_CRP11.pdf)

224 OHCHR (2019), Report of the High Commissioner for Human Rights on the Human Rights Situation on the Bolivarian Republic of Venezuela. Para. 12. A/HRC/41/18.





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The first Economic Emergency Decree was Decree No. 2.184, issued in January 2016<sup>225</sup>. It has been renewed twice, violating the constitutional provisions, ending with Decree 4.019 of November 2019<sup>226</sup>. These successive Economic Emergency Decrees have allowed exceptional measures to the Executive: the initial decree covered 11 exceptional measures that were increased, in May 2016, to 18, then increased to 23 in 2017, to 24 in September 2017 and to 25 between January and May 2018. A maximum of 36 exceptional measures was reached in September 2018, and this number went down to 35 in the final emergency decrees of 2019<sup>227</sup>. These exceptional measures do not include legislative control over the National Budget and Public Borrowing, among other mechanisms that enable the Executive to make decisions about the Nation's resources without any counterbalance.

225 Official Gazette No. 6.214 of 14 January 2016

226 Official Gazette No. 6.487 dated 6 November 2019

227 <https://transparencia.org.ve/wp-content/uploads/2020/12/04-Estados-de-excepcion-Y-DE-EMERGENCIA-ECONOMICA.pdf>45 [Transparency. States of exception AND OF ECONOMIC EMERGENCY]



In March 2018, there was an easing of the means of procurement of acquisitions that were prioritised because of their social impact or amount <sup>228</sup>. These items included the acquisition of food for the CLAPs, and this reduced even further the control mechanisms for avoiding corruption in the public distribution of food. That same year, evidence of corruption within the CLAPs increased and was denounced in the report of the General Secretariat of the Organisation of American States (OAS) and of the Panel of Independent International Experts published on 29 May 2018. With the start of the Covid-19 pandemic, the State of Alarm Decree was passed in March 2020<sup>229</sup> which, in addition to regulating the quarantine measures, meant that the exceptional economic situation could be maintained.

The Constitutional Anti-Blockade Law for National Development and the Guarantee of Human Rights was passed by the National Constituent Assembly (NCA) in October 2020<sup>230</sup> with the purpose of addressing the consequences of the financial and oil sanctions against the Venezuelan State. This law maintains the easing of public procurement but also empowers the National Executive to amend the constitution, ownership, management, administration and operation of public or mixed companies, in both the national territory and abroad, and so privatisation processes could be undertaken without the need for parliamentary approval. This law continues the trend of the emergency decrees, which ceased to be necessary once this law that guarantees the extensiveness of the powers of the Executive was passed.

The principal reports of corruption that have been made in relation to the CLAPs are associated with the import of products to be distributed through this programme. As we have seen when examining the obligation to protect, these imports are not controlled in order to ensure that the products meet the quality standards required by Venezuelan rules. We might regard this as one of the links in the programme's structure of corruption. The main businesses responsible for these imports are shareholders of various companies that have had important contracts with the Venezuelan government at least since 2014. In the case of food imports, the companies involved are Group Grand Limited and Global Foods Trading, who have been reported to invoice the government for the products at an average surcharge of 62%<sup>231</sup>. The money obtained from these contracts with the Venezuelan government has left by a route that is difficult to trace, following the usual money-laundering practices. Several investigative reports have attempted to track the funds derived from corruption in these food programmes.<sup>232</sup>

The businesses associated to the food corruption structure benefitted from the privatisation of the Abastos Bicentenario<sup>233</sup> supermarket chain, which was the principal food distribution network through the *Misión Mercal* social programme. There was no open and transparent process. It is not known whether the network of establishments was bought or if it was simply handed over to private individuals or entities, nor are the conditions of this transaction known. On this first level, it has been established that, through negotiations that are not at all clear, a small group of businessmen became the main suppliers of food imported into the country and were also among the principal distributors through the new supermarket network, Tiendas CLAP. To date, the most convincing evidence on the corruption of this network was presented by the Mexican Attorney General's Office, which identified 1,300 containers destined for Venezuela and stated that poor quality food was being bought to be sold at a surcharge to the government of Venezuela<sup>234</sup>. It is not known how this business also profited high-ranking authorities of the national public power. So far, no Venezuelan judicial or administrative authority has investigated these reports of corruption. The legal proceedings that these businessmen face are for money-laundering in other countries.

The reports of corruption in food policies are not restricted to imports of food for the CLAPs but also include public companies in the food sector. A recent case is the company Lácteos Los Andes, whose president

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228 Ibidem.

229 Extraordinary Official Gazette No. 6.519 of 13 March 2020.

230 Extraordinary Official Gazette No. 6.583 of 12 October 2020.

231 <https://armando.info/la-precuela-de-los-clap-tambien-fue-negocio-para-saab-y-pulido/> [The prequel to the CLAPs was also business for Saab and Pulido]

232 <https://armando.info/un-huracan-de-dolares-de-alex-saab-se-formo-sobre-antigua/> [A hurricane of Alex Saab's dollars hits Antigua]

233 <https://cronica.uno/los-abastos-bicentenario-se-convierten-tiendas-clap-ofrecen-articulos-empresas-privadas/> [Abastos Bicentenario becomes CLAP shops – private companies offer goods]

234 <https://elestimulo.com/elinteres/mexico-desmantela-mafia-alimenticia-con-productos-para-los-clap/> [Mexico dismantles food mafia with products for the CLAPs]



was arrested -in May 2021- for alleged fraudulent embezzlement and official's agreement with contractor, boycott, with the "aggravating circumstance" of destabilisation of the economy, money-laundering and criminal association<sup>235</sup>. However, the reports of corruption in this company and the effects of this on food production go back a long way, as shown by a report written by the organisation Transparencia Venezuela<sup>236</sup>.

Although Nicolás Maduro has admitted the existence of corruption when he called on officials to combat it<sup>237</sup> and asked for detailed investigations of the facts, if there is no transparency in management or clear action to supervise contracts and public management in general, a real intention to safeguard the public resources needed to guarantee Venezuelans' right to food will not be apparent.

Significant evidence of corruption in the food system under State control emerged in 2016, when Nicolás Maduro publicly disclosed that the main food centre Abastos Bicentenario had been broken up and he ordered the launch of an operation to identify the public employees connected to this corruption network. This operation was called "Operación Gorgojo" and we do not know so far whether the employees responsible were prosecuted pursuant to the operation. In the highest government structures, persons implicated in corruption processes in the import and allocation of food under their jurisdiction, were not only not tried but were later rewarded with rotations to other governorships and to more significant roles. Years after these movements by the Executive, there are various international legal proceedings where files have been opened for the investigation of these corruption processes.<sup>238, 239, 240</sup>

CLAP food was also misappropriated when it was distributed to organised groups during protests concerning citizens' rights. There is evidence of this among health personnel who have been on constant protest because of working conditions, including nurses who reacted to blackmail by making shoes out of the CLAP boxes given to them. This was the sort of manipulation present when a military light aircraft sustained an accident when it was carrying more than 200 CLAP boxes to the indigenous community where, two weeks previously, officials of the Directorate General of Military Counter-Intelligence (DGCIM) carried out a military attack, which left one indigenous person dead and three wounded in the indigenous community of Kamarata, in Canaima, Bolívar State<sup>241</sup>.

