

# The Use of Anti-Terrorism Courts to Suppress Dissent in Venezuela

February 2026

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Published in September 2025

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## **Acknowledgements:**

This report was written by Carlos Lusverti, Legal Consultant for the International Commission of Jurists (ICJ) for Latin America.

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Santiago A. Canton, ICJ Secretary General, Ian Seiderman, ICJ Legal and Policy Director, and Kate Vigneswaran, Global Accountability Initiative Director, conducted legal and policy review.

The International Commission of Jurists thanks all the people who have contributed to the preparation of this report, especially in Venezuela, through their participation in interviews and discussions that inform the analysis and findings that we present here. This document reflects the findings and views of the ICJ and does not necessarily reflect the views of all those persons. The ICJ thanks the support of the donors that made this publication possible, including the Republic and Canton of Geneva

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## Content

I.	INTRODUCTION	1
II.	INTERNATIONAL HUMAN RIGHTS LAW AND STANDARDS APPLICABLE TO TRIALS IN THE CONTEXT OF "TERRORISM" PROCEEDINGS	3
A.	COMPLIANCE WITH LEGALITY IN DEFINING TERRORIST OFFENSES	3
B.	USE OF EXCEPTIONAL TRIBUNALS IN TERRORISM CASES	5
C.	THE ADMINISTRATION OF JUSTICE OF TERRORISM-RELATED CRIMES AND INTERNATIONAL STANDARDS ON THE RIGHT TO LIBERTY AND TO A FAIR TRIAL	5
D.	STATES OF EMERGENCY	7
E.	FAIR TRIAL RIGHTS, INCLUDING DUE PROCESS GUARANTEES AND THE PRINCIPLE OF LEGALITY IN TERRORISM-RELATED PROCEEDING	8
III.	OBSTACLES TO THE RIGHT TO A FAIR TRIAL INCLUDING DUE PROCESS BEFORE VENEZUELAN ANTI-TERRORISM COURTS	9
A.	THE ORGANIZATION OF CRIMINAL COURTS AGAINST TERRORISM IN VENEZUELA	10
B.	THE ESTABLISHMENT OF ANTI-TERRORISM COURTS	11
C.	ANTI-TERRORISM LEGISLATION	13
D.	SPECIAL ANTI-TERRORISM COURTS	16
E.	PRACTICES OF ANTI-TERRORISM COURTS	16
IV.	CONCLUSIONS	18
V.	RECOMMENDATIONS	20

## I. Introduction

Over the last decade, the International Commission of Jurists (ICJ) has documented<sup>1</sup> and advocated for the restoration of the rule of law, the fulfillment of

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<sup>1</sup> *Strengthening the Rule of Law in Venezuela*. ICJ. (2014) <https://www.icj.org/wp-content/uploads/2014/11/Venezuela-Strengthening-the-RoL-Publications-Reports-2014-Eng.pdf>; *Venezuela: The Decline of the Rule of Law* (2015). *The Supreme Tribunal of Justice of Venezuela: An Instrument of Executive Power*. ICJ (2017) <https://www.icj.org/wp-content/uploads/2017/09/Venezuela-Suprem-Court-Publications-Reports-Thematic-reports-2017-ENG.pdf>; *Achieving Justice for Gross Human Rights Violations in Venezuela: Baseline Study*. ICJ (2017). <https://www.icj.org/wp-content/uploads/2017/08/Venezuela-GRA-Baseline-Study-Publications-Reports-Thematic-reports-2017-ENG.pdf>; *The Trial of Civilians by Military Courts in Venezuela* (Only in Spanish). ICJ (2018). <https://www.icj.org/wp-content/uploads/2018/04/Venezuela-Civiles-Tribunales-Militares-Publications-Reports-Thematic-Reports-2018-SPA.pdf>; *No Room for Debate The National Constituent Assembly and the Crumbling of the Rule of Law in Venezuela*. ICJ (2019). <https://www.icj.org/wp-content/uploads/2019/07/Venezuela-No-room-for-debate-Publications-Reports-Fact-finding-mission-reports-2019-ENG.pdf>; *Judges on the Tightrope: Report on the Independence and Impartiality of the*

human rights obligations and accountability for human rights violations in Venezuela. The ICJ's 10 reports and briefing papers demonstrate that the justice system has been unable to fulfill its role in protecting human rights, and there are severe deficits in the guarantees and practice of independence of judges and prosecutors. The ICJ has also reported extensively on the perpetuation of impunity for serious human rights violations, some of which constitute crimes under international law.

Alongside this pattern of impunity, in recent years Venezuelan authorities have increasingly abused the justice system to criminally prosecute persons in response to their exercise of human rights and fundamental freedoms. This abuse often relies on invoking terrorism-related offences and using specialized anti-terrorism courts as tools to suppress dissent. These include human rights defenders, members of civil society organizations, trade unionists, and real or perceived political opponents. Such prosecutions are mainly through abusive accusations of "terrorism" and related offenses, under which persons may be held liable for up to 30 years in prison. This pattern was evident after the contested presidential election of 28 July 2024 and continued thereafter. In just three days between 29 July and 01 August more than 2,000 people were detained, many arbitrarily, and prosecuted<sup>2</sup> on terrorism-related charges for exercising their rights to freedom of expression and assembly. Many had exercised disfavoured political expression, including demanding the publication of disputed electoral results.

This briefing paper is organized into five sections. Following this introductory section a second part briefly reviews international human rights law and standards applicable to the rights to liberty and to a fair trial in the context of investigation and prosecution in "terrorism" cases and their relationship with other human rights. The third section describes the main institutional and practical obstacles identified that affect the rights in the administration of justice before Venezuela's anti-terrorism courts. It evaluates the propriety of their institutional integration into the justice system, and their decisions, especially in the context of the repression of protests following the 28 July 2024 elections. The fourth and fifth sections respectively present the ICJ's conclusions and recommendations aimed at addressing the abuse of the justice system to persecute and suppress free expression in Venezuela.

To establish the factual basis for this report, the ICJ conducted interviews with victims and lawyers in Caracas, Anzoátegui, Bolívar, Carabobo, Lara, and Zulia. Additionally, the ICJ reviewed judgments from anti-terrorism courts and from the

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*Judiciary in Venezuela.* ICJ (2021). <https://www.icj.org/wp-content/uploads/2021/06/Venezuela-Judges-on-the-tightrope-Publications-Reports-Thematic-reports-2021-ENG.pdf>; *Lawyers Under Attack: Barriers to the Legal Profession in Venezuela.* ICJ (2022). <https://www.icj.org/wp-content/uploads/2022/06/Venezuela-Lawyers-under-attack-publications-briefing-paper-2022-ENG.pdf>; *No Will for Justice in Venezuela: A Public Ministry that Fosters Impunity.* ICJ (2024). <https://www.icj.org/wp-content/uploads/2024/11/No-will-for-Justice-in-Venezuela.-A-Prosecutors-Office-that-fosters-impunity.pdf>; *Hidden in broad daylight: The decline of public education in Venezuela.* ICJ. <https://www.icj.org/wp-content/uploads/2024/05/Venezuela-Education-and-the-Covid-19-pandemic-Final-version-English.pdf>; *Released but not free: The abuse of arbitrary detentions and pre-trial measures to prosecute dissent in Venezuela.* ICJ (2025). <https://www.icj.org/wp-content/uploads/2025/09/Released-but-not-Free-English.pdf>

<sup>2</sup> *Ibidem.*

Constitutional and Criminal Cassation Chambers of the Supreme Court of Justice. This paper also considers reports from trusted civil society organizations and international oversight bodies. The ICJ expresses its gratitude to the victims, lawyers, academics and experts, civil society and intergovernmental organizations, and others who contributed to this briefing paper.

