

## AN ANALYSIS OF THE DHS DECISION TO TERMINATE TPS FOR VENEZUELA

### EXECUTIVE SUMMARY

The Trump administration ended Temporary Protected Status (TPS) for Venezuelans without conducting an analysis of the economic, public health and human rights conditions in the country, calling into question the legality of its decision to remove deportation protections for approximately 350,000 Venezuelans in the United States. In the Federal Register notice terminating TPS for Venezuela, Homeland Security Secretary Kristi Noem did not cite a single source for the conclusion that there are “notable improvements in several areas” in Venezuela. That contradicted the assessment DHS delivered two weeks earlier under Secretary Mayorkas, which cited 52 sources to support its conclusion that conditions in Venezuela warranted a continuation of TPS. People with [Temporary Protected Status](#) are not removable from the United States and can gain employment authorization.

It is arbitrary and capricious under the Administrative Procedure Act to ignore key facets of the TPS statute to achieve a political result. In the 2019 case *Saget v. Trump*, a district court found that the Trump administration's termination of TPS for Haiti was likely unlawful and granted a nationwide injunction. “The sequence of events leading up to the decision to terminate Haiti's TPS was a stark departure from ordinary procedure, suggestive of a pre-determined outcome not anchored in an objective assessment, but instead a politically motivated agenda,” according to the court.

Jacob Hamburger, a visiting assistant law professor at Cornell Law School, believes a court could make a similar determination if the Venezuela termination is challenged. He noted the conclusions in this NFAP analysis and agreed that the Trump administration's February 5, 2025, Federal Register notice did not indicate that DHS considered evidence on conditions in Venezuela. He also agreed that the quick decision after Noem was sworn in suggests that it is unlikely a substantive review took place.

Secretary of Homeland Security Kristi Noem vacated former Secretary Mayorkas's (January 10, 2025) decision on TPS for Venezuela on January 28, 2025, only three days after being sworn in, not a sufficient time for a serious analysis of country conditions. In the notice terminating the [Biden administration's] October 3, 2023, designation of Venezuela for Temporary Protected Status, Noem and DHS implied the Trump administration undertook an extensive review, even though they did not cite any sources on conditions in Venezuela in the Federal Register notice.

It would be unlawful for Noem to revoke Mayorkas's decision on TPS for Venezuela without good cause. Attorney Ira Kurzban, author of *Kurzban's Immigration Law Sourcebook*, considers the Federal Register notice vacating Mayorkas's decision “frivolous.” He said Mayorkas had a right under the law to extend TPS for Venezuelans first approved at different times (i.e., in 2021 and 2023).

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Noem claimed maintaining TPS for Venezuelans was not in the national interest because members of the Venezuelan gang Tren de Aragua entered the country unlawfully and committed crimes. The Federal Register notice (February 5, 2025) fails to state that DHS denies applications to renew TPS for individuals who have committed criminal offenses, including a felony or two misdemeanors. Kurzban believes the Federal Register notice's claim that ending TPS was in the "national interest" was incorrect and rested on blaming all Venezuelan TPS beneficiaries for members of the Venezuelan gang Tren de Aragua. He criticized the DHS assertion that all Venezuelans with TPS must depart the United States because of the existence of gang members of the same nationality and without evidence that the TPS beneficiaries are gang members.

Another legal avenue for Venezuela TPS supporters could be DHS failing to meet the deadline of February 1, 2025, to determine TPS for Venezuela. Under the statute, failure to meet the 60-day deadline, which was February 1, 2025, should result in an extension of at least 6 months. Attorneys believe this will be another issue in any litigation.

Among the findings in the NFAP analysis:

- The U.S. State Department's human rights report, published in April 2024, stated, "There were no significant changes in the human rights situation in Venezuela during the year," highlighting dozens of examples of horrific conditions in Venezuela that included extrajudicial killings and enforced disappearances. The political and human rights situation in Venezuela deteriorated further in the months after the State Department published its critical report on the country due to Maduro's election, widely viewed as fraudulent, and the government's repression of protesters. The Venezuelan government holds more than 1,100 political prisoners as of February 5, 2025, according to Foro Penal.
- If conditions in Venezuela have improved, as asserted in the Noem decision to end TPS, there would be a significant return migration flow to Venezuela. Instead, according to R4V, the Inter-Agency Coordination Platform for Refugees and Migrants from Venezuela, between May and September 2024, the population of Venezuelan migrants and refugees increased by 7.1% in Brazil and by 1.7% in Argentina and 2.7% in Uruguay between April and September 2024.
- The DHS claim that crime has shown a notable improvement in Venezuela relies on accepting assertions from the administration of Nicolás Maduro. The *Washington Post's* Fact Checker addressed this issue in July 2024, noting, "There is no reliable data on crime in Venezuela." Other sources say that to the extent crime has dropped, it is "because of the destruction of the country's economy . . . because of the loss of

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opportunities for crime.” That contradicts the Trump administration’s assertions about improvements in Venezuela’s economy.