Misappropriation of the food allocated to the CLAPs as a public resource is not only undertaken by the State to its benefit. There have been reports from Colombia of the distribution of CLAP boxes by the guerrilla group Ejército de Liberación Nacional (ELN) in the border regions of Venezuela. The ELN has even distributed these boxes more regularly than the State itself has managed. With its conduct distributing the food, the Colombian guerrilla group is promoting itself and publicising its radio station. This not only confirms misappropriation of the resource but also the operations of these illegal groups in the national territory in full view of the State and with its complicity.

In addition to the reports on the handling of resources intended for food policies, there are also multiple reports of corruption at a micro level. In interviews held with the businessmen's representatives, it was stated that officials charge commissions to allocate products to a specific destination using the distribution guidelines. It was also recorded that military and police officials at the roadblocks on the country's roads also charge carriers some of the goods in order to allow the food to pass<sup>242</sup>. Formal procedures such as

235 <https://talculdigital.com/fiscalia-anuncia-detencion-del-presidente-de-lacteos-los-andes-por-supuesta-corrupcion/> [Prosecutor's office announces arrest of Lácteos Los Andes president for alleged corruption]

236 <https://transparencia.org.ve/wp-content/uploads/2017/09/Empresas-propiedad-del-estado-Los-Andes-C.A.-1.pdf> [State-owned companies - Los Andes, C.A.]

237 <http://www.snc.gob.ve/noticias/maduro-llamo-a-combatir-corrupcion-dentro-de-las-instituciones-publicas> [Maduro issues call to combat corruption in public institutions]

238 <https://www.elnacional.com/venezuela/> [Federal Court in Miami makes a fugitive out of Jose Gregorio Vielma Mora]

239 <https://www.france24.com/es/am%C3%A9rica-latina/20211017-Businessman-alex-saab-extradited-eeuu-dialogo-venezuela>

240 <https://www.eleconomista.com.mx/internacionales/UIF-fiels> FIU files complaints against Alex Saab network] 20211101-0125.html

241 Provea 2018 Annual Report

242 FIDH, Interview 20210709.RA.LG.E1, paragraph 18.

the payment of tariffs in ports become an act of corruption when officials require payment of the fees in cash and not into the institutions' bank accounts<sup>243</sup>.

In relation to the distribution of CLAP bags in the communities, there are also reports of corruption. Two of the people interviewed recounted that the *colectivos* in the 23 de Enero district who are in charge of the area's CLAPs divert some of the products that they receive to be sold in adjoining areas and, in addition, they charge a rate ("vacuna") from sellers for the right to work in those areas<sup>244</sup>. These practices are known to the communities' residents. A neighbourhood leader in a working-class area of Caracas stated that the community council received 130 bags to meet the needs of the community but only 80 were distributed. The residents do not know what was done with the others<sup>245</sup>.

There are also many reports of extortion relating to food in the penal system. According to the annual report of *Una Ventana a la Libertad*<sup>246</sup>, in 11.72% of remand centres, detainees' relatives report that police officers in prisons charge rates ("vacunas") from relations to let them take food to the detainees. These testimonies have been collected by the organisation on condition of anonymity because of fear of reprisals. Fear of reporting suggests that it is likely that charges of this nature are even more frequent in the penal system.

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243 FIDH, Interview 20210622.WG.AR.E1, paragraph 12.

244 FIDH, Interview 20210705.VZ.LG.E1, paragraph 4 y FIDH, Interview 20210616.LM.JR.E1, paragraph 16.

245 FIDH, Interview 20210618.AF.LG.E1, paragraph 23.

246 Una Ventana a la Libertad, 2020 Annual Report. Available at: <http://unaventanaalalibertad.org/wp-content/uploads/2021/02/Informe-Anual-2020-OK-1.pdf>

## IV. THE EFFECTS ON FOOD SECURITY AND THE NUTRITIONAL SITUATION OF THE FAILURE BY THE VENEZUELAN STATE AND OTHER CO-GUARANTORS TO COMPLY WITH THEIR OBLIGATIONS WITH REGARD TO THE RIGHT TO FOOD

Up until 2012, Venezuela had managed to reduce the proportion of people in a situation of hunger, meeting the world goals for this. In 2012, it was one of the countries in Latin America and the Caribbean with the best performance. This warranted it the recognition of the United Nations Food and Agriculture Organisation (FAO):

*"In order to reduce the percentage of people suffering hunger or undernourished in the country before 2015 to half, taking the year 1990 as the base line, as established by the WFC in 1996 and by General Assembly of the United Nations of 2000 (...) Venezuela had to bring the percentage of undernourished people down from 13.5% in 1990 to a figure lower than 6.7% before 2015".<sup>247</sup>*

This changed steadily from the two-year 2012-2013 period, when the Prevalence of Undernourishment Index (PUI)<sup>248</sup> went from below 2% to 31.4% in 2017-2019<sup>249</sup>, equivalent, in this last period, to 9.1 million Venezuelans in a situation of hunger. FAO indicates that this scenario will get worse by 2030, when Venezuela will be the Latin American country with the highest proportion of people in a situation of hunger. Its PUI will be 61.7%, whilst countries such as Colombia, Chile, Peru and Ecuador will improve their performance significantly.<sup>250</sup> (Figure 3, in Spanish)

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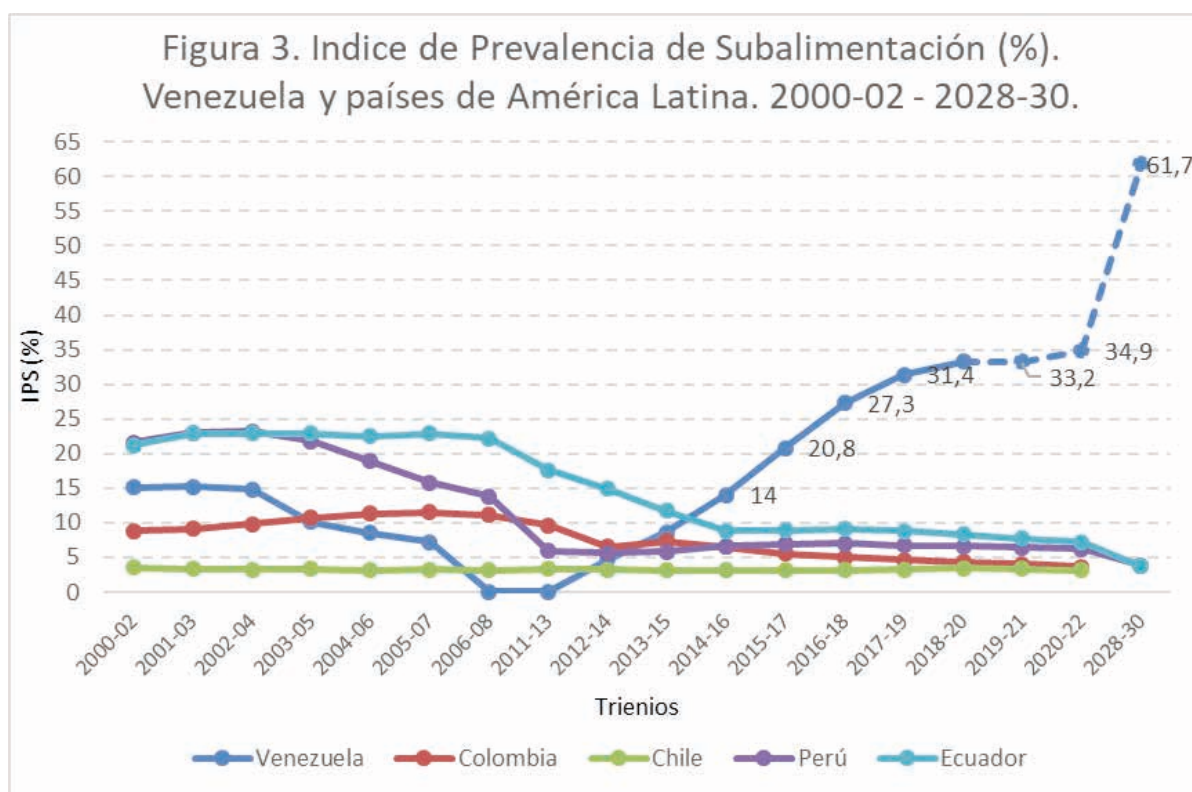
247 FAO (2013). FAO's recognition of Venezuela. Available at: <http://www.fao.org/americas/noticias/ver/es/c/230150/>