## **II. International Human Rights Law and Standards Applicable to Trials in the Context of “Terrorism” Proceedings**

Under international human rights law, including that applicable to Venezuela, States have the obligation to respect and ensure the rights of all persons under their jurisdiction. At the outset, it is important to underscore that human rights obligations remain fully applicable in the context of counter-terrorism measures. States have a legitimate duty to protect individuals and communities from acts of terrorism, but that duty must be exercised in a manner consistent with their international human rights obligations. As the ICJ underscored more than 20 years ago:

“[t]here is no conflict between the duty of States to protect the rights of persons threatened by terrorism and their responsibility to ensure that protecting security does not undermine other rights. On the contrary, safeguarding persons from terrorist acts and respecting human rights both form part of a seamless web of protection incumbent upon the State”<sup>3</sup>.

### **a. Compliance with legality in defining terrorist offenses**

Under international human rights law, the principle of legality requires that criminal offences be clearly, precisely, and narrowly defined by law. This principle is reflected in Article 15 of the International Covenant on Civil and Political Rights and Article 9 of the American Convention on Human Rights. It protects individuals against arbitrary prosecution and punishment, and is particularly critical in the context of terrorism-related offences, which often carry severe penalties and exceptional procedural consequences.

There is no universally agreed upon definition of terrorism under international law. The UN Office of the High Commissioner on Human Rights, in its recent Guidance Note on “Defining ‘Terrorism’ in National Legislation,” has given the following explanation:

“[T]he international community, through international law, the General Assembly, and the Security Council, have repeatedly stressed that any measures taken to counter terrorism, including in relation to the codification of criminal offences, must

<sup>3</sup> Germany. 2004. *The Berlin Declaration: The ICJ Declaration on Upholding Human Rights and the Rule of Law in Combating Terrorism*. Berlin, ICJ. <https://www.icj.org/resource/the-berlin-declaration-the-icj-declaration-on-upholding-human-rights-and-the-rule-of-law-in-combating-terrorism/>. Switzerland. 2008. *Legal Commentary to the ICJ Berlin Declaration*. Geneva. ICJ. <https://www.icj.org/resource/no-1-legal-commentary-to-the-icj-berlin-declaration/>.

be in accordance with international law, including international human rights law and humanitarian law, where applicable, without exception. With respect to criminalizing acts of terrorism, the international community has urged States, as part of their international human rights obligations, to ensure that terrorism and related offences are:

- narrowly defined,
- limited to conduct that is genuinely terrorist in character according to best practice standards,
- satisfy the principle of legality,
- do not violate human rights obligations, including the right to liberty and freedoms of expression, peaceful assembly, association, and political participation.

Additionally, General Assembly resolution 49/60 (1994) (Declaration on Measures to Eliminate International Terrorism), Security Council Resolution 1566 (2004), and the International Convention for the Suppression of the Financing of Terrorism (1999) have elaborated prerequisite components of the crime of terrorism, without defining terrorism as such.

Acts of terrorism, as reflected in Security Council Resolution 1566 (2004), paragraph 3, are criminal acts against civilians, committed with the intent to:

- cause death or serious bodily injury,
- take hostages,
- provoke a state of terror in the general public or in a group of persons or particular persons,
- intimidate a population, or
- compel a government or an international organization to do or abstain from doing any act.”<sup>4</sup>

These acts constitute offences within the scope of, and as defined in, the international conventions and protocols relating to terrorism.

In that connection, the ICJ considers that the former Special Rapporteur’s Model Definition of Terrorism constitutes the basis for best practice in this respect.

“Terrorism means an action or attempted action where:

1. The action:

- (a) Constituted the intentional taking of hostages; or
- (b) Is intended to cause death or serious bodily injury to one or more members of the general population or segments of it; or
- (c) Involved lethal or serious physical violence against one or more members of the general population or segments of it; and

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<sup>4</sup> Switzerland. 2025. *Defining ‘Terrorism’ in National Criminal Legislation*. Geneva, OHCHR. <https://www.ohchr.org/sites/default/files/documents/issues/terrorism/biefer-practical-advice-defining-terrorism.pdf>

2. The action is done or attempted with the intention of:
  - (a) Provoking a state of terror in the general public or a segment of it; or
  - (b) Compelling a Government or international organization to do or abstain from doing something; and
- (3) The action corresponds to:
  - (a) The definition of a serious offence in national law, enacted for the purpose of complying with international conventions and protocols relating to terrorism or with resolutions of the Security Council relating to terrorism; or
  - (b) All elements of a serious crime defined by national law<sup>5</sup>.

### **b. Use of exceptional tribunals in terrorism cases**

International human rights law requires that persons accused of criminal offences, including terrorism-related offences, be tried by ordinary, competent, independent and impartial courts established by law. The use of special, exceptional or ad hoc tribunals to try civilians raises serious concerns with respect to judicial independence, due process and the right to a fair trial, and is generally incompatible with the rule of law.

Article 14 of the International Covenant on Civil and Political Rights and article 8 of the American Convention on Human Rights guarantee the right to be tried by a “competent, independent and impartial tribunal established by law”, which includes the right to a “natural judge”. This principle requires that jurisdiction be determined by pre-existing law and that individuals not be removed from the ordinary justice system through the creation or use of exceptional courts, particularly in response to specific categories of offences or defendants.

Within the Inter-American human rights system, the Inter-American Court of Human Rights has consistently held that military or special jurisdictions may not be extended to civilians, including in cases involving allegations of terrorism, and that such jurisdictional arrangements violate the guarantees of due process and the right to a natural judge. The Court has emphasized that exceptional jurisdictions cannot be justified by considerations of national security or public order and that terrorism-related offences must be adjudicated by ordinary civilian courts applying the guarantees of a fair trial.

### **c. The administration of justice of terrorism-related crimes and international standards on the right to liberty and to a fair trial**

The right to be tried by a competent, independent and impartial tribunal established by law is a core rule of law principle, reflected in article 14 (1) of the International

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<sup>5</sup> Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Martin Scheinin: UN Doc. A/HRC/16/51 (2010), para. 28. Available at <https://docs.un.org/en/a/HRC/16/51>

Covenant on Civil and Political Rights (ICCPR) and article 8(1) of the American Convention on Human Rights (ACHR).

Under international human rights law, the rights to liberty and to a fair trial encompass a set of minimum, non-negotiable guarantees applicable to all criminal proceedings, including those related to terrorism.

These guarantees include:

- The right to be brought promptly before a judge,
- The presumption of innocence,
- The right to be informed promptly and in detail of the charges,
- Adequate time and facilities to prepare a defence,
- Access to a lawyer of one's choosing,
- The right to be tried without undue delay,
- Equality of arms,
- The right to examine witnesses,
- The right not to be compelled to self-incriminate, and
- The right to have convictions and sentences reviewed by a higher tribunal.

These guarantees are reflected in Articles 9 and 14 of the ICCPR and Articles 7 and 8 of the ACHR.”

There can be no special or exceptional legal regime in the counter-terrorism context that displaces fundamental guarantees of due process and the right to a fair trial. International human rights law remains fully applicable in the context of counter-terrorism, and any measures adopted must comply with the obligations set out in the ICCPR and the American Convention on Human Rights.