- There is scant evidence of “notable” improvement in the Venezuelan economy. “Extreme poverty remains shockingly high and has contributed to more than 7.7 million people leaving Venezuela to seek better lives abroad,” reported the BBC in August 2024. The Congressional Research Service, in a report updated on January 13, 2025, wrote, “Between 2014 and 2021, Venezuela’s economy contracted by 80%,” citing International Monetary Fund estimates. “Maduro’s government has mismanaged the economy and engaged in massive corruption,” reported CRS. The International Monetary Fund projects inflation and average consumer prices in Venezuela to rise to 71.7% in 2025, higher than the already problematic rate of 59.6% in 2024.
- In its report published two weeks before the Trump administration’s TPS decision on Venezuela, the Congressional Research Service did not note any improvement in public health in Venezuela, one of the areas DHS cited as a “notable” improvement. “In 2024, an estimated 7.6 million Venezuelans (28% of the population) required humanitarian assistance, according to the United Nations,” reported CRS. “Many households lack reliable access to potable water, and interruptions in electrical service and gas supplies persist. With a collapsed health system, overall health indicators, particularly infant and maternal mortality rates, remain poor. Previously eradicated diseases such as measles are a major concern.”
- Credible reports indicate public health has deteriorated in Venezuela. “Health risks are increasing in Venezuela amid a humanitarian emergency that has worsened following a disputed election,” according to an August 2024 article published in *The Lancet*. “Many hospitals and clinics lack essential personnel, medications, and supplies.”

The evidence indicates that the Trump administration decided to end TPS for Venezuela to help fulfill Donald Trump’s mass deportation goals. Removing deportation protections from approximately 350,000 Venezuelans will expand the pool of individuals who can be deported. Trump administration officials likely expect these individuals to be easy to find and add to the deportation numbers. Other policy goals have become subordinate to generating deportation numbers, as evidenced by Trump administration special envoy Ric Grenell’s meeting with the previously isolated Venezuelan President Nicolás Maduro after the government agreed to accept potentially hundreds of thousands of Venezuelan deportees.

The claims of national interest in Kristi Noem’s Federal Register notice are rhetorical rather than factual, and DHS performed no analysis of country conditions in Venezuela, leading to the conclusion that the Trump administration’s decision to end TPS for Venezuelans was unlawful.

## **EXTENSION OF TPS FOR VENEZUELA UNDER MAYORKAS**

On January 10, 2025, Homeland Security Secretary Alejandro N. Mayorkas announced the extension of Temporary Protected Status for Venezuela for 18 months.<sup>1</sup> The extension permitted beneficiaries from Venezuela to retain TPS through October 2, 2026.<sup>2</sup> According to a Federal Register notice published on January 17, 2025, about 607,000 current Venezuelan TPS beneficiaries could re-register for TPS due to the extension, which included individuals who received TPS under the October 3, 2023, TPS designations and also Venezuelans covered by the 2021 Venezuelan TPS designation.<sup>3</sup> However, only those covered by the October 3, 2023, TPS designation, about 350,000 Venezuelans, are affected by the recent Trump administration actions. According to a February 5, 2025, Federal Register notice, the “2021 Venezuela TPS designation remains in effect until September 10, 2025.”<sup>4</sup> The Trump administration’s arguments to end TPS for Venezuelans covered by the October 3, 2023, designation could be used at another time to end TPS for individuals covered by the 2021 designation.

The Federal Register notice published on January 17, 2025, cited numerous sources and made a strong case for continuing TPS for Venezuela based on country conditions. “Venezuela is experiencing ‘a complex, serious and multidimensional humanitarian crisis,’” according to the notice. “The crisis has reportedly disrupted every aspect of life in Venezuela. ‘Basic services like electricity, internet access, and water are patchy; malnutrition is on the rise; the healthcare system has collapsed; and children receive poor or no education.’”<sup>5</sup>

According to the January 17, 2025, Federal Register notice, “Inflation rates are also among the highest in the world.’ Venezuela’s ‘complex crisis’ has pushed Venezuelans into ‘poverty, hunger, poor health, crime, desperation and migration.’ Moreover, Nicolás Maduro’s declaration of victory in the July 28, 2024, presidential election—which has been contested as fraudulent by the opposition—‘has been followed by yet another sweeping crackdown on dissent.’”<sup>6</sup>

“In summary, extraordinary and temporary conditions, including a severe humanitarian emergency marked by an economic contraction, deepening poverty, reduced access to food and medicine, a collapse in basic services, fuel

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<sup>1</sup> “DHS to Extend Temporary Protected Status for Venezuela,” DHS, January 10, 2025.

<https://www.dhs.gov/archive/news/2025/01/10/dhs-extend-temporary-protected-status-venezuela>.

<sup>2</sup> “Extension of the 2023 Designation of Venezuela for Temporary Protected Status,” U.S. Citizenship and Immigration Services, January 17, 2025. <https://www.federalregister.gov/documents/2025/01/17/2025-00769/extension-of-the-2023-designation-of-venezuela-for-temporary-protected-status>.