248 The PUI refers to the proportion of people in the country who cannot cover their daily calorie needs. It is planned by the FAO every three years and is published each year.

249 FAO, several years

250 FAO, PMA, UNICEF, FIDA, OMS. (2020). The State of Food Security and Nutrition in the World (SOFI).

Figure 3. Prevalence of Undernourishment Index (%). Venezuela and countries of Latin America. 2000-02 – 2028-30.



Source: own preparation. SOFI Data, 2020.

## a. Food availability

One of the components of the PUI is the availability of food for human consumption, which depends on the production, importation and exportation of food. Between 2011 and 2014, food production fell to 83% and importation reached 180%. From 2015, both have sustained a severe and steady decline up until the present time.<sup>251</sup>

The agri-food sector had its worst performance in 2018<sup>252</sup> and 2019, with the reduction in the production of basic foodstuffs such as rice, the production of which was below 15% compared to what was expected<sup>253</sup> and went on to depend on imports.<sup>254</sup> This had serious implications on the availability of calories of national origin derived from this item which should cover at least 50% of the population's needs. Similarly, the production of food that adds quality to the Venezuelan diet, such as meat, milk, fruit and vegetables, decreased by more than 50% in comparison with 2008<sup>255</sup>. And added to this is the poor performance of the food industry, which managed to function at barely 20% of its capacity in 2018.

251 Juan Luis Hernández M. Evolution of the agri-food situation of Venezuela. Available at: <http://redagroalimentaria.org/archivos/documentos/La%20evoluci%C3%B3n%20de%20la%20Crisis%20Agroalimentaria.pdf>

252 El Nacional Web (2018) Fedegro expressed concern at the drop in production "which is getting worse" [online] <<https://www.elnacional.com/produccion-agricola-solo-cubrio-del-consumo-nacional-durante-2018> [Agricultural production only covered national consumption during 2018] \_263209/>. 13.12.2018 Edition.

253 Wendy Molero: Adonay Ochoa: Grain production did not reach 15% in last season [online] <https://diariodelosandes.com/> . 04.12.2019 Edition.

254 El Aragüño: 45 thousand tons of baker wheat and 30 thousand of rice arrive in the country [online] <http://elaragueno.com.ve/> 29.01.2019 Edition.

255 Fedegro Institute of Agricultural Policies (IPAF): IPAF online No. 224. From 1 to 15 September 2019 [online] <http://redagroalimentaria.org/>



In 2020, the deficiencies in public services were added to the general crisis in the production sector. Power cuts and the fuel shortage have had negative effects on food production, with the greatest impact in the milk and livestock sectors.<sup>256</sup> According to Fedenaga, in the third week of April, more than 780 thousand litres of milk were lost each day. This amount represented 60% of what was being produced at the beginning of January.<sup>257</sup> 70% of the agricultural producers in western Venezuela changed from milk to cheese production. Producers have had to resort to non-conventional means of transport, such as animals, oxen and mules.<sup>258</sup>

The food and agriculture crisis has not only affected large producers but also those who live off family agriculture, residents in the rural areas which are one of the most neglected and with the lowest ability to respond. The Venezuelan Association of Family Agriculture declared that: "in Venezuela, not even 10% of what was produced in 2012 is being produced".<sup>259</sup> This sector is responsible for 72 of the 88 items that make up the historical diet of Venezuelans. Out of every ten kilograms of food that are produced, 9 are grown by family agriculture and this contributes to demographic regression in the country, loss of workers and ageing of the population.

A report presented by FAO which assesses countries' food risks from the COVID-19 pandemic rated Venezuela as a country with limited fixed capital to produce food, disrupted food distribution and sale and irregular domestic prices, also, with a medium-high risk in terms of access to intermediate supplies for the production of food and low risk in terms of labour for food production and domestic food supply.<sup>260</sup>

## **b. Access to food**

Food shortage began in Venezuela in 2012, paradoxically coinciding with the aforementioned recognition granted by the FAO. This situation led the General Secretariat of the Organization of American States and the Panel of Independent International Experts to affirm that: "food shortages and hunger are one of the two faces of the humanitarian crisis caused by the regime, and now used as weapons against its population." And recalling that, for the month of September 2017, access to food is the main problem of the Venezuelan family (47,2%)<sup>261</sup>.

One of the causes among the difficulties for accessing adequate food was the price and exchange controls in force until 2020 (see detailed description above) which caused food shortages. This was deepening with the emergence of hyperinflation in 2017 and the gap between prices and income of the population.

256 Diario El Tiempo (2020) Fedenaga: Crisis triggered in milk and livestock sectors. Published on 18/4/2020. Diario El Tiempo (online). Available at: [http://www.diarioeltiempo.com.ve/noticias/fedenaga-crisis-se-dispara-en-sector-lechero-y-ganadero?qt-sidebar\\_tabs=1#qt-sidebar\\_tabs](http://www.diarioeltiempo.com.ve/noticias/fedenaga-crisis-se-dispara-en-sector-lechero-y-ganadero?qt-sidebar_tabs=1#qt-sidebar_tabs)

257 Nava, M (2020) Zulia stockbreeders are at the mercy of the "petrol merchants". Venezuela: Zulia. Crónica Uno (online). Published on 20/4/2020. Available at: <https://cronica.uno/>

258 El universal (2020) The countryside retreats. Published on 18/6/2020.

259 El Mercurio Web (2016) The Venezuelan Association of Family Agriculture: in Venezuela, not even 10% of what was produced in 2012 is being produced. Available at: <https://elmercurioweb.com/noticias/2019/10/16/asociacin-venezolana-de-agricultura-familiar-en-venezuela-no-se-produce-ni-10-de-lo-que-se-haca-en-2012>

260 FAO-CELAC. (2020). Food Security under the COVID-19 Pandemic\*. Report prepared by FAO at the request of the National Coordination of the Presidency Pro Tempore of Mexico before the CELAC.