Both the ICCPR and the ACHR establish obligations to respect, protect, and fulfill the due process and other procedural rights, including the right to fair trial, the presumption of innocence, the right to appeal, and a right to judicial protection by the courts. They also enshrine the prohibition of retroactive application of criminal law and the principle of legality for any restriction on rights, including the requirement that any deprivation of liberty be determined by law and applied without discrimination (articles 9, 14 and 15 ICCPR; 1.1, 7, 8 and 9 ACHR) and the right to an effective remedy (article 2.3 ICCPR and 25 ACHR).

In reaffirming these obligations, the Human Rights Council has "*stressed the importance of developing and maintaining effective, fair, humane, transparent and accountable criminal justice systems in a manner that fully respects the rights to equality and non-discrimination in the administration of justice, to a fair and public hearing by a competent, independent and impartial tribunal, to a review of detention and to the presumption of innocence and other fundamental judicial guarantees, such as due process, in accordance with their obligations under international law, including international human rights law(...)*"<sup>6</sup> The Council also

<sup>6</sup> Resolution adopted by the General Assembly on 17 December 2018, U.N. Doc A/RES/73/174, (2019), para. 9. Available at <https://docs.un.org/es/a/res/73/174>

*"[a]lso urge[d] States to take all steps necessary to ensure the right of anyone arrested or detained on a criminal charge to be brought promptly before a judge or other officer authorized by law to exercise judicial power and the entitlement to trial within a reasonable time or release"<sup>7</sup>.*

The use of exceptional tribunals outside of the ordinary justice system to try "terrorism" offenses is generally incompatible with the rule of law and must be avoided.<sup>8</sup> While the establishment of specialized prosecutors or courts is not per se prohibited, international human rights authorities have repeatedly warned that such arrangements frequently undermine judicial independence and full appellate review. In this regard the UN Special Rapporteur on the promotion and protection of human rights while countering terrorism has indicated that assigning terrorism cases to military, special, or specialized courts is often incompatible with Articles 14 and 26 of the ICCPR particularly where convictions and sentences are not subject to full review on questions of fact and law, as required under Article 14 of the ICCPR.<sup>9</sup>

#### **d. States of emergency**

In accordance with article 4 of the International Covenant on Civil and Political Rights (ICCPR), States Parties may, to meet a specific threat to the life of the nation, derogate from certain obligations under the Covenant for as long as the emergency persists, provided such measures are strictly required by the exigencies of the situation and are consistent with other international obligations. Formal notification to the United Nations Secretary-General is required for any such derogation.

However, even in a state of emergency, a number of rights are non-derogable and cannot lawfully be restricted or limited in any manner. These include, among others:

- The right to life,
- The prohibition of torture, cruel, inhuman, or degrading treatment or punishment,
- The principle of legality and non-retroactivity of criminal law, and
- Fundamental judicial guarantees such as the right to a fair trial and effective remedy.<sup>10</sup>

Under the Inter-American human rights framework, the Inter-American Court of Human Rights has reaffirmed that, even in emergency situations, States must

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<sup>7</sup> *Ibidem*. Para. 11.

<sup>8</sup> Switzerland. 2011. *Legal Commentary to the ICJ Geneva Declaration*. Geneva, ICJ. <https://www.icj.org/wp-content/uploads/2011/05/ICJ-genevadeclaration-publication-2011.pdf>.

<sup>9</sup> Special Rapporteur of the Human Rights Council on the promotion and protection of human rights and fundamental freedoms while countering terrorism, U.N. Doc A/63/223 (2008), para. 24 available at <https://docs.un.org/es/A/63/223>

<sup>10</sup> CCPR General Comment No. 29: Article 4: Derogations during a State of Emergency, UN Doc CCPR/C/21/Rev.1/Add.11, (2011), paras. 14-16. Available at <https://docs.un.org/CCPR/C/21/Rev.1/Add.11> However, since 2016 Venezuela has declared several states of emergency under its Constitution without notifying either the United Nations or the Organization of American States.

respect due process and judicial guarantees and may not extend military or special jurisdiction to civilians or restrict the right to a natural judge. At the same time, the Inter-American Commission on Human Rights has emphasized that the fundamental judicial guarantees in Article 8 of the American Convention on Human Rights apply fully in terrorism-related proceedings, even when a state of emergency is invoked.<sup>11</sup>

Under article 4 of the ICCPR and article 27 of the American Convention on Human Rights, any State Party seeking to derogate from its human rights obligations must formally notify the United Nations Secretary-General and the other States Parties through the Organization of American States of the measures adopted and the reasons for them; Venezuela has made no such notification.

#### **e. Fair trial rights, including Due process guarantees and the principle of legality in terrorism-related proceeding**

Under international human rights law, investigations and prosecutions related to terrorism must fully comply with the right to fair trial and the principle of legality, as set out in the International Covenant on Civil and Political Rights (ICCPR), particularly Articles 9, 14, and 15. These guarantees apply regardless of the nature of the offence and include strict legality, prompt judicial oversight, effective defence rights, and full judicial review. Regional human rights systems, including the Inter-American system, consistently reinforce these standards.

The Inter-American Commission on Human Rights (IACHR) has emphasized that Article 8 of the American Convention enshrines protections also established in other regional and United Nations human rights instruments. As the Commission has observed:

“Certain multilateral conventions that address efforts to combat terrorism and its various manifestations specifically provide that individuals accused of crimes relating to terrorism must be afforded the legal guarantees of due process in any proceedings taken against them”<sup>12</sup>.

Vague or overbroad definitions of terrorism violate the principle of legality and legal certainty, requiring that anti-terrorism laws define criminal conduct clearly and precisely, avoiding ambiguities that could affect not only the validity of criminal proceedings but also the legitimate exercise of other rights.<sup>13</sup>

The Inter-American Commission on Human Rights has affirmed that even when terrorism treaties define particular acts of terrorism as criminal offenses and oblige state parties to criminalize them with appropriate penalties under their domestic

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<sup>11</sup> Report on Terrorism and Human Rights, Inter-American Commission on Human Rights, OAS Doc. OEA/Ser.L/V/II.116, Doc. 5 rev. 1 corr. (2002). Available at <https://cidh.oas.org/terrorism/eng/toc.htm>

<sup>12</sup> *Idem*, para. 220. Referring, for example, to the UN Convention on Crimes against Internationally Protected Persons (Article 9); the Convention on Terrorism (Article 4); or the Inter-American Convention against Terrorism (Article 15.3).

<sup>13</sup> Judgment of 4 September 1998, Inter-American Court of Human Rights, Castillo Petruzzi and others v. Peru, para. 121. Available at [http://www.corteidh.or.cr/docs/casos/articulos/seriec\\_41\\_ing.pdf](http://www.corteidh.or.cr/docs/casos/articulos/seriec_41_ing.pdf)

law, "it is notable that the provisions of this legal body that require State parties to investigate, prosecute, and punish terrorist offenses, coincide with the doctrine of international human rights law, according to which States are obliged to investigate acts and punish those responsible, whenever a human rights violation is proven."<sup>14</sup>

Likewise, individuals investigated, prosecuted, and accused of terrorism charges must receive detailed notification of the charges, have time and means to prepare their defense, and have immediate access to a lawyer of their choice. In this regard, the Inter-American Commission has stated that "*the effectiveness of this right requires granting the detainee access to a lawyer without delay, once subjected to criminal proceedings, both to obtain immediate protection of non-derogable rights, such as the right to humane treatment, and to prevent possible injustice in any future legal process that may be brought against the person, for example, through the interrogation of a detainee without the presence of counsel.*"<sup>15</sup>

Anti-terrorism measures, especially the criminalization of offenses and criminal investigations, typically have serious implications for rights protected by international human rights law.