<sup>3</sup> Ibid.

<sup>4</sup> “Termination of the October 3, 2023 Designation of Venezuela for Temporary Protected Status,” U.S. Citizenship and Immigration Service, Federal Register, February 5, 2025. <https://www.federalregister.gov/documents/2025/02/05/2025-02294/termination-of-the-october-3-2023-designation-of-venezuela-for-temporary-protected-status>.

<sup>5</sup> “Extension of the 2023 Designation of Venezuela for Temporary Protected Status,” U.S. Citizenship and Immigration Services, January 17, 2025.

<sup>6</sup> Ibid.

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shortages, human rights abuses and political repression, crime and violence continue to prevent Venezuelan nationals from returning in safety,” stated the Mayorkas notice.<sup>7</sup>

Despite the case made in the January 17, 2025, Federal Register notice, the Trump administration vacated the January 10, 2025, decision and terminated the 2023 designation of Venezuela for TPS. The actions by DHS Secretary Kristi Noem will cause TPS beneficiaries from Venezuela to lose their work authorization and be eligible for deportation unless they have a pending asylum claim or another defense against deportation.

## **A QUICK DECISION BY NOEM ON TPS WITHOUT ANALYSIS OR SOURCES**

Ending TPS for Venezuelans was done without an analysis of the conditions in Venezuela. A key motivation for terminating TPS for Venezuelans was it would provide approximately 350,000 more potential deportees to drive up the numbers of the Trump mass deportation plan.<sup>8</sup> Officials hope these individuals with known addresses will be easy to add to the deportation tally.<sup>9</sup>

Demonstrating how other policy goals have become subordinate to generating a large number of deportations, a Trump administration special envoy Ric Grenell negotiated with the previously isolated Venezuelan President Nicolás Maduro “for a major deal that would allow the Caracas regime to boost its oil sales to the United States in exchange for accepting hundreds of thousands of Venezuelan deportees,” according to the *Miami Herald*.<sup>10</sup> “Mr. Trump needs Mr. Maduro to accomplish one of his signature campaign pledges: deporting hundreds of thousands of Venezuelans who have arrived on U.S. soil in recent years,” reported the *New York Times*.<sup>11</sup>

The executive order on “Protecting the American People Against Invasion,” issued on January 20, 2025, implied that people in Temporary Protected Status are “illegal aliens” and that TPS designations “are appropriately limited in scope and made for only so long as may be necessary to fulfill the textual requirements of that statute.”<sup>12</sup> As a matter of law, Venezuelans and others on TPS are not in America unlawfully but are authorized to live in the United States without being deported.

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<sup>7</sup> Ibid.

<sup>8</sup> Stuart Anderson, “Trump’s Deportation Plan Is About Numbers, Not Safety,” *Reason*, January 31, 2025.

<sup>9</sup> Ibid.

<sup>10</sup> Antonio Maria Delgado and Jay Weaver, “Florida tycoon is behind oil-for-migrants deal U.S. reached with Venezuelan strongman,” *Miami Herald*, February 7, 2025. <https://www.miamiherald.com/news/nation-world/world/americas/venezuela/article299803319.html#storylink=cpy>.

<sup>11</sup> Julie Turkewitz and Hamed Aleaziz, “Deportation Flights to Venezuela Will Begin ‘Within the Next 30 Days,’” *New York Times*, February 7, 2025. <https://www.nytimes.com/2025/02/07/world/americas/venezuela-deportation-flights-trump.html>.

<sup>12</sup> <https://www.whitehouse.gov/presidential-actions/2025/01/protecting-the-american-people-against-invasion/>.

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“On January 28, 2025, Secretary of Homeland Security Kristi Noem vacated former Secretary Mayorkas's January 10, 2025 decision [on TPS for Venezuela], restoring the status quo that preceded that decision,” according to DHS.<sup>13</sup> Kristi Noem was sworn in as DHS secretary on January 25, 2025, meaning the decision to end TPS for Venezuela was made only two or three days later, not a sufficient time for a serious analysis of country conditions.<sup>14</sup>

Attorney Ira Kurzban, author of *Kurzban's Immigration Law Sourcebook*, considers the Federal Register notice vacating Mayorkas's decision “frivolous.” He said Mayorkas had a right under the law to extend TPS for Venezuelans approved at different times. That would make it unlawful for Noem to revoke TPS without good cause.<sup>15</sup>

In the notice terminating the October 3, 2023, designation of Venezuela for Temporary Protected Status, Noem and DHS implied the Trump administration undertook an extensive review, even though they did not cite a single source for the conclusion that there are “notable improvements in several areas” in Venezuela. That contradicted the assessment DHS reached less than two weeks earlier under Secretary Mayorkas published in a Federal Register notice on January 17, 2025. The DHS Federal Register notice published on January 17, 2025, cited 52 sources to support its conclusion that conditions in Venezuela warranted a continuation of TPS compared to no sources cited on conditions in Venezuela in the Trump administration's Federal Register notice published on February 5, 2025.