261 OAS (2018). Report of the General Secretariat of the Organization of American States and the Panel of Independent International Experts on the Possible Commission of Crimes against Humanity in Venezuela. Washington D.C., 29 de mayo de 2018. P. 260. Available at: <https://www.oas.org/documents/spa/press/Informe-Panel-Independiente-Venezuela-ES.pdf>

# ORO Y PLATA

## RELOJES - MONEDAS - DIAMANTES



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Venezuela, started on a hyperinflation phenomenon in November 2017, reaching an annualised rate of 39,113% in September 2019.<sup>262</sup> The variation in the Consumer Prices Index, from December to December, went from 68.5% in 2014 to 130,060.2% in 2018 and, for food, from 102.2% to 143,786.9%. During this period, the conduct of the National CPI [INPC] for food was worse than the general index.<sup>263</sup> Even though the latest data from the Venezuelan Central Bank [BCV] indicate that 2019 inflation closed at a figure lower than that of 2018 (9,585.5%), goods and services continued to increase: education 18,861.1%, housing apart from telephone 22,045.5%, health 17,872.4%, food and non-alcoholic drinks 7,981.4%, alcoholic drinks and tobacco 8,915.0%, clothing and footwear 11,292.6% and transport 13,032.6%.<sup>264</sup>

The measures taken to remedy this situation had a mitigating effect only for the segments of the population with higher income. Indeed, in 2017 price controls were abandoned and the prices of 27 products of the food basket were regulated, with "agreed prices", unpublished in the official gazette, but on the website of the Ministry of National Trade<sup>265</sup>. According to Nicolás Maduro, this legislation was enacted having taken into account the "the relationship between the permanent cost structure and the food production,

262 ECLAC. (2019). Preliminary Balance for the Economies of Latin America and the Caribbean 2019. Bolivarian Republic of Venezuela [https://repositorio.cepal.org/bitstream/handle/11362/45000/91/BPE2019\\_Venezuela\\_es.pdf](https://repositorio.cepal.org/bitstream/handle/11362/45000/91/BPE2019_Venezuela_es.pdf)

263 BCV (2020). National Consumer Prices Index. 2008-2018. Available at: <http://www.bcv.org.ve/node/1571>. The figures reported by the BCV for 2019 and 2020 indicate that the INPC Dec/Dec in 2019 was 9585.5%. As of September 2020, the inter-monthly variation was 27.9%

264 Limón, A. (2020) Health and education among the items that increased the most in 2019, according to the BCV. Crónica Uno (online). Published on 5/2/2020. Available at: <https://cronica.uno/salud-y-educacion-entre-los-rubros-que-mas-aumentaron-en-2019-segun-el-bcv/#:~:text=Uno,qued%C3%B3%20en%2011.809%2C8%20%>

265 Seijas Meneses, C. (2020) Gobierno vuelve a aumentar los precios de los 27 productos regulados. Tal Cual (on line). Published on 7/5/2020. Available at: <https://talcualdigital.com/gobierno-aumento-precios-regulados-de-27-productos-luego-de-una-semana/>

distribution and commercial sector in the country, in order to guarantee the supply to the population".<sup>266</sup> By then, the minimum wage was only enough to purchase 1.1% of this regulated basket, which reflected its prices in bolivars with respect to the dollar/bolivar exchange rate at that time and in the cryptocurrency "Petro".<sup>267</sup>

Despite the relaxation of the controls to improve the situation, a series of interventions, confiscations of products and fines that affected the industry and the commercial sector took place. Among these: *"Alimentos Polar condemns the blocking of the SICA [Sistema Integral de Control Agroalimentario – Integral Food and Agriculture Control] Code applied by the government of Nicolás Maduro. They have not been able to dispatch pre-cooked flour or oil"*<sup>268</sup>, *"Intervention of Coposa and food supervisions at Polar, Plumrose and the Turmero meat abattoir"*<sup>269</sup>, *"15 wholesale companies were fined and taken to court"*<sup>270</sup>.

An effect of these regressive measures relating to the functioning of the national food system was multiple protests and "looting"<sup>271</sup> by the population.

In its report for the month of May 2020, the Venezuelan Observatory of Social Conflict documented 997 protests connected to the collapse of basic services, work claims, food and health in the country. At that time, there were a total of 1,075 protests in the year, which is equivalent to 36 protests a day. "There were more demands for Economic, Social, Cultural and Environmental Rights (*ESCER*) than for civil and political rights (CPR). This reflects the vulnerable situation of Venezuelan families". Public services top the list, then, secondly, the work issue and, thirdly, the right to food.<sup>272</sup>

### c. Food consumption

Official data published up until 2014 showed the decline in Venezuelans' food consumption: in the first six months of that year, food purchased by Venezuelans covered only 77% of their calorie needs.<sup>273</sup> In 2015, the data on actual food consumption showed that, between 2013 and 2015, the adequacy of the calorie intake went from 99.7% to 94.1%. The people most affected were adults over 18 years of age, men and the south, east and plains areas.<sup>274</sup> Between November 2019 and January 2020, the ENCOVI results show that this level of calorie consumption was now at 91.2% and was more critical in quintiles 1, 2 and 3, at 70.5%, 80.1% and 89.6%, respectively.<sup>275</sup>

The World Food Programme conducted a national food security survey in 2019, in which it estimated that 32.3% of Venezuelans were suffering acute food insecurity in its moderate and severe forms and that 59.7% suffered it in its marginal or mild form. At that time, homes that were able to cover their food

266 Banking and Business. New price increase announced for the 27 regulated products. Available at: <https://www.bancaynegocios.com/anuncian-nuevo-aumento-de-precios-de-los-27-productos-regulados/>

267 <https://www.oas.org/documents/spa/press/Informe-Panel-Independiente-Venezuela-ES.pdf> Seijas Meneses, C. (2020) Gobierno vuelve a aumentar los precios de los 27 productos regulados. Tal Cual (on line). Published on 7/5/2020. Available at: <https://talcualdigital.com/gobierno-aumento-precios-regulados-de-27-productos-luego-de-una-semana/>

268 Rodríguez, L. M. (2020) Alimentos Polar reports that blocking by supervision paralysed dispatch of products #26Abr. El Impulso (online). Published on 26/4/2020. Available at: <https://www.elimpulso.com/2020/04/26/alimentos-polar-denuncia-que-bloqueo-por-fiscalizacion-paralizo-despacho-de-productos-26abr/>

269 El Universal (2020) Executive announces intervention at Coposa for 180 days. El Universal (online). Published on 24/4/2020. Available at: <https://www.eluniversal.com/>

270 Diario La Nación (2020) 15 wholesale companies fined and 6 taken to court. Published on 31/3/2020. Available at: <https://lanacionweb.com/politica/multadas-15-empresas-mayoristas-y-6-llevadas-a-tribunales/>