In this context, terrorism offenses in domestic law should not be excessively broad in scope and should not criminalize legitimate activities such as political protest.<sup>16</sup> Therefore, judges and prosecutors involved in such cases must consider the extent to which the restriction of these rights is adequately clear and foreseeable to be prescribed by law; genuinely pursues a legitimate objective such as the protection of national security; is necessary and proportionate to that objective; and is not discriminatory.<sup>17</sup>

### **III. Obstacles to the right to a fair trial including due process before Venezuelan anti-terrorism courts**

Venezuela, in addition to recognizing the right to a fair trial including the right to due process of law, in its Constitution<sup>18</sup> and legislation,<sup>19</sup> is also subject to the International Covenant on Civil and Political Rights<sup>20</sup> and the American Convention on Human Rights<sup>21</sup>. Despite these constitutional and international obligations, the structure and operation of Venezuela's anti-terrorism courts systematically undermine the right to due process and the right to a fair trial.

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<sup>14</sup> Supra note 11, para. 33.

<sup>15</sup> *Ibidem*.

<sup>16</sup> *Counter-Terrorism and Human Rights in the Courts: Guidance for Judges, Prosecutors and Lawyers on Application of EU Directive 2017/541 on Combatting Terrorism*. Geneva, ICJ. <https://www.icj.org/wp-content/uploads/2020/11/Guidance-counter-terrorism-ENG-2020-1.pdf>

<sup>17</sup> *Ibidem*.

<sup>18</sup> Constitution of the Bolivarian Republic of Venezuela (original in Spanish, unofficial translation), 1999, Article 49.

<sup>19</sup> Organic Code of Criminal Procedure (original in Spanish, unofficial translation), 2021.

<sup>20</sup> International Covenant on Civil and Political Rights, signed and ratified by Venezuela in 1978.

<sup>21</sup> American Convention on Human Rights, signed and ratified by Venezuela in 2019.

### **a. The organization of criminal courts against terrorism in Venezuela**

Criminal jurisdiction in Venezuela is organized in three levels.<sup>22</sup> Courts of first instance, which are organized by territorial jurisdiction corresponding to the municipalities and states of the Republic. These, in turn, are distributed into functions, according to the procedural context in which they act:

- a) Control Courts,<sup>23</sup> responsible for overseeing the actions of the Public Ministry and police bodies during the investigation of crimes. These courts are responsible for authorizing measures concerning the deprivation of liberty, including pre-trial detention; precautionary measures prior to trial such as prohibitions from leaving the country; and conducting the preliminary hearing for the accused and hearing the charges against them.
- b) Trial Courts,<sup>24</sup> responsible for holding the oral and public trial once the accusation has been admitted.
- c) Sentence Execution Courts,<sup>25</sup> responsible for enforcing the conviction obtained in the trial phase.

The second instance is made up of the Courts of Appeals,<sup>26</sup> collegiate courts, which operate in chambers formed by three judges each. The Courts of Appeals are responsible for hearing *amparo* appeals and appeals against decisions of the first instance courts. At the same time, the judge presiding over the Court of Appeals is the presiding judge of the criminal Judicial Circuit<sup>27</sup> of the region with administrative functions.

With respect to minors between 14 and 18<sup>28</sup> for whom Venezuelan criminal legislation establishes the possibility of criminal prosecution<sup>29</sup> this is carried out in first instance courts (control, trial, and execution functions indicated above) as specialized sections on children's rights.<sup>30</sup>

Finally, the Criminal Cassation Chamber and the Constitutional Chamber of the Supreme Court of Justice are the final arbiters in criminal cases. They cover the entire national jurisdiction, sit in Caracas and are constituted by three and five judges respectively.<sup>31</sup>

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<sup>22</sup> *Supra* note 19. Articles 108, 109, 110, 504, and 505.

<sup>23</sup> *Ibidem*. Organic Code of Criminal Procedure, Articles 65 and 66.

<sup>24</sup> *Ibidem*. Article 67. And Organic Law of the Judiciary.

<sup>25</sup> *Ibidem*. Article 69.

<sup>26</sup> *Ibidem*. Articles 108, 109, 110, 374, and 439. and Organic Law of the Judiciary.

<sup>27</sup> *Ibidem*. Articles 507 and 508. Regarding the figure of circuit presiding judges, see *supra* note 1.

<sup>28</sup> Organic Law for the Protection of Children and Adolescents (original in Spanish, unofficial translation). Article 2.

<sup>29</sup> *Ibidem*. Articles 531 and 528.

<sup>30</sup> *Ibidem*. Article 527.

<sup>31</sup> *Supra* note 18, Article 262 and Organic Law of the Supreme Court of Justice (original in Spanish, unofficial translation), Article 8.

## b. The Establishment of Anti-terrorism Courts

The Supreme Court of Justice, in carrying its function of judicial governance, originally established the Anti-terrorism Courts as existing courts within the Criminal jurisdiction of the City of Caracas, to which it assigned on 22 November 2004, "exclusive jurisdiction to hear cases involving crimes related to terrorism,"<sup>32</sup> thereby removing such cases from the ordinary territorial jurisdiction of criminal courts. On 30 June 2005, the Supreme Court of Justice, in addition to the exclusive jurisdiction to hear cases involving crimes related to terrorism, granted these courts exclusive jurisdiction to hear crimes of kidnapping and extortion, associated with paramilitaries and guerrillas, occurring anywhere in the territory.<sup>33</sup>

These specialized courts were originally established following the murder<sup>34</sup> of environmental prosecutor Danilo Anderson, who died "as a result of the explosion of a bomb placed in his truck. Prosecutor Anderson had gained notoriety after being assigned the investigation of the failed *coup* that took place in April 2002."<sup>35</sup>

At the time of the establishment of these specialized courts, the only reference in Venezuelan criminal legislation to the term "terrorism" was in relation to the crime of enforced disappearance when perpetrated by "members or individuals of groups or associations with terrorist, insurgent, or subversive purposes."<sup>36</sup> The formal regulation of the crime of "terrorism" appeared on 16 March 2005, almost four months after the establishment of courts with specialized jurisdiction. At that time the Penal Code<sup>37</sup> was reformed to include the crime of "terrorism" in the context of crimes of conspiracy against the integrity of the country or institutions (Article 128)<sup>38</sup> and cooperation to the detriment of the Republic, territorial integrity,

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<sup>32</sup> Resolution No. 2004-0217 of 22 November 2004, Supreme Court of Justice, published in Official Gazette No. 336,051.

<sup>33</sup> Resolution No. 2005-00010 of 30 June 2005. Supreme Court of Justice, published in Official Gazette No. 38.219.

<sup>34</sup> Inter-American Commission on Human Rights, "*The Inter-American Commission on Human Rights condemns the assassination of prosecutor Danilo Anderson in Venezuela*" (original in Spanish, unofficial translation) in press release, 19 November 2004. United States. 2003. *Follow-Up Report On The Compliance By The State Of The Bolivarian Republic Of Venezuela With The Recommendations Made By The Iachr In The Report On The Situation Of Human Rights In Venezuela (2003)* (original in Spanish, unofficial translation). Washington D.C., Inter-American Commission on Human Rights. <https://cidh.oas.org/annualrep/2004sp/cap.5d.htm>.