The Trump administration's Federal Register notice (on February 5, 2025) stated: “After reviewing country conditions and considering whether permitting Venezuelan nationals covered by the 2023 designation is contrary to the national interest of the United States . . . the Secretary of Homeland Security has determined that Venezuela no longer continues to meet the conditions for the 2023 designation.”<sup>16</sup>

“The Department, in consultation with the Department of State, has reviewed conditions in Venezuela and has considered whether permitting Venezuelan nationals to remain temporarily in the United States is contrary to the U.S. national interest,” according to the Federal Register notice published on February 5, 2025 (but announced earlier). “Overall, certain conditions for the 2023 TPS designation of Venezuela may continue; however, *there are notable improvements in several areas such as the economy, public health, and crime that allow for these nationals*

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<sup>13</sup> *Vacatur of 2025 Temporary Protected Status Decision for Venezuela* (Feb. 3, 2025).

<https://www.federalregister.gov/documents/2025/02/03/2025-02183/vacatur-of-2025-temporary-protected-status-decision-for-venezuela>.

<sup>14</sup> “A Message from Secretary Kristi Noem to the DHS Workforce,” DHS, January 25, 2025. <https://www.dhs.gov/employee-resources/news/2025/01/25/message-secretary-kristi-noem-dhs-workforce>.

<sup>15</sup> Interview with Ira Kurzban.

<sup>16</sup> “Termination of the October 3, 2023 Designation of Venezuela for Temporary Protected Status,” U.S. Citizenship and Immigration Service, Federal Register, February 5, 2025.

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to be safely returned to their home country.”<sup>17</sup> (DHS did not respond to a request to provide the sources on the economy, public health and crime that the department used to identify improvements in Venezuela.)

Jacob Hamburger, a visiting assistant law professor at Cornell Law School, points to previous cases where courts found DHS's decision-making to be “pretextual” to achieve a predetermined political aim. He notes it is arbitrary and capricious under the Administrative Procedure Act to ignore key facets of the TPS statute to achieve a political result. In the 2019 case *Saget v. Trump*, a district court found that the Trump administration's termination of TPS for Haiti was likely unlawful and granted a nationwide injunction. “The sequence of events leading up to the decision to terminate Haiti's TPS was a stark departure from ordinary procedure, suggestive of a pre-determined outcome not anchored in an objective assessment, but instead a politically motivated agenda,” according to the court.<sup>18</sup>

Hamburger believes a court could make a similar determination if the Venezuela termination is challenged. He noted the conclusions in this NFAP analysis and agreed that the Trump administration's February 5, 2025, Federal Register notice did not indicate DHS considered evidence on conditions in Venezuela.<sup>19</sup> He also agreed that the quick decision after Noem was sworn in suggests that it is unlikely a substantive review took place.<sup>20</sup>

The February 5, 2025, Federal Register notice stated that “even assuming the relevant conditions in Venezuela remain both ‘extraordinary’ and ‘temporary, termination of the 2023 Venezuela TPS designation is required because it is contrary to the national interest to permit the Venezuelan nationals . . .to remain temporarily in the United States.”<sup>21</sup> In claiming the TPS designation for Venezuela was contrary to the national interest, Noem cited Donald Trump's executive order on “Protecting the American People Against Invasion,” past court cases, two articles on Venezuelan gangs and testimony by an anti-immigration organization claiming large fiscal costs due to the entry of recent migrants in general.<sup>22</sup> According to the Congressional Budget Office, the recent “surge” in immigration, citing the increase in people entering unlawfully and through new legal pathways during the Biden administration, would lower federal deficits by nearly \$1 trillion between 2024 and 2034.<sup>23</sup>

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<sup>17</sup> Ibid. Emphasis added. “On January 17, 2025, Secretary Mayorkas issued a notice extending the 2023 designation of Venezuela for TPS for 18 months (Mayorkas Notice),” according to the February 5, 2025, DHS notice. “The notice was based on Secretary Mayorkas' January 10, 2025, determination that the conditions for the designation continued to be met. The Secretary of Homeland Security is vacating the January 10, 2025 decision of Secretary Mayorkas which (1) extended the 2023 Venezuela TPS designation and (2) allowed the consolidation of filing processes for both designations, which had the effect of extending the 2021 Venezuela TPS designation, and (3) extended certain EADs. An agency has inherent (that is, statutorily implicit) authority to revisit its prior decisions unless Congress has expressly limited that authority.”

<sup>18</sup> Interview with Jacob Hamburger; <https://casetext.com/case/saget-v-trump-3>.

<sup>19</sup> Ibid.

<sup>20</sup> Ibid.

<sup>21</sup> <https://www.federalregister.gov/documents/2025/02/05/2025-02294/termination-of-the-october-3-2023-designation-of-venezuela-for-temporary-protected-status>.

<sup>22</sup> Ibid.