271 El mundo (2020) Pandemic triggers protests and looting in Venezuela because of lack of food. Available at: <https://www.elmundo.es/internacional/2020/04/24/5ea32da5fdddf8128b4636.html>

272 El Universal (2020) 997 protests recorded because of collapse of basic services, food and health throughout the country. Published on 12/6/2020. Available at: <https://www.eluniversal.com/>

273 Landaeta, M., Sifontes, Y. y Herrera M. (2018). Venezuela between food insecurity and malnutrition. Volume 31, N. 2. Available at: <https://www.analesdenutricion.org/ve/ediciones/2018/2/>

274 INE [National Institute of Statistics] (2015). National Consumption Survey. [http://www.ine.gov.ve/documentos/Social/ConsumoAlimentos/pdf/informe\\_enca.pdf](http://www.ine.gov.ve/documentos/Social/ConsumoAlimentos/pdf/informe_enca.pdf)

275 INSO-ENCOVI (2020) Available at <https://insoencovi.ucab.edu.ve/>

needs did so by sacrificing their property and endangering their livelihoods.<sup>276</sup>

Similarly, Cáritas Venezuela recorded that, from July-August 2017, more than 80% of the homes of children who received care through its Surveillance, Alert and Care in Nutrition and Health System (SAMAN) presented with food insecurity, with consumption among 5 or 6 food groups (table 1).<sup>277</sup>

Table 1. Food security in homes with children cared for by the SAMAN - Caritas Venezuela Programme in various States of Venezuela. 2016-2020.

Period	Family survival strategies Index	Food groups consumed in the homes	Proportion of homes with food insecurity
<b>Oct-Dic 2016</b>	18	6	52
<b>Ene-Feb 2017</b>	29	5	62
<b>Mar-Abr 2017</b>	30	6	66
<b>Jul-Ago 2017</b>	34	5	85
<b>Sep-Dic 2017</b>	42	4	89
<b>Ene-Mar 2018</b>	33	5	86
<b>Abr-Jul 2018</b>	21	6	85
<b>Oct-Dic 2018</b>	NR	NR	NR
<b>Ene-Mar 2019</b>	17	6	93
<b>Abr-Jun 2019</b>	NR	NR	NR
<b>Jul-Sep 2019</b>	20	5	89
<b>Oct-Dic 2019</b>	23	5	83
<b>Ene-Mar 2020</b>	40	5	NR

Source: Cáritas Venezuela, 2014-2020.

In the last ENCOVI adaptation (2021), it reported a reduction in the population's food spending assessed between 2020 and 2021, including those who live in extreme poverty and the "non-poor". In the case of people living in extreme poverty, the total reduction was – 6.6% and it affected all items, apart from pulses and drinks such as coffee and other drinks. It is noteworthy that the behaviour was the same for the "non-poor" stratum. The total spending reduction was – 2.6%, with a greater impact on dairy products, animal protein, fruit and vegetables, with improvements only in grains, pulses, tubers and drinks. This is evidence that homes use fewer resources for food purchase, with an impact on the quantity and the quality of the diet.<sup>278</sup>

276 WFP (2020). Venezuela Food Security Assessment. Available at: <https://www.wfp.org/news/venezuela-food-security-assessment>

277 Cáritas Venezuela (2016-2020) Report bulletins on sentinel surveillance of acute malnutrition. Available at: <http://caritasvenezuela.org/>

278 ENCOVI (2021). Life conditions of Venezuelans: between humanitarian emergency and pandemic. Available at: <https://www.proyectoencovi.com/encovi-2021>



In schools, where the right to food should also be guaranteed, there is also evidence of the performance of the School Food Programme. Only 19% of those interviewed by the ENCOVI report that their school operated this programme and, of these, almost half said that it only operated some days and 51% that they were given food to take away.<sup>279</sup> This indicates the deterioration of the nutritional condition of children and teenagers who largely depend on this programme and the consequences of this condition on development, including educational performance.

The strategies to survive hunger employed by the most vulnerable homes in order to pull through the food crisis started with early changes in the quality and quantity of food: *“They buy less food, they invent new recipes and they substitute ingredients that cannot be bought”*<sup>280</sup>. Others have resorted to some home members forgoing food so that others may eat, seeking support from relations or community organisations and, in extreme cases, in rubbish tips, among other strategies that do not go unnoticed because of their frequency and because they are hitherto unheard-of and so severe. We may also mention that they include drinking livestock blood from the abattoirs<sup>281</sup> and increased consumption of bitter cassava, a practice that has been reported since 2016 and that has caused deaths by poisoning<sup>282</sup>.

#### d. Nutritional Condition

The National Institute of Nutrition, in breach of its responsibility to publish information on food and nutrition monitoring in the country on a timely basis, has gone 14 years without publishing data on malnutrition in children and teenagers. Moreover, no new guidelines have been fixed for policies, plans and programmes aimed at monitoring this condition and its consequences. According to the latest official publication, in 2014, acute infantile malnutrition nationwide had reduced from 7.7% in 1990 to 3.4% in 2013. According to the Humanitarian Response Plan in the 2019, this value was 4%.<sup>283</sup> UNICEF reported higher figures in October 2020, in its report on the humanitarian situation in Venezuela. These figures were 4625 children under the age of 5 years, of whom 700 (15.3%) presented with acute malnutrition, 516 (11.1%) with malnutrition in its moderate form and 184 (4%) with malnutrition in its severe form. These data suggest a nutritional emergency situation, according to international standards.<sup>284</sup>

Other organisations have not been able to cover comprehensively the vacuum left by the absence of official information. In spite of this, the data generated by Cáritas Venezuela and ENCOVI have shed light on this issue. Cáritas has reported that, from 2016 until then, acute, moderate and severe malnutrition<sup>285</sup> has varied from levels of alert (between 5% and 10%) to others of crisis (between 10% and 15%) and emergency (between 15% and 20%). If we add to this the risk of malnutrition, the values, in some quarters, exceed 40% (Figure 3). The proportion of children with this type of malnutrition is higher in the group of children under 2 years of age and the most affected states were Guárico, Falcón and Sucre, with levels that indicate emergency, and Zulia, Yaracuy, Portuguesa and Miranda, with crisis levels.<sup>286</sup>

279 IDEM ENCOVI (2021)

280 Pérez, M. (2020) Citizens state that their food routines have changed because of hyperinflation. Diario El Tiempo (online). Published on 2/1/2020. Available at: <https://eltiempo.com.ve/2020/01/02/ciudadanos-aseguran-que-sus-rutinas-alimenticias-han-cambiado-por-la-hiperinflacion/>

281 Valderrama, J (2020) Hunger in Táchira popularises the consumption of livestock blood. Crónica Uno (online). Published on 11/5/2020. Available at: <https://cronica.uno/el-hambre-en-tachira-populariza-el-consumo-de-sangre-de-ganado/>

282 PROVEA (2018). 2017 Annual Report on the Right to Food. Available at: <https://provea.org/wp-content/uploads/2018/06/04Alimentaci%C3%B3n-2-1.pdf>