<sup>35</sup> Switzerland. 2004. *Venezuela: Jurists Condemn Prosecutor's Murder*. Geneva, ICJ. <https://www.ici.org/wp-content/uploads/2012/05/Venezuela-killing-news-2004-spa.pdf>; (Accessed November 30, 2025).

<sup>36</sup> Law of Partial Reform of the Penal Code. Official Extraordinary Gazette No. 5.494, 20 October 2000. Article 181-A: Any public authority, whether civil or military, or any person in the service of the State who unlawfully deprives a person of their liberty, and refuses to acknowledge the detention or to provide information about the whereabouts or situation of the disappeared person, preventing the exercise of their constitutional and legal rights and guarantees, shall be punished with fifteen to twenty-five years of imprisonment. Members of groups or associations with terrorist, insurgent, or subversive purposes, who, acting as members or collaborators of such groups or associations, forcibly disappear a person through kidnapping or abduction, shall be punished with the same penalty. Anyone who acts as an accomplice or accessory to this crime shall be sanctioned with a penalty of twelve to eighteen years of imprisonment.

<sup>37</sup> Law of Partial Reform of the Penal Code. Official Extraordinary Gazette No. 5.768, 13 April 2005. Originally published in Official Extraordinary Gazette No. 5.763, 16 March 2005.

<sup>38</sup> *Ibidem*. Article 128: Anyone who, in agreement with a foreign country or republic, external enemies, terrorist, paramilitary, insurgent, or subversive groups or associations, conspires against the integrity of the national territory or against its republican institutions, or antagonizes them by any means for any of these purposes, shall be punished with a prison sentence of twenty to thirty years. Sole Paragraph: Those found to be involved in any of the aforementioned cases shall not be entitled to enjoy the procedural benefits of law nor to the application of alternative measures for the fulfillment of the sentence.

institutions, citizens, or destabilization of social order (Article 140).<sup>39</sup> However, no definition of "terrorism" or "terrorist-act" is provided in the code. This sequence, by which a specialized and centralized jurisdiction was created before the criminal offence of terrorism was defined in domestic law, undermines the principle of legality, and facilitates the arbitrary reclassification of ordinary conduct as 'terrorism'.

The establishment of this specialized jurisdiction arguably constitutes an exception to the ordinary rules of jurisdiction established in criminal legislation, as these courts based in Caracas would hear cases occurring anywhere in the country. But for cases classified as terrorism, they have exclusive jurisdiction over other courts.

The Criminal Cassation Chamber has indicated that all courts, with jurisdiction in criminal matters, can adjudicate cases as "ordinary crimes," except when they are linked to the exclusive jurisdictions in cases of "terrorism" and the activity of "paramilitaries and guerrillas". In this regard, the Criminal Cassation Chamber has affirmed that the special jurisdiction granted to the Courts in Caracas, to hear cases of terrorism, kidnapping, and extortion must be shared with their ordinary criminal jurisdiction.<sup>40</sup> Furthermore, The Criminal Chamber drew attention to "the excessive use of the designation of the special jurisdiction" by some of the courts to which it has been assigned. The Chamber also urged the lower courts "to use the letterhead indicating their very special [sic] jurisdiction [on anti terrorism], solely and exclusively, when acting within its scope, and not in every case they hear"<sup>41</sup>

The Special Rapporteur<sup>42</sup> has pointed out, the absence of prior and strict legal provisions, and the use of vague and imprecise definitions to alter the rules of attribution of jurisdiction constitute a violation of fair trial and due process guarantees.

The Inter-American Court of Human Rights considered "the principle of the natural judge was violated from the moment the Judicial Commission of the Supreme Court of Justice issued Resolution No. 2004-0217. (...) Although there are cases in which altering the original jurisdiction of the courts does not violate the principle of natural judge, when (a) the possibility of modification and the authority are expressly provided for by law, and (b) it serves a legitimate purpose, in the present case, the decision of the Judicial Commission of the Supreme Court of Justice did not meet either of these two requirements"<sup>43</sup>.

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<sup>39</sup> *Ibidem*. Article 140: Any Venezuelan or foreign resident in the country who directly or indirectly provides a foreign country or republic, terrorist groups or associations, paramilitary, insurgent or subversive groups, shelter, protection, delivers to them or receives from them sums of money, food provisions or any type of logistical support, or war materiel, or technological devices that can be used to the detriment of the Bolivarian Republic of Venezuela, the integrity of its territory, its republican institutions, citizens, or destabilize social order, shall be punished with imprisonment of ten to fifteen years. Sole Paragraph: Those involved in any of the aforementioned cases shall not be entitled to enjoy the procedural benefits of law nor to the application of alternative measures for the fulfillment of the sentence.

<sup>40</sup> Sentence No. 651 of 16 December 2005, Supreme Court of Justice in Criminal Cassation Chamber.

<sup>41</sup> *Ibidem*.

<sup>42</sup> *Supra note 9*.

<sup>43</sup> Judgment of October 17, 2025, Inter-American Court of Human Rights, Guevara Rodríguez et al. v. Venezuela, para. Para. 176 Unofficial translation. Available at [https://www.corteidh.or.cr/docs/casos/articulos/seriec\\_571\\_esp.pdf](https://www.corteidh.or.cr/docs/casos/articulos/seriec_571_esp.pdf)

## c. Anti-terrorism legislation

### Legislative evolution and scope

On 26 October, 2005, the "Organic Law Against Organized Crime"<sup>44</sup> was adopted by the Parliament. The originally stated purpose of this law was "to prevent, investigate, prosecute, classify and punish crimes related to organized crime"<sup>45</sup> in accordance with the Constitution and the treaties to which Venezuela is party. This Law only contained a few references to terrorism, including article 7 referring to the financing of terrorism<sup>46</sup> and article 16, listing the crimes considered as "organized crime" and establishing as an aggravating factor that they were carried out "with terrorist purposes". In both cases, the penalty was fifteen years.

In 2015, a reform to the 2005 Law was approved and the law was changed to the "Organic Law Against Organized Crime and Financing of Terrorism."<sup>47</sup> Its stated purpose is "to prevent, investigate, prosecute, classify and punish crimes related to organized crime and the financing of terrorism in accordance with the provisions of the Constitution of the Republic and international treaties related to the matter, signed and ratified by the Bolivarian Republic of Venezuela".<sup>48</sup>

### Definition and offences

In this sense, the Law now provides definitions as follows:

**Terrorist act:** "an intentional act that, by its nature or context, can seriously harm a country or an international organization, classified as a crime according to Venezuelan legal system, committed with the purpose of seriously intimidating a population; unduly compel governments or an international organization to perform an act or to refrain from doing so; or seriously destabilizing or destroying the fundamental political, constitutional, economic or social structures of a country or an international organization."<sup>49</sup>

**Terrorist organization:** "a group of three or more people associated with the common purpose of carrying out, concurrently or alternatively, the design, preparation, organization, financing or execution of one or more terrorist acts."<sup>50</sup>

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<sup>44</sup> Official Extraordinary Gazette No. 5,789 of 26 October 2005. Originally published in Official Ordinary Gazette No. 38,281 of 27 September 2005.