<sup>23</sup> <https://www.cbo.gov/publication/60165>.

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Ira Kurzban said that discovery during Trump's first term found that officials ignored the process and made TPS decisions that were "political acts." He noted the lack of detailed findings on conditions in the country, indicating administration officials did not go through the normal process.<sup>24</sup>

Kurzban believes the Federal Register notice's claim that ending TPS was in the "national interest" was incorrect and rested on blaming all Venezuelan TPS beneficiaries for members of the Venezuelan gang Tren de Aragua. He noted the lack of a connection between Tren de Aragua gang members and how individuals apply for TPS, including renewals, since people are ineligible for TPS if they have committed a felony or two misdemeanors. He criticized the DHS assertion that all Venezuelans with TPS must depart the United States because of the existence of gang members of the same nationality.<sup>25</sup>

Another legal avenue for Venezuela TPS supporters could be DHS failing to meet the deadline of February 1, 2025, to determine TPS for Venezuela. "On January 28, 2025, Secretary of Homeland Security Kristi Noem vacated former Secretary Mayorkas's January 10, 2025, decision, restoring the status quo that preceded that decision," stated the Federal Register notice on February 5, 2025. "Accordingly, a determination whether to extend the 2023 Venezuela designation was due by February 1, 2025."<sup>26</sup>

According to the statute, "At least 60 days before end of the initial period of designation . . . [DHS] shall determine whether the conditions . . . continue to be met." If the DHS secretary "does not determine" that a country "no longer meets the conditions" by that date, the "period of designation of the foreign state is extended for an additional period of 6 months" or 12 or 18 months at the DHS secretary's discretion.<sup>27</sup> "Failure to meet that deadline does not appear to be subject to the bar on judicial review of the agency's substantive determination," according to Jacob Hamburger. "This means that challengers to the TPS termination might succeed in securing an extension through this fall based on the agency's failure to meet its deadline."<sup>28</sup> Ira Kurzban said, "Failure to give the 60 days means that the TPS continues for another 6 months. Clearly, that will be an issue in any litigation."<sup>29</sup>

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<sup>24</sup> Interview with Ira Kurzban.

<sup>25</sup> Ibid.

<sup>26</sup> <https://www.federalregister.gov/documents/2025/02/05/2025-02294/termination-of-the-october-3-2023-designation-of-venezuela-for-temporary-protected-status>.

<sup>27</sup> <https://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title8-section1254a&num=0&edition=prelim>.

<sup>28</sup> Interview with Jacob Hamburger.

<sup>29</sup> Interview with Ira Kurzban.



## **A LACK OF IMPROVEMENTS IN CONDITIONS IN VENEZUELA**

Examining various sources, NFAP has found no evidence of improved conditions in Venezuela, particularly ones that would contradict the TPS designation for Venezuela in 2023 and earlier. “There is no factual basis to say that Venezuela is in better shape,” said Tamara Taraciuk Broner, an expert on Venezuela expert at the Inter-American Dialogue, after the DHS decision to end TPS for Venezuela.<sup>30</sup>

“There is spiraling repression, particularly since the elections, the humanitarian conditions (particularly beyond Caracas) continue to be very dire, and the consequence is that people leave—not because of sanctions, but because of the repressive and corrupt government in power,” said Broner.<sup>31</sup>

According to UNHCR, the UN Refugee Agency, “over 7.7 million Venezuelan refugees and migrants” have left Venezuela due to the country’s economic, political and human rights situation as of May 2024. There is no evidence that a significant number of Venezuelans have voluntarily returned to their home country, which would be a strong indicator of improved conditions in the country.<sup>32</sup>

## **PEOPLE HAVE CONTINUED TO LEAVE VENEZUELA AND SETTLE ELSEWHERE**

If conditions in Venezuela have improved, as stated in the DHS notice that terminated TPS, we would see significant return migration to Venezuela, not data showing an increase in migration to Brazil, Argentina and Uruguay. According to R4V, the Inter-Agency Coordination Platform for Refugees and Migrants from Venezuela, between May and September 2024, the population of Venezuelan migrants and refugees increased by 7.1% in Brazil. Between June and September 2024, the population of Venezuelan migrants and refugees increased by 1.7% in Argentina and 2.7% in Uruguay.<sup>33</sup>

## **HUMAN RIGHTS AND POLITICAL REPRESSION IN VENEZUELA**

Human rights reports and political developments show there have been no recent significant improvements in Venezuela, let alone ones warranting large-scale returns, particularly after Nicolás Maduro remained president following a fraudulent election that independent vote counting showed he lost in July 2024. Protests and government repression of those protesting followed.

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<sup>30</sup> *New York Times*, February 7, 2025.

<sup>31</sup> Interview with Tamara Taraciuk Broner.

<sup>32</sup> <https://reporting.unhcr.org/operational/situations/venezuela-situation>.

<sup>33</sup> <https://www.r4v.info/en/document/r4v-latin-america-and-caribbean-venezuelan-refugees-and-migrants-region-nov-2024>.