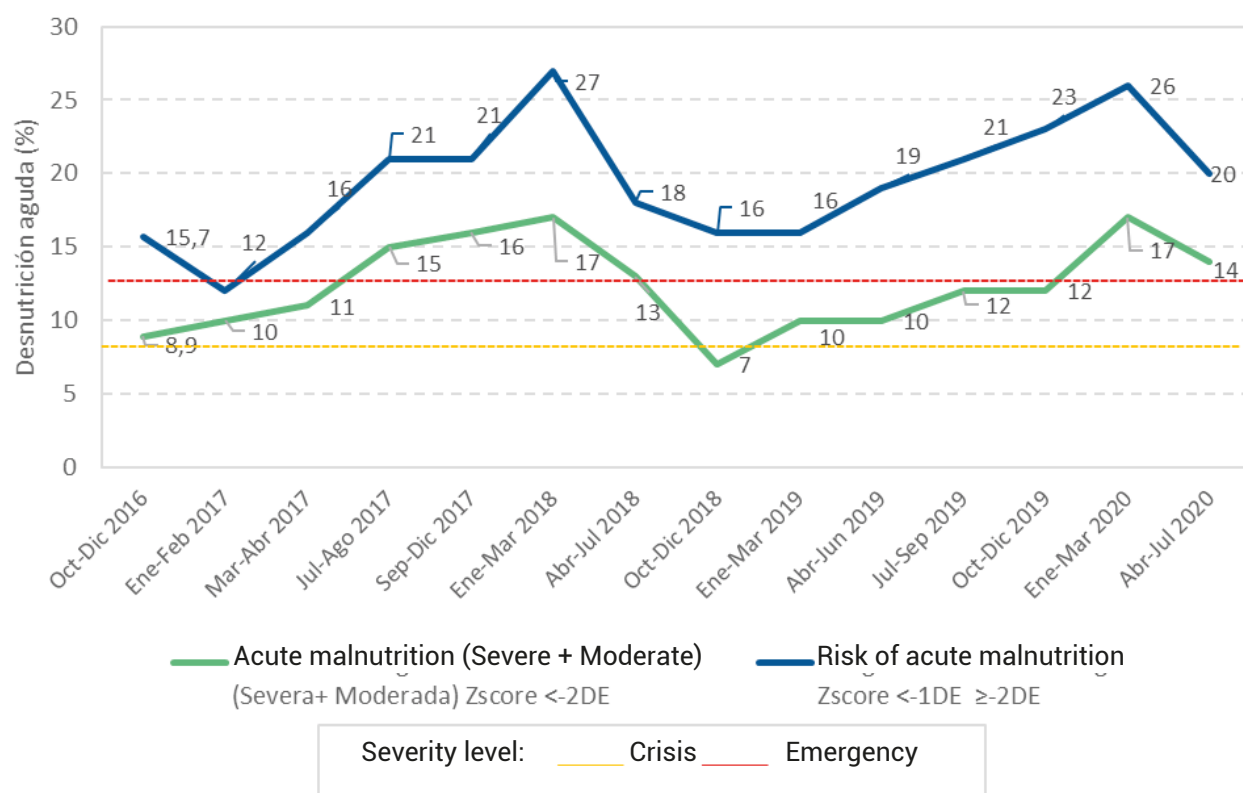
283 OCHA. Venezuela 2020 Humanitarian Response Plan. Available at: <https://www.humanitarianresponse.info/en/operations/venezuela/document/venezuela-humanitarian-response-plan-humanitarian-needs-overview-2020>

284 UNICEF (2020). Venezuela Situation Report, October 2020. Available at: <https://www.unicef.org/documents/venezuela-situation-report-october-2020>

285 Cáritas Venezuela. (2016-2019). SAMAN informative reports.

286 Ibidem.

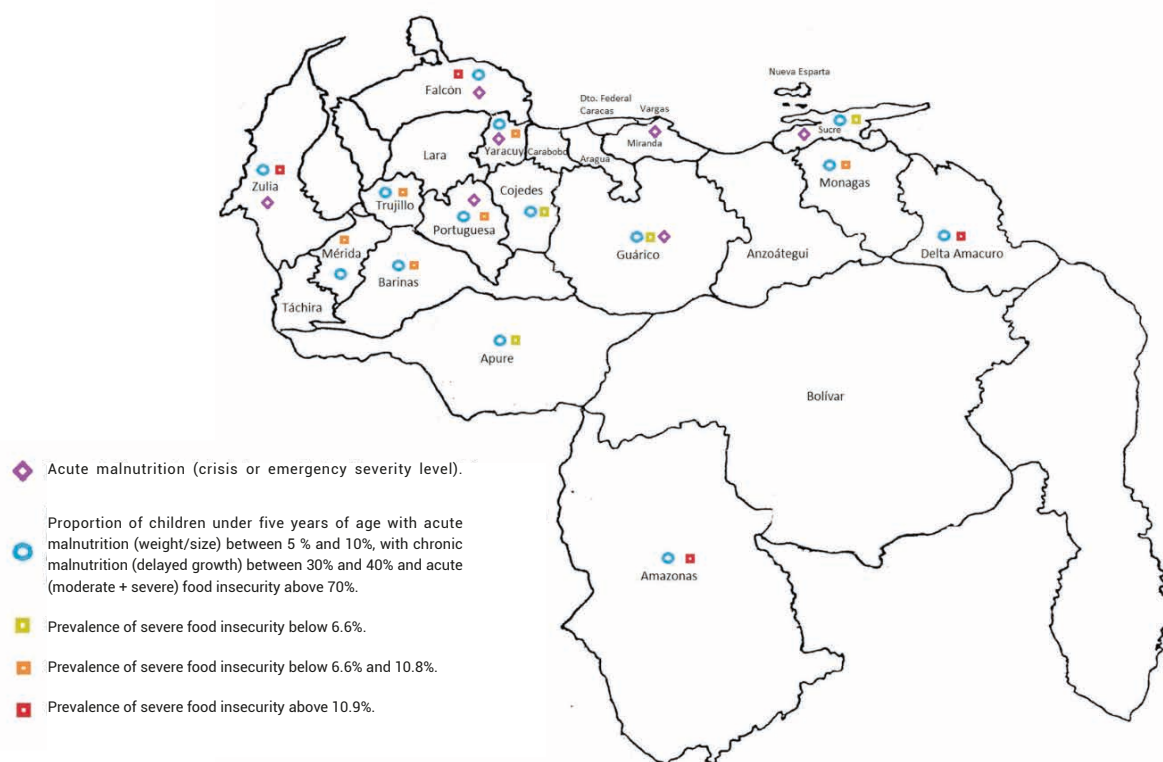
Figure 4. Acute malnutrition (Weight/Size) in children under 5 years of age. SAMAN Programme – Cáritas de Venezuela 2016-2020.



The only representative figures come from the ENCOVI 2019-2020, which indicates that acute malnutrition in this period was 4.8%, with values above 5% in Amazonas, Delta Amacuro, Falcón, Yaracuy, Mérida, Trujillo, Monagas, Sucre, Zulia and the whole plains area (Figure 4).<sup>287</sup> The results of this survey also reveal delayed growth in children under 5 years of age, with alarming figures that reach 30%, which is a reflection of the years of nutritional deficit in this group, bearing in mind that this type of malnutrition is slow to take root. The most significant point from the last-mentioned indicator is that, if children do not grow at the expected speed, their brain does not develop properly either. This also happens with their cognitive and social skills. All the above indicates that not only is the quality of life of children and teenagers compromised but also their future and, thus, the future of the country, which will have a smaller productive population and a larger social burden.