<sup>45</sup> Organic Law Against Organized Crime And Terrorist Financing, Article 1 (2012).

<sup>46</sup> *Ibidem*, Article 7. Whoever Finances Terrorism: Whoever belongs to, finances, acts with, or collaborates with armed gangs or organized crime groups with the purpose of causing havoc, catastrophes, fires, or detonating mines, bombs, or other explosive devices, or subverting the constitutional order and democratic institutions, or seriously disturbing public peace, shall be punished with imprisonment of ten to fifteen years.

<sup>47</sup> Official Gazette No. 39,912 of 30 April 2012 (Repeals the Organic Law Against Organized Crime).

Article 26

<sup>48</sup> *Supra note 44*.

<sup>49</sup> *Ibidem*, Article 4 (original in Spanish, unofficial translation).

<sup>50</sup> *Ibidem*, Article 4 (original in Spanish, unofficial translation).

**Individual terrorist:** "a natural person who, without belonging to a terrorist organization or group, designs, prepares, organizes, finances and executes one or more terrorist acts."<sup>51</sup>

The Law also contains provisions identifying competencies in respect of criminal investigations under the direction of the Public Ministry: the Scientific Police, the Armed Forces, the National Police and the intelligence agencies, each of which must create in their respective departments' investigation units related to the crimes provided for in the Law.<sup>52</sup> The Law establishes a definition for the crimes of terrorism and<sup>53</sup> financing of terrorism,<sup>54</sup> both with the maximum penalties provided for in the legislation of up to 25 and 30 years in prison. Additionally, it establishes a crime of association to commit a crime,<sup>55</sup> for which participation in "an organized crime group" is penalized solely for the fact of association with a penalty of up to 10 years in prison. In addition, the Law establishes that the crimes provided for in said legislation carry no statutes of limitation (are imprescriptible).<sup>56</sup>

Similarly, the law stipulates its precedence by classifying as organized crime not only the offenses defined within the act itself, but also 'all those set forth in the Penal Code and other special laws, when committed or carried out by an organized crime group.

The Law expressly provides that the procedure applicable to the "prosecution of organized crime and terrorism financing offenses shall follow the procedure established in the Organic Code of Criminal Procedure, those provided for in this Law and other applicable norms."<sup>57</sup> The law contained no provision for specialized courts, so all ordinarily established guarantees and rights remain fully applicable. Despite this provision, as discussed f below, Venezuela established specialized courts, even prior to the existence of the domestic legislation defining the crime of "terrorism". The breadth of the offences and definitions in this legislation, together with the severe penalties and procedural consequences associated with 'organized crime' and 'terrorism' classifications, creates heightened risks of arbitrariness in arrest, pre-trial detention, charging decisions, and restrictions on defence rights. This risk is aggravated where judicial oversight is weak or courts are institutionally dependent, as described below.

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<sup>51</sup> *Idem*.

<sup>52</sup> *Ibidem*, Article 26.

<sup>53</sup> *Ibidem*, Article 52: Any individual terrorist or those associated through a terrorist organization who commits or attempts to commit one or more terrorist acts shall be punished with imprisonment of twenty-five to thirty years (original in Spanish, unofficial translation).

<sup>54</sup> *Ibidem*, Article 53: Whoever provides, facilitates, safeguards, administers, collects, or raises funds by any means, directly or indirectly, with the purpose that these be used in whole or in part by an individual terrorist or by a terrorist organization, or to commit one or more terrorist acts, shall be punished with imprisonment of fifteen to twenty-five years, even if the funds have not been effectively used or the terrorist act or acts have not been consummated. The stated penalty shall apply regardless of whether the funds are used by an individual terrorist or by a terrorist organization operating in foreign territory or regardless of the country where the terrorist act or acts are carried out (original in Spanish, unofficial translation).

The crime of financing terrorism cannot be justified under any circumstances by political, philosophical, ideological, religious, racial discrimination, or other similar considerations.

<sup>55</sup> *Ibidem*, Article 37.

<sup>56</sup> *Ibidem*, Article 30.

<sup>57</sup> *Ibidem*, Article 63.

## **Compatibility of the anti-terrorism framework with international law and standards**

The ICJ has reviewed the provisions of the Venezuelan Anti-Terrorist Law and considers that it is, on its face, non-compliant with international law and standards. To begin with, it is incompatible with the principle of legality, according to which laws must be framed in clear, precise and not overly broad terms, in order for individuals to be able to position themselves to respect its provisions. Provisions of the Anti-Terrorism law are framed in open-ended terms and overly broad. These include such elements as acts that "seriously destabilize" political, constitutional, economic or social structures. This inevitably will capture conduct that is not genuinely "terrorist" in character under international standards. In many instances, proscribed will constitute expression of constitutionally and internationally protected human rights, such as the right to freedom of expression and information and freedom of association, and the right to public and political participation.. The law fails to adopt sufficiently precise definitions capable of clearly delineating criminal liability and preventing its use to target civil society actors or individuals for political or other unjustified reasons, as has occurred in practice.

Taken together, the breadth and vagueness of the substantive definitions, the severe procedural consequences attached to terrorism classifications, and the lack of independent judicial oversight create a structural framework that enables the use of anti-terrorism legislation and courts as instruments of political control rather than as exceptional mechanisms to address genuine terrorist threats. This structural design is further evidenced by the systematic resort to preventive detention and mass proceedings, as described below.

Following the adoption of this Law, and later, there has been a growing use of the term "terrorism" in official discourse. Indeed that has been an, increased efforts to criminalize and close of the civic space by officials who have characterized civil society organizations, human rights defenders, humanitarian workers, union leaders, journalists, and academics as "terrorists,"<sup>58</sup> in contravention of international human rights law.<sup>59</sup>

### **d. Special anti-terrorism courts**

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<sup>58</sup> NTN24, "Diosdado Cabello accuses several NGOs of being involved in alleged terrorist structures" (original in Spanish, unofficial translation) in press release, 28 May 2025.

Venezuela. 2025. *Diosdado Cabello presents a report to the National Assembly on dismantled terrorist plots*. Caracas, National Assembly. <https://www.youtube.com/watch?v=gWizLdHSqvk> (Accessed August 12, 2025).

Prensa Presidencial, "The far right used NGOs to finance terrorist acts in Venezuela" (original in Spanish, unofficial translation) in press release, 18 December 2024.

Venezuela. 2025. *Maduro: US-funded NGOs cover up terrorism in Venezuela*. Caracas, Radio Miraflores. <https://radiomiraflores.net.ve/maduro-ong-financiadas-por-eeuu-encubren-terrorismo-en-venezuela/> (Accessed August 11th, 2025).

<sup>59</sup> Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism: UN Doc E/CN.4/2006/98 (2005), para. 47. Available at <https://docs.un.org/es/A/70/371>. Also Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism: UN Doc A/70/371 (2015), para. 46. Available at <https://docs.un.org/E/CN.4/2006/98>

There are presently four chambers of the anti-terrorism courts, two of which carry out pre-trial functions, including control of some due process guarantees, which are presided by *Control* judges and two for trial functions for the first instance. There are also two chambers of the Caracas Court of Appeals, the that are responsible for hearing appeals of cases decided by the first instance courts. In addition, the review of sentences issued by these courts is subject to control by the Constitutional Chamber of the Supreme Court of Justice, as in matters of constitutional protection, and subject to control by the Criminal Cassation Chamber regarding the review of sentences of the Courts of Appeals. Additionally, the Supreme Court of Justice has established three specialized anti-terrorism courts involving adolescents, as well as a specialized Chamber of the Court of Appeals in this same matter, all also located in Caracas.