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The U.S. State Department's human rights report, published in April 2024, stated, "There were no significant changes in the human rights situation in Venezuela during the year."<sup>34</sup>

The report continues by listing dozens of examples of terrible conditions in Venezuela: "Significant human rights issues included credible reports of: unlawful or arbitrary killings, including extrajudicial killings; enforced disappearance; torture or cruel, inhuman, or degrading treatment or punishment by security forces; harsh and life-threatening prison conditions; arbitrary arrest or detention by security forces; serious problems with the independence of the judiciary; political prisoners or detainees; arbitrary or unlawful interference with privacy; punishment of family members for alleged offenses by a relative; unlawful recruitment or use of children by illegal armed groups; serious restrictions on freedom of expression and media freedom . . . substantial interference with the freedom of peaceful assembly and freedom of association, including overly restrictive laws on the organization, funding, or operation of nongovernmental and civil society organizations; restrictions on freedom of movement and on the ability to leave the country; inability of citizens to change their government peacefully through free and fair elections."<sup>35</sup> Among the human rights problems in Venezuela identified by the State Department: "the worst forms of child labor."<sup>36</sup>

The political and human rights situation in Venezuela deteriorated further in the months after the State Department published its critical report on the country, particularly after Maduro's election, widely viewed as fraudulent.

A report by the independent international fact-finding mission of the Human Rights Council, part of the UN, published a devastating report on Venezuela in September 2024. "Starting on 29 July 2024, after the national electoral authority had proclaimed President Maduro the winner, protests and allegations of fraud sprang up across the country and were repressed," according to the report. "The reactivation of the most violent mechanisms of the State's repressive apparatus led to serious human rights violations and crimes, in what constituted one of the country's most acute crises in recent years. Those violations and crimes occurred within the framework of a State policy to silence, discourage and quash opposition to the Government of President Maduro."<sup>37</sup>

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<sup>34</sup> <https://www.state.gov/reports/2023-country-reports-on-human-rights-practices/venezuela/>.

<sup>35</sup> Ibid. The report continues, "serious and unreasonable restrictions on political participation; serious government corruption; serious government restrictions on or harassment of domestic and international human rights organizations; extensive gender-based violence, including domestic or intimate partner violence, sexual violence, workplace violence, femicide, and other forms of such violence; significant barriers to access to sexual and reproductive health services; crimes involving violence or threats of violence targeting Indigenous peoples such as the Yanomami; trafficking in persons; crimes involving violence or threats of violence targeting lesbian, gay, bisexual, transgender, queer, or intersex persons; prohibiting independent trade unions or significant or systematic restrictions on workers' freedom of association, such as violence and threats against labor activists; and the worst forms of child labor."

<sup>36</sup> Ibid.

<sup>37</sup> <https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/sessions-regular/session57/advance-versions/a-hrc-57-57-en.pdf>.

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According to the Human Rights Council, “Violent repression by security forces and armed civilian groups aligned with the Government occurred during those days and the days that followed. The repression resulted in 25 deaths and hundreds of persons were injured and detained for simply expressing an opinion. Among the victims were children, as well as persons with disabilities.”<sup>38</sup>

The report concluded, “During the period covered by the present report and, in particular, after the presidential election of 28 July 2024, the State reactivated and intensified the harshest and most violent mechanisms of its repressive apparatus. As part of that repression, the authorities carried out, in a conscious and deliberate manner, actions aimed at dismantling and demobilizing organized political opposition, inhibiting the dissemination of independent information and opinions critical of the Government and preventing peaceful citizen protests. The brutality of the repression continues to generate a widespread climate of fear among the population.”<sup>39</sup>

In an update published December 13, 2024, United Nations High Commissioner for Human Rights Volker Türk wrote, “I remain deeply concerned by the disproportionate use of force and violence during post-electoral protests in July and August, including by armed individuals supporting the government. I urge a prompt and effective investigation into at least 28 killings that reportedly included demonstrators, bystanders and members of the armed forces.” He continued, “The authorities have confirmed the detention of some two thousand people since the election. I am very concerned that many of these people were arbitrarily detained, including adolescents and young adults, members of the opposition, human rights defenders, journalists and lawyers, as well as bystanders.”<sup>40</sup>

According to Volker Türk, “My Office has received credible reports that human rights defenders, union leaders, journalists, members of the opposition, humanitarian aid workers and staff working at polling stations have been subjected to threats and harassment. As many have left Venezuela, I encourage States in the region to guarantee their international protection and to take a flexible approach regarding expired identification documents.”<sup>41</sup>

“Venezuelans continued to suffer repression and a humanitarian crisis,” reported Human Rights Watch in 2024. “More than 270 political prisoners are behind bars. About 19 million people are in need, unable to access adequate health care and nutrition. More than 7.7 million Venezuelans have fled the country, generating one of the largest migration crises in the world.”<sup>42</sup>

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<sup>38</sup> Ibid.

<sup>39</sup> Ibid.

