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Indicting a Dictator: How Narco-Terrorism Charges Reshape US National Security Enforcement

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On May 20, 2026, the Justice Department unsealed a superseding indictment against Cuba's Raúl Castro and five co-defendants for the 1996 shoot-down of two unarmed civilian aircraft over international waters, killing four US nationals. The legal theory is straightforward: conspiracy to kill US nationals, destruction of aircraft and murder. Prosecutors allege a direct, discrete act of state-sponsored violence against American citizens.

The federal prosecution of ousted Venezuelan President Nicolás Maduro is something different, and in some ways, far more ambitious. It too marks a turning point in how the United States confronts transnational crime, terrorism and authoritarian power, but the legal theory at the center of the case goes well beyond anything in the Castro indictment: narcoterrorism. Where Castro stands accused of ordering a missile fired at a civilian plane, Maduro stands accused of running a decades-long criminal enterprise that used the machinery of a sovereign government to traffic cocaine and finance designated terrorist organizations.

Courtesy photo

Alamdar S. Hamdani, with Bracewell.

The charges against Maduro are not simply about drug shipments or weapons violations. They represent an effort to use one of the most powerful, and rarely deployed, criminal statutes on the books to hold a foreign leader accountable for allegedly enabling terrorism through drug trafficking. Having spent much of my career prosecuting national security cases and serving as United States Attorney for the Southern District of Texas, I see this case as a test of how far criminal law can go in addressing conduct that traditionally sits at the intersection of geopolitics, diplomacy and war.

What Makes the NarcoTerrorism Statute Different?

The Narco-Terrorism Statute was enacted in the wake of September 11 to address a specific problem: the growing convergence of drug trafficking and terrorist financing. Unlike traditional narcotics laws, the statute requires prosecutors to prove not only a qualifying drug conspiracy, but also that the defendant knew or intended that the activity would provide something of pecuniary value to terrorist organizations or terrorist activity.

That additional element is what makes the statute both formidable and difficult to use. Prosecutors must establish the underlying drug crime and then layer on proof that the proceeds supported terrorism. In my experience, even routine materialsupporttoterrorism cases involve complex evidentiary and classifiedinformation issues. When the alleged conduct spans decades, multiple countries and senior political figures, those challenges multiply.

That is why narcoterrorism charges are so rare. Even along the US-Mexico border, where cartel prosecutions are a daily reality, the statute is used sparingly. It is not because the conduct does not exist, but because proving it beyond a reasonable doubt at trial requires extraordinary resources and patience.

Why Charge NarcoTerrorism in the Maduro Case?

The answer lies in prosecutorial strategy and narrative.

When charging a highprofile defendant, particularly one with international stature, prosecutors typically pursue charges that track both the facts and the broader story they intend to tell. Here, the indictment is what lawyers call a "speaking indictment." It does not merely list elements; it lays out a detailed account of how Maduro allegedly rose to power, consolidated control, and used state institutions to facilitate drug trafficking and enrich himself and his allies.

Narcoterrorism charges serve two purposes in that narrative. First, they give prosecutors multiple pathways to conviction, alongside traditional drug conspiracy and weapons charges. Second, they frame the alleged conduct not as ordinary corruption, but as conduct that directly benefited terrorist organizations designated by the United States.

In other words, the statute is not just a legal tool, it is part of the message.

What Does the Indictment Reveal About the Government's Evidence?

Based on the publicly filed indictments, the government is alleging a decadeslong conspiracy involving massive quantities of cocaine moving from Venezuela through Colombia and into international markets, including the United States. Central to that theory is the involvement of individuals at the highest levels of the Venezuelan government.

One of the most significant indicators of prosecutorial confidence is the presence of cooperating witnesses. According to the indictment history, prior defendants charged in related cases have pleaded guilty. For prosecutors, insider testimony is often the only way to establish intent and knowledge at the top of a criminal organization. For the defense, those cooperators will be a prime target, with arguments that they are testifying to save themselves.

The indictment also details alleged relationships with multiple organizations designated as terrorist groups, including Colombia's FARC, Venezuelabased Tren de Aragua and Mexican cartels. By naming already designated foreign

terrorist organizations, prosecutors lower the conceptual hurdle for jurors asked to determine whether drug trafficking activity financially benefited terrorism.