287 Encovi 2019-2020. Available at: <https://www.proyectoencovi.com/informe-interactivo-2019>

Figure 4. States most affected by food insecurity and malnutrition in Venezuela.



Source: Own preparation with data from Caritas, ENCOVI and PMA

Another form of malnutrition is deficiency of vitamins and minerals such as iron, folic acid, vitamin A and zinc, among others, which are key to preventing conditions such as anaemia, which is highly prevalent in the world and mainly affects children and women during pregnancy and breastfeeding. In Venezuela, there is no information on this condition nor are there mechanisms for monitoring, preventing and controlling it. Even though the rule that requires the enrichment of some foods with vitamin A, iron and B complex to some foods is in force, there is nothing published concerning its monitoring. This is why, in programmes such as the CLAP, "unenriched" pre-cooked cornflour can be found, which is a breach of a rule that was successful in the '90s.

Malnutrition is a condition that can be prevented and treated at household level, with proper support. On this point, in Venezuela, there was a programme for treating malnutrition, with a network of sentinel hospitals that was successful in past decades. Now, there is a network that, in spite of having a local focus, is deprived of the minimum resources needed for it to operate. This becomes important when we consider that these are the only centres where malnutrition, mainly at an advanced stage, can be treated.

In Venezuela, the Education and Nutritional Recovery Services (SERN) were created for community care of children with acute malnutrition<sup>288</sup>, under the presidency of the *MINPPAL* [Ministry of the Popular Power for Food] and the *INN* [National Institute of Nutrition [NIN]]. They were created for the purpose of supplying comprehensive nutritional treatment for children under 7 years of age suffering from malnutrition, with moderate or severe malnutrition, for comprehensive recovery of their nutritional condition in the charge of health professionals and avoidance of relapses by giving the mothers training and nutritional

288 They were created in 1966 and they represent one of the most emblematic programmes for caring for the Venezuelan people that the NIN offers to communities. They operate through treatment centres for children with malnutrition problems. These services are aimed at reducing the rates of morbimortality from malnutrition and related illnesses.

education.<sup>289</sup> To date, there are 29 SERN in 21 states. These should help to reduce the demand for hospital treatment for malnourished children without complications. However, there is no official information on their management.

When acute malnutrition happens in a very short period of time, which is when there are the most complications, the care must be given in hospital. In Venezuela, there are sentinel hospitals to treat children in this condition but they do not have sufficient staff or staff who are specialists in the area nor do they have the minimum resources to save the child's life, bearing in mind that, when the child reaches this level of severity, his body is compromised to the point of death in a very short period after his functional deterioration. Even though mortality associated to malnutrition has to be reported, there is no up to date information. In 2020, in Apure, one of the states most affected by malnutrition, the Pablo Acosta Ortiz Hospital only sent home 25 children who had recovered from malnutrition.<sup>290</sup>

In the indigenous communities, the situation is even more insecure because of the absence of sources of income, geographical location and the hygienic conditions surrounding them. This situation has been classified by Amnesty International as a "catastrophe of the indigenous ethnic groups". Malnutrition in children is increasingly frequent and severe:

• *"In the Cambalache community, three children have died from malnutrition, one of them had gone for 4 days without eating, he had a swollen stomach and a fever (nine months). His mother (17 years) did not have any money for food or medicines".<sup>291</sup>*

• In the Dr. Manuel Núñez Tovar University Hospital, in Maturín, four Warao children under the age of one year were admitted because they had severe and moderate symptoms of malnutrition. According to the mothers' testimonies, they do not have resources to get food and go to hospitals. "The children's food is based on sweet or bitter cassava, manioc and bananas. The CLAP box does not come to their communities and there are cases similar to her son's case".<sup>292</sup>

In May 2021, Cáritas de Venezuela published malnutrition patterns that reveal most clearly the severity of the food deprivation and the chronicity of the process, in reference not now to acute malnutrition but to the delayed growth of Venezuelan children on the poorer levels of society. These patterns show that more than 30% of the children who have been admitted to the nutritional protection programme run by Cáritas already presented delayed growth when they arrived. Many of them were younger than 6 months of age and this reflects the nutritional deficit of their mothers during gestation. These patterns of lineal delayed growth show that food deprivation in Venezuelan families began at least in 2014. This nutritional deficiency causes huge deterioration in the cognitive development of children and will determine a biological, social and emotional lag that will be handed down to future generations and it all comes down to a massive violation of the right to life itself.<sup>293</sup>

In the case of pregnant and nursing mothers, who are in a period of high demand for food energy and nutrition and health care, they also have a high risk of developing malnutrition and vitamin and mineral deficiencies and so they require special care that should be offered through primary health care. Prenatal consultations, supplementation and information, among others, are the minimum care established by the health authorities to prevent mortality in the mother and child. There is no up to date official information on this issue either that would tell us the magnitude of the problem. Cáritas stated that malnutritionw in

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289 NIN. Nutrition for Life Project. Social Approach from the Community Advance and the Health Services Network. Preliminary Document. Venezuela, October 2007.

290 González, S. (2020) Treating the increase in infantile malnutrition in Apure. Radio Fe and Alegría Noticias (online). Published on 28/1/2020. Available at: <https://www.radiofeyalegrianoticias.com/atienden-el-incremento-de-desnutricion-infantil-en-apure/>

291 Clisánchez, L (2020) Death of three Warao children in Cambalache reminds us of the state of the destitution of indigenous peoples. Correo del Caroní (online). Published on 20/2/2020. Available at: [www.correodelcaroni.com/ciudad/4451-muerte-de-tres-ninos-waraos-en-cambalache-recuerda-estado-de-orfandad-de-los-indigenas](http://www.correodelcaroni.com/ciudad/4451-muerte-de-tres-ninos-waraos-en-cambalache-recuerda-estado-de-orfandad-de-los-indigenas)

292 Tane Tanae Así Pasó (2020) Four Warao babies admitted with malnutrition to the Núñez Tovar Hospital in Maturín. Published on 3/2/2020. Available at: <https://tanetanae.com/ingresan-por-desnutricion-cuatro-bebes-warao-en-el-nunez-tovar-de-maturin/>

293 <https://www.frontiersin.org/articles/10.3389/fsufs.2021.638042/full>



pregnant women remained above 40% during 2018-2019<sup>294</sup>. In addition, the CESAP Social Group found that 30.6% of pregnant and nursing mothers who attended their community canteens between 2019 and 2020 were low in weight<sup>295</sup>. Although the information from these two organisations cannot be extrapolated to the country, it gives an idea of the magnitude of the problem. This becomes relevant when we bear in mind that there are no programmes to address this situation.