For the appointment of judges to these specialized courts, the same procedure of provisional or temporary appointments regularly used by the Judicial Commission have been adopted, which does not comply with constitutional provisions regarding public competitive examinations or international standards concerning the independence of the judiciary, as the ICJ assessed in 2021.<sup>60</sup> The judges thus appointed lack security of tenure, contravention of principles on the independence of the judiciary, which makes them even more vulnerable to political pressure. There is no publicly available information indicating that these are individuals appointed for their specialized knowledge in the field. The lack of transparency in appointments reinforces existing doubts about the actual or perceived independence and impartiality of these judges.

#### **e. Practices of anti-terrorism courts**

The ICJ has reviewed several cases of individuals who have been prosecuted by anti-terrorism courts in Venezuela. In a sample of 180 sentences issued by the Supreme Court between 1 January 2015, and 30 June 2025, some 78% of the trials involved cases of crimes not necessarily linked to actual "terrorism", at least in terms of international standards. Rather they related to a series of ill-defined crimes such as "conspiracy" or "treason" provided for in ordinary criminal legislation. In addition there is the offense of "association to commit a crime" provided for in the law against organized crime and financing of terrorism, applicable even when the other imputed crimes are not related to anti-terrorism legislation. The ICJ found that the majority of of cases, 50.8%, was particularly concentrated between 2024 and the first half of 2025, which coincides with the increased use of these courts as a strategy of persecution.

Particularly after 28 July 2024, President Nicolás Maduro launched<sup>61</sup> an initiative to detain and accuse individuals of crimes such as "treason," "conspiracy to destroy the form of government," "terrorism," and "association." Attorney General Tarek

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<sup>60</sup> *Supra* note 1.

<sup>61</sup> Human Rights Council, Report of the independent international fact-finding mission on the Bolivarian Republic of Venezuela (original in Spanish, unofficial translation), UN Doc. A/HRC/57/57, (2024), para. 70. Available at <https://docs.un.org/es/A/HRC/57/57>

William Saab announced on 30 July 2024, that all such detainees would be accused of "incitement to hatred" and "terrorism."<sup>62</sup>

The UN Independent International Fact-Finding Mission on the Bolivarian Republic of Venezuela,<sup>63</sup> established pursuant to a mandate of the UN Human Rights Council, has identified "systematic violations of due process in proceedings initiated by special jurisdiction courts on terrorism," which are responsible for most cases against opposition politicians and participants in post-election protests.<sup>64</sup>

As documented by the ICJ, preventive detention in these cases operates as a punitive measure rather than an exceptional safeguard, and in some instances appears to function as a form of political pressure, given that many detainees are later released under alternative measures after prolonged periods of deprivation of liberty, without any substantive change in the evidentiary basis of the case.

From the cases reviewed, especially after 28 July 2024, the ICJ has identified following common patterns:

- Some 92% of the defendants in the reviewed cases were accused of terrorism-related crimes in addition to charges such as conspiracy, incitement to hatred, and resistance to authority. In 22% of the cases, charges also included obstruction of public roads, violent damage to public property, and public instigation.
- In all cases, reviewed by the ICJ individuals were brought before anti-terrorism courts based in Caracas. Also in 85% of the cases, reviewed by the ICJ that preliminary hearings were conducted remotely, even in cases where individuals were detained in Caracas, where the anti-terrorism courts are located<sup>65</sup>.
- In all reviewed cases, persons were detained without prior arrest warrants.
- In at least 63% of the cases, reviewed by the ICJ that these were mass hearings, involving dozens of people presented before the court in a single hearing conducted by videoconference.

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<sup>62</sup> *Ibidem*.

<sup>63</sup> Established by the Human Rights Council under Res. 42/25 UN Doc. A/HRC/RES/42/25 (2019), available at <https://docs.un.org/A/HRC/RES/42/25>; and renewed under Res. 57/36 UN Doc. A/HRC/RES/57/36 (2024). Available at <https://docs.un.org/A/HRC/RES/57/36>

<sup>64</sup> *Supra note* 60.

<sup>65</sup> Human Rights Council, Report of the independent international fact-finding mission on the Bolivarian Republic of Venezuela (original in Spanish, unofficial translation), UN Doc. A/HRC/60/61, (2025), para. 20. Available at <https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/ffmv/a-hrc-60-61-advanceuneditedversion.pdf>

2024. Inter-American Commission on Human Rights, "Venezuela must release adolescents in arbitrary detention" in press release, 20 December 2024. Available at [https://www.oas.org/en/IACHR/isForm/?File=/en/iachr/media\\_center/PReleases/2024/326.asp](https://www.oas.org/en/IACHR/isForm/?File=/en/iachr/media_center/PReleases/2024/326.asp) (Accessed November 28th, 2025)

2024. Venezuela: "He felt he was dead": Torture against children for political reasons (public statement). Amnesty International. <https://www.amnesty.org/en/documents/amr53/8783/2024/en/> (Accessed November 28th, 2025).

- In 100% of the cases, victims reported that they had not been allowed to receive legal assistance from a lawyer of their choice.
- In 96% of the reviewed cases, relatives and lawyers of the victims, including lawyers from human rights organizations, inquired about the whereabouts of the victims in various locations, but no authority provided information, meaning that these were likely instances of short-term enforced disappearances.<sup>66</sup> However, there are cases of individuals who, more than a year after their detention, still have not had communication with their families and lawyers.
- In all of the cases reviewed, the victims or their lawyers indicated that they had been subjected to incommunicado detention for at least the first few days of detention. In 12% of the cases reviewed, torture or other inhuman, cruel, or degrading treatment were reported.<sup>67</sup>
- According to public information,<sup>68</sup> after various periods of detention, several detainees were released under alternative precautionary measures instead of preventive detention. However, in 15% of the cases reviewed at the time of interview, the subjects were unaware of the conditions of their release or had not had access to the case file.

#### **IV. Conclusions**

This briefing paper was largely conceived prior to the United States unlawful attacks on the territory of Venezuela and Venezuelan ships, the abduction of President Maduro, and other consequential measures. It remains to be seen how these developments may effect not only the political trajectory of the country, but the rule of law and human rights situation and prospects for the administration of justice, including in “terrorism” cases. Needless to say, the ICJ is closely monitoring the situation.

Based on the analysis summarized above, the International Commission of Jurists concludes that the erosion of the rule of law in Venezuela has continued. The justice system has clearly proven unable to protect human rights in part due to systemic deficiencies in judicial and prosecutorial independence. But these deficiencies are not merely of technical nature. Politicized players had deliberately contrived to structure and operate the justice systems as an instrument of political persecution. This strategy has been executed primarily through the abusive application of counter-terrorism legislation and the operation of specialized courts.

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<sup>66</sup> See, among others: Report of the independent international fact-finding mission on the Bolivarian Republic of Venezuela: UN Doc A/HRC/60/61 (2025), para. 256 et seq. Available at <https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/ffmv/a-hrc-60-61-advanceuneditedversion.pdf>

<sup>67</sup> See, among others: *Ibidem*, para. 304 et seq.

<sup>68</sup> See ICJ, *supra* note 1.