<sup>40</sup> <https://www.ohchr.org/en/statements-and-speeches/2024/12/high-commissioners-update-human-rights-council-venezuela>.

<sup>41</sup> Ibid.

<sup>42</sup> <https://www.hrw.org/world-report/2024/country-chapters/venezuela>.

Foro Penal, a nongovernmental organization, lists 1,196 political prisoners in Venezuela as of February 5, 2025.<sup>43</sup>

## **ECONOMIC CONDITIONS REMAIN DISMAL IN VENEZUELA**

Successive Venezuelan governments have destroyed the economy through poorly chosen economic policies. The Congressional Research Service, in a report updated on January 13, 2025, wrote, “Between 2014 and 2021, Venezuela’s economy contracted by 80%,” citing International Monetary Fund estimates.<sup>44</sup> “Maduro’s government has mismanaged the economy and engaged in massive corruption,” reported CRS.

The International Monetary Fund projects inflation and average consumer prices in Venezuela to rise to 71.7% in 2025, higher than the already problematic rate of 59.6% in 2024.<sup>45</sup>

CRS notes that while hyperinflation declined from 337% in 2023, “income levels remain insufficient for most households to purchase basic necessities. According to one national survey by a Venezuelan university, roughly 82.8% of the population of 26.5 million lived in income poverty in 2023, particularly outside the capital of Caracas.”<sup>46</sup>

There is little evidence of “notable” improvement in the economy. “Extreme poverty remains shockingly high and has contributed to more than 7.7 million people leaving Venezuela to seek better lives abroad,” reported the BBC in August 2024.<sup>47</sup>

## **NO EVIDENCE OF IMPROVED PUBLIC HEALTH**

In its report published two weeks before the DHS TPS decision on Venezuela, the Congressional Research Service did not note any improvement in public health in Venezuela, one of the areas DHS cited as a “notable” improvement. “In 2024, an estimated 7.6 million Venezuelans (28% of the population) required humanitarian assistance, according to the United Nations,” reported CRS. “Many households lack reliable access to potable water, and interruptions in electrical service and gas supplies persist. With a collapsed health system, overall health indicators, particularly infant and maternal mortality rates, remain poor. Previously eradicated diseases such as measles are a major concern.”<sup>48</sup>

<sup>43</sup> <https://efectococuyo.com/la-humanidad/foro-penal-hay-1-196-presos-politicos-en-venezuela/>.

<sup>44</sup> *Venezuela: Political Crisis and U.S. Policy*, Congressional Research Service, January 13, 2025. <https://crsreports.congress.gov/product/pdf/IF/IF10230>.

<sup>45</sup> <https://www.imf.org/external/datamapper/PCPIPCH@WEO/VEN?zoom=VEN&highlight=VEN>.

<sup>46</sup> *Ibid.*

<sup>47</sup> <https://www.bbc.com/news/world-latin-america-48121148>.

<sup>48</sup> *Ibid.*

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Credible reports indicate public health has deteriorated in Venezuela. “Health risks are increasing in Venezuela amid a humanitarian emergency that has worsened following a disputed election,” according to an August 2024 article published in *The Lancet*. “Many hospitals and clinics lack essential personnel, medications, and supplies.”<sup>49</sup>

“It’s difficult to see how the problems affecting the medical sector will improve in such a tense political and social environment”, said infectious disease doctor Julio Castro of the Central University of Venezuela in Caracas. “In all likelihood they’ll get worse.”<sup>50</sup>

The *Lancet* reported on worsening public health indicators:

- “Diseases previously eradicated or controlled, including measles and diphtheria, have re-emerged as vaccination rates fell. Regular water outages, which are more pronounced beyond the area surrounding Caracas, lead residents to store water in conditions that promote mosquito breeding.”<sup>51</sup>
- “According to the National Survey of Hospitals in Venezuela, done by a group of local health NGOs, only 40% of operating rooms were running in the country last year and 90% of responding health centres had to ask patients to provide medical equipment for treatment.”<sup>52</sup>
- “Half of the hospitals surveyed have intermittent water outages and 47% experience weekly blackouts. 177 patients died last year during blackouts.”<sup>53</sup>

## **RELIABLE CRIME STATISTICS UNAVAILABLE IN VENEZUELA**

It is difficult to evaluate the DHS claim that crime has shown a notable improvement in Venezuela unless one accepts assertions from the administration of Nicolás Maduro. The *Washington Post’s* Fact Checker addressed this issue in July 2024 after Donald Trump’s repeated claims that crime in Venezuela had fallen.

“There is no reliable data on crime in Venezuela—the government stopped publishing official data in 2015—so it’s unclear where Trump gets this number,” wrote Kessler. “But it’s higher than what even the government says. In May, Venezuelan security officials [announced](#) that crime indicators had fallen by 25.1 percent compared to 2023, claiming that security forces had been successful in large-scale operations against criminal groups. Some experts

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<sup>49</sup> Joe Parkin Daniels, “Venezuela disorder worsening health services,” *The Lancet*, August 10, 2024.