Do Recent Terrorist Designations Change the Legal Landscape?

Recent decisions by the US government to designate major cartels and criminal organizations as foreign terrorist organizations have significant downstream effects. For prosecutors, those designations simplify proof. For jurors, they make the connection between drug trafficking and terrorism easier to understand. And for companies operating in highrisk jurisdictions, they raise the stakes exponentially.

Once an organization is designated, providing material support, even indirectly, can expose individuals and corporations to severe criminal penalties.

What Can Corporate America Learn from the Lafarge Prosecution?

The Lafarge case remains the clearest example of how terrorism statutes can reach beyond traditional defendants. In that case, a multinational corporation pleaded guilty to providing material support to ISIS and paid nearly $800 million in penalties for revenuesharing arrangements that allowed it to continue operating in a conflict zone.

The lesson is straightforward: money is the lifeblood of terrorist and cartel organizations. Cut off the funding, and you disrupt the operation. The NarcoTerrorism Statute, combined with terrorist designations, gives prosecutors a way to target not only the traffickers themselves, but also those who knowingly or recklessly enable them.

For companies operating in regions where cartels or sanctioned entities exert influence, the compliance implications are enormous. Due diligence failures can quickly become criminal exposure.

Can Maduro Claim Head-of-State Immunity?

One of the defenses raised in the Maduro case is immunity as a head of state. Historically, such claims have had limited success in US criminal courts, particularly where the United States does not recognize the defendant as the legitimate leader of a foreign government.

The indictment itself appears designed to address this issue, explicitly questioning Maduro's legitimacy following contested elections and international nonrecognition. If a court accepts that premise, immunity arguments lose much of their force.

Similarly, claims that a defendant was unlawfully seized and brought to the United States rarely result in dismissal. US courts have long held that the manner in which a defendant arrives in court does not deprive the court of jurisdiction. That principle has survived challenges in cases involving everything from international abductions to covert extraditions.

What About the Right to Counsel and Sanctioned Funds?

One of the more novel issues in the case involved Maduro's access to funds to pay for his legal defense. On one hand, criminal defendants have a constitutional right to counsel of their choice. On the other hand, US sanctions laws restrict transactions involving sanctioned governments and assets.

Here, the dispute centered on whether funds from the Venezuelan government, which were allegedly controlled or influenced by Maduro, can be used to finance his defense. The government argued that sanctioned funds cannot be accessed, while the defense has countered that

denying access effectively deprives Maduro of his Sixth Amendment rights.

After a long and contested hearing, where the Court expressed concerns about the government's arguments, the Office of Foreign Assets Control issued amended licenses authorizing defense counsel for Maduro and his wife to receive conditional payments from the Government of Venezuela (legal fees must derive from money that became available to the Venezuelan government after March 5, 2026, and cannot come from restricted or frozen foreign government accounts).

Is This an Uphill Battle for Prosecutors?

There is no question that narcoterrorism cases are complex. They often involve classified information, foreign intelligence, and sensitive sources and methods. Prosecutors must constantly balance their obligation to disclose exculpatory evidence with the need to protect national security.

That said, complexity does not mean impossibility. The Southern District of New York, which is handling the Maduro prosecution, has significant experience and resources. The assignment of multiple senior prosecutors to a single case is itself a signal of institutional commitment.

For the defense, the strategy will likely focus on attacking witness credibility, challenging jurisdiction, and appealing to broader notions of fairness and international law. For prosecutors, the task will be to keep the case grounded in evidence and elements, resisting the temptation to let geopolitics overshadow proof.

What Does This Mean Going Forward?

The Maduro prosecution may ultimately stand as a blueprint for how future administrations use criminal law as a national security tool. Rather than military intervention or diplomatic isolation alone, indictments can be used to delegitimize, isolate and hold individuals accountable.

Together with the Castro indictment, the two cases suggest a Justice Department increasingly willing to use the criminal docket as a long-game accountability tool, whether the alleged conduct involves decades of narco-state governance or a single order to fire a missile.

If these prosecutions succeed, dictators and criminal leaders around the world will need to take notice. The United States may not come with troops, but it may come with an indictment and a courtroom prepared to hear the case.

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