The current legal framework of anti-terrorism laws that has been used to suppress fundamental freedoms, including freedom of expression, relies on overbroad and vague definitions of "terrorism." This contravenes the principle of legality, which requires that terrorism-related offences be defined narrowly and clearly, so as to limit them to conduct that is genuinely terrorist in nature consistent with international standards. The law also omits specific safeguards, to protect legitimate activities of civil society. This has allowed authorities to target civil society members, and political opponents for the legitimate exercise of their human rights and fundamental freedoms. These prosecutions are framed by official rhetoric that labels journalists, academics, and peaceful protesters as "terrorists"—a trend that intensified significantly following the presidential elections of 28 July 2024.

The specialized anti-terrorism courts also fail to meet the requirements of a "competent, independent, and impartial tribunal". Judges are appointed through provisional measures that bypass the competitive public examinations required by the Venezuelan Constitution. This lack of security of tenure leaves judicial officers highly susceptible to executive pressure, undermining their ability to rule impartially or to address human rights violations committed against defendants. These deficiencies are structural rather than incidental, and systematically prevent the courts from operating as independent and impartial tribunals established by law.

The cases analyzed by the ICJ for this document show how the authorities have made abusive and improper use of the crime of "terrorism" and specialized courts, has consistently failed to respect the right to a fair trial. Most proceedings in these courts involve vague charges such as "conspiracy" or "treason" rather than acts genuinely linked to international definitions of terrorism. Furthermore, in numerous cases, individuals have been arbitrarily detained and some have been subjected to short term enforced disappearances for varying periods before being brought before specialized anti-terrorism courts. They then face vague or imprecisely formulated charges, violation of the principle of legality. These processes are often handled by prosecutors and judges who act without independence or impartiality, and by defenders appointed without the consent of the accused, which prevents an effective defense. Consequently, targeted persons are not protected against arbitrary detention, often carried out without a judicial order, and are subjected to serious violations of due process guarantees and the right to a fair trial.

In most documented cases, the courts automatically impose preventive detention, without individualized reasoning and in violation of the exceptional nature of pre-trial detention under international law. Many of those detained are subsequently released after long periods of deprivation of liberty, under restrictive precautionary measures and with profound personal, family, and professional consequences. In some cases, deprivation of liberty has been used as an instrument of pressure or political negotiation. During their confinement, detained persons, both in the pre-trial stage and during the process, are held in conditions that do not comply with applicable international standards, including rules on separation between adults and minors, dignified treatment, and effective judicial supervision. This practice is incompatible with international standards, which require preventive

detention to be exceptional, strictly necessary, and subject to individualized judicial justification.

These practices have occurred in an institutional context marked by the persistence and worsening of political control or interference with the administration of justice. As previously documented by the ICJ and other organizations, they involve the systematic undermining of the independence of the judiciary,<sup>69</sup> the autonomy of the Public Ministry,<sup>70</sup> and unduly restricted the independence and rights of lawyers.<sup>71</sup>

## **V. Recommendations**

The International Commission of Jurists reminds the Venezuelan authorities of their responsibilities, pursuant to the State's obligation under international human rights law to respect, protect and fulfill the human rights of all persons within their jurisdiction, without discrimination. The ICJ specifically emphasizes the obligation to ensure the rights to liberty and to a fair trial, which includes due process, the presumption of innocence, and the right to defense, and trial by and access to independent and impartial court established by law. Furthermore, the ICJ reiterates the recommendations made in its previous reports and briefing papers, particularly those related to the independence of the judiciary and the appointment of judges<sup>72</sup> as well as those relating to the practice of the legal profession<sup>73</sup> without undue barriers or reprisals, affirming that these recommendations remain largely valid.

In general all the government officials no matter their position should avoid the use of the rhetoric of terrorism, including the use of stigmatizing statements, to attack real or perceived opponents and chill their exercise of fundamental rights freedoms, such as freedom of expression, association, peaceful assembly and public participation. This is particularly important in case of government officials at the highest levels

The ICJ makes the following recommendations, aimed at reestablishing the rule of law and protecting human rights in the context of counter-terrorism efforts:

### **To the Executive**

- o Desist from using the "Organic Law Against Organized Crime and Financing of Terrorism" to criminalize the legitimate exercise of freedom of expression, association, peaceful assembly and public participation;
- o When arresting and detaining individuals for the investigation and prosecution of any crime, including terrorist related offenses, all responsible

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<sup>69</sup> *Ibidem.*

<sup>70</sup> *Ibidem.*

<sup>71</sup> *Ibidem.*

<sup>72</sup> *Ibidem.*

<sup>73</sup> *Ibidem.*

authorities, including police and prosecutors, must comply with the minimum standards governing the right to personal liberty and security, which include observing the following aspects:

- o Inform the detained person of the specific reasons for their detention;
  - o Ensure immediate access to a lawyer of their choosing, their family members, and, when necessary, medical and consular assistance;
  - o Bring detained persons promptly before a judicial authority to confirm any legitimate and cognizable charges or order their release;
  - o Keep a record of detainees indicating personal data, place of confinement, and alleged crimes;
  - o Refrain from any conduct amounting to torture or other cruel, inhuman or degrading treatment;
  - o Refrain from any incommunicado detention or acts of enforced disappearances, even for short durations.
- o Strictly respect the international standards for persons deprived of their liberty in accordance with the UN Standard Minimum Rules for the Treatment of Prisoners<sup>74</sup> (Mandela Rules), taking into account, for example, the differing requirements and needs of individuals, including the separation of adult men and women; and minors under 18 years of age.
- o In the implementation of counterterrorism measures, desist from violating the legitimate exercise of other human rights and fundamental freedoms, including:
- o Refrain from criminally charging or imposing criminal or other sanctions for the exercise of freedom of expression or information, unless such expression is consistent in intent to incite violence and the probability of success be demonstrated;

### **To the Parliament**

- o Repeal or amend the "Organic Law Against Organized Crime and Financing of Terrorism" so as to define terrorism-related crimes precisely, narrowly and unambiguously, clearly establishing the criminalized conduct, and in a manner that does not criminalize the legitimate exercise of human rights and fundamental freedoms;

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<sup>74</sup> *United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)*. Vienna, UN Doc A/RES/70/175 (2016) Available at <https://docs.un.org/en/A/RES/70/175>

- o Apply a definition of “terrorism” consistent with international standards, including under the OAS, UN GA and Human Rights Council; and specifically adopt the model definition provided the former UN Special Rapporteur; and exclude acts of peaceful protest, dissent, journalism, and human rights work.

### **To the Judiciary**

- o Ensure that the use of special counter-terrorism courts complies with international human rights law, including by restricting their jurisdiction to offences that qualify as terrorism under international law, while guaranteeing full compliance with the right to due process:
  - o Ensure the impartiality and independence of specialized counter-terrorism courts by conducting appointment processes in accordance with the Constitution and international standards on the independence of the judiciary.
  - o Ensure that effective judicial remedies are available, including to review the lawfulness of detention (habeas corpus), without delay and that these are processed by the courts expeditiously.

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February 2026

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Ms. Ambiga Sreenevasan, Asia

Ms. Imrana Jalal, Asia

Ms. Miyeon Kim, Asia

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Justice Martine Comte, Europe

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Ms. Asne Julsrud, Europe

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Professor Laurence Burgorgue-Larsen, Europe

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Justice Marwan Tashani, MENA

Ms. Mona Rishmawi, MENA



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