<sup>50</sup> Ibid.

<sup>51</sup> Ibid.

<sup>52</sup> Ibid.

<sup>53</sup> Ibid.

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[believe](#) the impossible-to-verify numbers are intended to boost the sagging popularity of the Nicolás Maduro government.”<sup>54</sup>

To the extent crime may have declined in Venezuela, the reason is the continued poor state of the Venezuelan economy, which works against the DHS assertions about the improved economy. “Crime is falling in Venezuela because of the destruction of the country’s economy...because of the loss of opportunities for crime,” Venezuelan Violence Observatory Director Roberto Briceño-León told *InSight Crime*.<sup>55</sup>

## **ADDITIONAL LEGAL ISSUES**

During Donald Trump’s first term, DHS terminated the TPS designations of El Salvador, Haiti, Nicaragua and Sudan. In March 2018, “the ACLU Foundation of Southern California, with the National Day Laborer Organizing Network (NDLON) and the law firm of Sidley Austin LLP, filed a lawsuit in federal court on behalf of nine people with Temporary Protected Status (TPS) and five United States citizen children of TPS holders against the Department of Homeland Security.”<sup>56</sup>

In October 2018, a court granted a preliminary injunction against the TPS terminations.<sup>57</sup> The Trump administration complied with the preliminary injunction by automatically extending TPS for nationals of El Salvador, Haiti, Nicaragua, Sudan through January 2, 2020.<sup>58</sup>

In September 2020, a three-judge panel in the Ninth Circuit overturned the district court’s preliminary injunction, allowing the Trump administration to terminate TPS for the four countries.<sup>59</sup> After Joe Biden won the presidential election in November 2020, DHS later continued to support TPS for El Salvador, Haiti, Nicaragua and Sudan.

A key issue in the majority’s opinion in the Ninth Circuit is the statute’s language that a DHS secretary’s TPS determinations are not subject to judicial review. “Considering the issue in light of relevant precedent, the panel concluded that § 1254a(b)(5)(A) precludes review of non-constitutional claims that fundamentally attack the Secretary’s specific TPS determinations, as well as the substance of her discretionary analysis in reaching those determinations, but does not bar review of a challenge to an agency “pattern or practice” that is collateral to, and distinct from, the specific TPS decisions and their underlying rationale,” according to the Ninth Circuit’s majority opinion. “Applying these principles, the panel concluded that the APA claim was not reviewable, explaining that the

<sup>54</sup> <https://www.washingtonpost.com/politics/2024/07/19/fact-check-trump-rnc-republican-convention/>.

<sup>55</sup> <https://insightcrime.org/news/venezuela-crime-rate-falling/>.

<sup>56</sup> <https://www.aclusocal.org/en/cases/ramos-v-nielsen>.

<sup>57</sup> [https://www.aclusocal.org/sites/default/files/aclu\\_ramos\\_20181003\\_order\\_granting\\_prelim\\_injunction.pdf](https://www.aclusocal.org/sites/default/files/aclu_ramos_20181003_order_granting_prelim_injunction.pdf).

<sup>58</sup> <https://www.federalregister.gov/documents/2019/03/01/2019-03783/continuation-of-documentation-for-beneficiaries-of-temporary-protected-status-designations-for-sudan>.

<sup>59</sup> [https://www.aclusocal.org/sites/default/files/cases\\_ramos\\_2020.09.14\\_096-1\\_opinion.pdf](https://www.aclusocal.org/sites/default/files/cases_ramos_2020.09.14_096-1_opinion.pdf).

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claim does not challenge any agency procedure or regulation, but rather essentially raises a substantive challenge to the Secretary's underlying analysis."<sup>60</sup>

In a dissent, Judge Morgan Brenda Christen wrote, "It is black-letter law that 'where Congress intends to preclude judicial review of constitutional claims[,] its intent to do so must be clear.' *Webster v. Doe*, 486 U.S. 592, 603 (1988). The TPS statute does not come close to meeting this rigorous standard; in fact, § 1254a makes no mention of constitutional claims at all. Thus, the government's argument that our court is barred from reviewing plaintiffs' Equal Protection claim is squarely contradicted by controlling precedent."<sup>61</sup>

On February 10, 2023, the Ninth Circuit issued a new order that vacated the three-judge panel's opinion. A vote of the nonrecused active judges ordered the case be reheard en banc.<sup>62</sup> The two parties filed additional motions in June 2023.

A lawsuit may be filed to challenge the Trump administration's decision to terminate TPS for Venezuela in 2025.

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<sup>60</sup> *Ibid.*

<sup>61</sup> *Ibid.*

<sup>62</sup> [https://www.aclusocal.org/sites/default/files/cases\\_ramos\\_2023.02.10\\_153\\_order\\_granting\\_en\\_banc\\_rehearing.pdf](https://www.aclusocal.org/sites/default/files/cases_ramos_2023.02.10_153_order_granting_en_banc_rehearing.pdf).

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