Other areas where cases of malnutrition are reported are prisons and hospitals. The most notorious cases in 2020 occurred in the detention centres because of the inhuman conditions prevailing in them. Some of the cases that demonstrate this reality are:

- Yare 3 Prison, where the detainees ate cats because they did not have food. They suffer from malnutrition and hepatitis.<sup>296</sup>
- Judicial Rodeo III: more than 1,300 detainees started to receive smaller portions without meat proteins. For breakfast, they are "corn pancakes between three and four centimetres in diameter", for lunch, rice with grains or grated mortadella and, for dinner, a pancake. There are cases of malnutrition, such as that of a man who is 1.72 metres tall and weighs 50 kg.<sup>297</sup>

Here, we should note that the Venezuelan Observatory of Prisons (OVP) reported the death of six detainees from malnutrition and lack of medical treatment, in the Fénix Penitentiary Centre in 2020. They also mentioned cases with other illnesses, such as tuberculosis, hepatitis and HIV-AIDS, among others.<sup>298</sup>

All the above shows that there are no public policies to address the population's nutritional needs, or strategic objectives in the nation's plan that would allow programmes to be designed to deal with the harm caused to date to the most vulnerable.

The humanitarian situation in the country at present has warranted the preparation of a "Humanitarian Response Plan" (HRP, according to its abbreviation in English) by the United Nations, which includes the participation of public institutions and national and international NGOs. For the first six months, the HRP only managed to collect 34% of the funds required, of which 90% were allocated to the United Nations Agencies, with the greatest contribution to UNICEF. The 2020 HRP estimated that it had provided support to 4.5 million people<sup>299</sup> and, in 2021, in order to care for that same number of people, 708.1 million dollars was requested, of which only 12% had been received in June of the same year.

In spite of the humanitarian assistance steps carried out, there have been difficulties, which include the restrictions imposed by COVID-19, the fuel crisis and, it is worth mentioning, the harassment by the government against Civil Society Organisations in the country, as we have already discussed when considering the obligation to allow humanitarian aid.

294 Cáritas Venezuela. 2018-2019 Bulletins. Available at: <http://caritasvenezuela.org/mapas-y-boletines-de-nuestra-accion/> [Maps and bulletins concerning our action]

295 CESAP Social Group (2020) Accompanying Programme in La Esperanza. Caracas, Venezuela. Primary source.

296 MIP-Tuy Agencia (2020) Yare 3 prisoners eat animals because of delay in providing food. Periódico La Voz, p. 13. Valles del Tuy, Venezuela.

297 Rodelo, L (2020) Rodeo III prisoners condemn reduction in food portions. El Pitazo (online). Published on 27/2/2020. Available at: <https://elpitazo.net/gran-caracas/presos-de-rodeo-iii-denuncian-reduccion-de-porciones-de-alimentos/>

298 El Universal (2020) OVP: Six prisoners in Barquisimeto died from malnutrition and lack of medical care. Published on 17/2/2020. Available at: <https://www.eluniversal.com/>

299 United Nations Office for the Coordination of Humanitarian Affairs (2019) "About Venezuela". Available at: <https://www.unocha.org/venezuela/about-venezuela>



Sergio González © Provea

## CONCLUSIONS

We, the signatory organisations, consider that serious violations of the right to food have been committed in Venezuela by the State. First, the government adopted a series of measures and public policies - including political-economic measures in terms of price controls, inspections and social control – that have led to a situation of food shortages, which would be in breach of the State's obligation to respect existing access to adequate food and not to adopt measures that have the result of preventing that access. Furthermore, the government has not met its obligation to fulfil the right to adequate food in view of the precarious public services situation, the lack of proper measures to protect against hunger and the harassment of humanitarian organisations.

Although the government has established certain programmes to alleviate the food crisis, which in particular include the CLAPs, these lack the quality required under international law and they have been implemented in a discriminatory manner and used as an instrument of social control<sup>300</sup>. At the same time, the government has not taken proper measures to alleviate the *de facto* discrimination against rural and indigenous populations, in a serious context of impoverishment and hyperinflation, which would be in breach of the principle of non-discrimination. Finally, proper measures have not been taken to combat corruption, which is infringing the right to food and also constitutes a breach of Article 2(1) of the ICESCR.

We should in turn recognise the responsibility of other States Parties. It is fundamental that any system of sanctions imposed by other countries should contain express humanitarian exceptions and should determine regulation and control mechanisms that avoid over-implementation by companies and governments. Sectorial sanctions that limit access to fuel and other factors essential for production

300 Report of the OAS and Panel of Independent International Experts, 29 May 2018.

and distribution of food shall be revoked. The Venezuelan State has ultimate responsibility for designing protection measures based on principles of non-discrimination and universality in order to relieve the negative effects of impacts external to the national economy.

Even though the food situation is complex and a result of multiple economic, political and social factors, both the measures adopted and the omissions of the Venezuelan State have resulted, overall, in a violation of the right to adequate food. Accordingly, the Venezuelan State has not fully met its obligations to facilitate, protect and fulfil the right to adequate food contained in the ICESCR, thus infringing its responsibility to the Venezuelan people.

On March 8, the government declared that it was going to restart negotiations with all political, economic, social and cultural actors. In this sense, to improve the nutritional situation of the population, this report makes the following recommendations:

## RECOMMENDATIONS TO THE VENEZUELAN STATE

1. To facilitate the humanitarian activities of national and international organisations in the country, opening up spaces for meeting and working together in order to strengthen the humanitarian response plan, which should be extended to address the population in the State's care, especially the prison population. This requires an end to criminalisation, among other obstacles that restrict immediate action to rehabilitate the vulnerable population and prevent its decline.
2. To work together with the private sector and civil society to encourage dialogue and reactivate the food system, including policies that have an impact on food production and the food market and social policies that strengthen the purchasing power of the population and promote adequate food. Promote policies that foster new sources of employment that allow wages to be raised substantially, to ensure the population has a minimum income to satisfy the food needs of workers and their families. In the context of the resumption of negotiations, we call for prioritisation of the Social Roundtable (Mesa Social) that had been agreed upon in the negotiation process initiated in Mexico.
3. To guarantee permanent and quality access to health services, safe water, drainage, electricity and domestic gas, which are needed to ensure food safety, proper nutrition and healthy life conditions.
4. Diversify the food and nutrition programmes and similar sectors, including monetary transfers that accord with the cost of the food basket and basic services, in addition to strengthening the current official food programmes. These programmes should be managed with proper transparency that enables surveillance, assessment and accountability.
5. Reactivate the functions of the National Statistics System so that the Food and Nutritional Security situation can be ascertained, and the most vulnerable population identified, including children and teenagers, pregnant women and nursing mothers, the elderly and disabled people, and also prioritising the geographical area where they live.

## RECOMMENDATIONS TO THIRD STATES AND THE INTERNATIONAL COMMUNITY:

1. Thoroughly review the financial sanctions imposed on the Bolivarian Republic of Venezuela, requiring that they expressly provide for exceptions on transactions intended for humanitarian purposes. Sectoral sanctions that limit access to fuel and other products essential for food production and distribution should be revoked.
2. To urge, within the Human Rights Council, the Venezuelan State to honor its offer to host the visit of 10 special procedures rapporteurs, including the Rapporteur on the Right to Adequate Food and the Rapporteur on Extreme Poverty and Human Rights.





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