

October 18, 2022

The Honorable Antony J. Blinken
Secretary of State
US Department of State
2201 C St NW Washington, DC 20520

Dear Secretary Blinken,

We write to you in the spirit of broad concern for the rights of all political prisoners and victims of arbitrary detention in Venezuela. In this regard, **we urge you to assign the case of Eyvin Hernandez, a U.S. citizen detained arbitrarily in country since March 2022, to the office of the Special Envoy for Hostage Affairs (SPEHA)**. After careful review of the facts in Hernandez's case, we strongly believe that it meets the criteria for wrongful detention under the 2020 Robert Levinson Hostage Recovery and Hostage-Taking Accountability Act.

On March 31, Hernandez was detained by Venezuelan authorities along the Colombia-Venezuela border. According to Hernandez, he was accompanying a Venezuelan friend who was attempting to stamp her passport in Venezuela. Upon arrival in the border city of Cúcuta, Hernandez maintains they were unwittingly taken to an informal border crossing and pushed to cross into Venezuelan territory. Once there, they were extorted by an armed criminal group. After being unable to pay and showing his U.S. passport, he says he was hooded and kidnapped by a group of men with ski masks. They turned him over to Venezuelan authorities upon seeing his U.S. passport.

Despite the fact that Hernandez's own case file contains no evidence to this effect, Venezuelan prosecutors are charging him with criminal association and conspiracy, punishable by up to thirty years in prison.

Given the lack of evidence against him, it appears that Hernandez is being detained in large measure due to his U.S. citizenship. In addition to the indications of political motives for his detention, the case meets other criteria that qualify it to be designated for SPEHA response. These include the fact that the Department of State has determined in its annual human rights reports that Venezuela's justice system is neither independent nor impartial. In its latest Country Report on Human Rights Practices in Venezuela, the Department of State found that in 2021 "the judiciary lacked independence and generally judged in favor of the Maduro regime at all levels. There were credible allegations of corruption and political influence throughout the judiciary."¹ The 2021 Country Report refers to the reports of the United Nations Independent International Fact-Finding Mission on Venezuela (IFFM), which has found that judges and

¹ US Department of State, "2021 Country Reports on Human Rights Practices: Venezuela", <https://www.state.gov/reports/2021-country-reports-on-human-rights-practices/venezuela/>

prosecutors in Venezuela have routinely disregarded due process, often following guidance or orders from the executive branch.²

Hernandez was transferred from Tachira state— where the case is being heard and investigated—to the maximum-security detention center in Caracas, known as Boleíta, under the custody of the Directorate General of Military Counterintelligence (DGCIM). Recently, the UN High Commissioner on Human Rights expressed concern about detention conditions in that center, to which her team was no longer granted access.³

Hernández is being detained in inhumane conditions. He has said that conditions in the prison are meant to break prisoners down psychologically, including by limiting their time outside, making them sleep with lights on, and depriving them of adequate medicine. Other U.S citizens detained at the same center have attempted suicide.⁴

According to the Venezuelan Observatory of Prisons, low-quality hygiene and medical services and lack of access to clean water and sufficient, nutritious food contribute to hunger and disease inside prisons in Venezuela. In the context of a system notorious for serious violence, malnutrition and tuberculosis have for the last four years exceeded violence as the leading cause of death in prison in the country.⁵ Moreover, the UN High Commissioner on Human Rights and the UN Fact-Finding Mission have documented torture and other cruel and inhuman treatment of detainees, including electric shocks, waterboarding, and sexual violence.

Given the lack of judicial independence in Venezuela, it is clear that Hernandez’s release will not be secured without targeted diplomatic engagement. For this reason, **we believe it is necessary for you to act swiftly to transfer responsibility for his case from the Bureau of Consular Affairs of the Department of State to SPEHA. Delay jeopardizes Hernandez’s health, safety, and potentially his life.**

We urge you to ensure that the Biden administration prioritizes the rights of all victims of human rights violations and supporting strategies to curb and investigate the possible crimes

² United Nations Independent International Fact-Finding Mission on Venezuela, “Detailed findings of the independent international factfinding mission on the Bolivarian Republic of Venezuela”, UN Doc. A/HRC/48/CRP.5, September 16, 2021, https://www.ohchr.org/sites/default/files/Documents/HRBodies/HRCouncil/FFMV/A-HRC-48-CRP.5_EN.pdf

³ UN High Commissioner for Human Rights, “Interactive Dialogue on High Commissioner’s report on Venezuela, June 29, 2022, <https://www.ohchr.org/en/statements/2022/06/dialogo-interactivo-sobre-el-informe-de-la-alta-comisionada-sobre-venezuela>

⁴ Jennifer Hansler, CNN, “American detained in Venezuela has attempted suicide, his family says”, June 20, 2022, <https://edition.cnn.com/2022/06/20/politics/american-detained-in-venezuela-suicide-attempt/index.html>; Diario Las Américas, “Estadounidense preso en Venezuela intenta quitarse la vida”, August 18, 2022, <https://www.diariolasamericas.com/america-latina/estadounidense-presos-venezuela-intenta-quitarse-la-vida-n4255158>

⁵ Venezuelan Observatory on Prisons, “Presos venezolanos carecen de derechos contemplados en las Reglas Mandela”, July 18, 2022, <https://oveprisiones.com/presos-venezolanos-carecen-de-derechos-contemplados-en-las-reglas-mandela>

against humanity documented by the UN Fact-Finding Mission on Venezuela.⁶ International pressure and accountability, as well as targeted diplomatic engagement, are essential to restore democracy and the rule of law in Venezuela.

In this regard, discussion of lifting U.S. sanctions should see these measures as a tool and not an end in themselves. Such decision should serve to advance human rights, including through the release of all political prisoners, the full deployment of humanitarian aid, and the implementation of European Union election monitors' key recommendations to ensure free and fair elections in 2024 and 2025. The U.S. should also support international efforts, including the UN Fact-Finding Mission, to ensure accountability for systematic abuses that include extrajudicial killings, short-term enforced disappearances, arbitrary detentions and torture, amid other abuses, with a view to ensuring justice and reparation for all victims in Venezuela.

Sincerely,

**The Washington Office on Latin America (WOLA)
Human Rights Watch (HRW)**

C.C.: Roger D. Carstens, Special Presidential Envoy for Hostage Affairs; Rena Bitter, Assistant Secretary for Consular Affairs; Brian Nichols, Assistant Secretary of State for Western Hemisphere Affairs; and James Story, Ambassador for the Venezuela Affairs Unit.

⁶ United Nations Independent International Fact-Finding Mission on Venezuela, "Report of the independent international fact-finding mission on the Bolivarian Republic of Venezuela", UN Doc. A/HRC/45/33, September 25, 2022, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G20/238/91/PDF/G2023891.pdf?OpenElement>