



FORCE, JURISDICTION AND SOVEREIGN EQUALITY: THE MADURO CAPTURE AS A TEST CASE FOR INTERNATIONAL LAW

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ABSTRACT

This essay argues that the reported capture and transfer of a sitting Venezuelan President to the United States reveals a structural instability within contemporary international law: the gap between the formal equality of states and the unequal capacity of powerful states to enforce their criminal jurisdiction extraterritorially. The analysis examines three intersecting legal regimes. First, it evaluates the prohibition on the use of force under Article 2(4) of the UN Charter and the principle of non intervention. Second, it considers the customary rule of personal immunity affirmed in matter of Arrest Warrant (Democratic Republic of the Congo v Belgium, 2002), and whether unilateral arrest can lawfully bypass immunity in the absence of Security Council authorisation. Third, it analyses expansive domestic claims of jurisdiction through precedents such as United States v. Noriega and United States v. Alvarez Machain, and their harmony with sovereign equality. The essay does not merely assess the legality of the incident in isolation. It contends that the episode illustrates a broader shift from consent-based enforcement to power facilitated enforcement, where accountability claims risk undermining the very legal order they invoke. By situating the incident within UN Charter, immunity doctrine, and transnational criminal enforcement practice, the essay concludes that selective unilateral enforcement, even when framed as criminal justice, destabilises the coherence of international law unless grounded in multilateral legitimacy.

KEYWORDS: *Extraterritorial jurisdiction, Head of state immunity, International criminal law, Non-intervention, Sovereign equality*

1. INTRODUCTION

The capture of Venezuelan President Nicolás Maduro by United States Special Forces in January 2026 has become one of the most controversial events in recent international law. The U.S. government has described it as part of a campaign against international narcotics trafficking and organised crimes. Despite all of this,

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what happened in Caracas was not an ordinary arrest because a sitting head of a recognised state was forcibly removed by the armed forces of another state and that too without the consent and approval from the UN Security Council. This is the reason that this incident matters beyond Maduro himself. Since 1945, international law has been revolving around few basic ideas: all states are equal, force cannot be used freely and arbitrarily, and all disputes should be resolved through law rather than unilateral military action (Shaw, 2017).

The United States while justifying their action has relied on domestic criminal charges and allegations of cross-border narco terrorism. But international law has always drawn a clear line of distinction between accusing someone of a crime and lawfully bringing that person before a court. Extradition and international cooperation are the acceptable methods for bringing an accused who is in a foreign territory but the forcible seizure of a foreign leader by military force falls outside the scope of these methods and resembling to a form of cross-border detention that has long been condemned in international law (Bassiouni, 2014).

The Maduro episode also makes us familiar with the problem of inequality among sovereign states. In practice, only few powerful states can carry out this kind of action and then later defend it through the language of law. Venezuela could never realistically enter the United States, capture an American leader and justify it by invoking Venezuelan criminal law. The fact that such an idea appears unachievable says much about the unequal nature of the present international order. What began in Caracas with the forcible detention of one political leader ended in Washington as a much deeper question about the future of international law: does international law still restrain powerful states, or has it become a mere language through which they explain what they have already decided to do?

2. THE MADURO CAPTURE AND THE PROHIBITION ON THE USE OF FORCE

2.1 The January 2026 Operation and its Legal Significance

On January 3, 2026, United States forces carried out various strikes in Caracas and other parts of Venezuela and seized President Nicolás Maduro and his wife, Cilia Flores. They were then taken to the United States against their will to face federal charges relating to cross-border narco terrorism and drug trafficking. ([House of Commons Library](#))

The legal issue lies less in such charges themselves than in the manner they were enforced. International law permits a state, only in some circumstances, to

exercise criminal jurisdiction over what happens abroad. But it does not ordinarily allow that state to send its armed forces into another state without consent. That distinction has long been central to the law governing sovereignty and territorial jurisdiction (Shaw, 2017).

The January 2026 operation has crossed this line because the United States did not seek extradition or rely on a treaty mechanism or act through the Security Council rather it used its own force inside Venezuelan territory to capture Maduro. This distinction matters because extradition and mutual legal assistance are designed to respect the sovereignty of the each territorial state because once military force is used then issue no longer concerns criminal procedure alone but becomes a question of intervention, non intervention and the limits of unilateral power in international law (Bassiouni, 2014).

2.2 Article 2(4) of the United Nations Charter and the Principle of Non Intervention

Article 2(4) of the UN Charter prohibits states from using force against the territorial integrity or political independence of another state. The prohibition is not merely limited to invasion or formal war but it extends to any kind of armed action carried out within the territory of another state without lawful justification. The International Court of Justice has repeatedly treated this principle as a cornerstone of both treaty law and customary international law (Shaw, 2017). The arbitrary arrest of Maduro falls within the scope of Article 2(4) as whatever the criminal allegations may have existed against him; this operation directly interfered with Venezuela's political independence and sovereign equality. The removal of the head of another country by force is among the clearest forms of intervention prohibited by the Charter.

The principle of non-intervention also leads to the same conclusion. In *Military and Paramilitary Activities in and against Nicaragua*, the International Court of Justice has held that states should not interfere in matters that fall within the domestic jurisdiction of another state, especially matters like its political system and choice of government (*Nicaragua v United States*, 1986). The forcible transfer of Maduro to the United States necessarily affected who governs Venezuela and how political authority is and will be exercised there.

2.3 Why Self Defence, Consent and Security Council Authorisation Do Not Apply

The United States has relied primarily on grounds of self defence and counter narcotics action but neither provides a convincing legal basis for their unilateral action.

Under Article 51 of the UN Charter, the exception of self defence is available only in response to an armed attack. The International Court of Justice has consistently interpreted that requirement very narrowly. If a state is supporting criminal groups, narcotics trafficking or hostile political conduct, it does not by itself amount to any kind of armed attack allowing use of military force (*Nicaragua v United States*, 1986). In present case, even if Maduro was connected to such transnational drug networks, these allegations could not transform Venezuela into a lawful target for military action by U.S. nor can this operation be justified on the basis of consent because consent is valid only when it is clearly given by the state in question. In present case, the Venezuelan authorities condemned the raid immediately and described it as an unlawful act of aggression and no consent was given. There was therefore no invitation, acquiescence or prior agreement capable of removing the prohibition on force (*Armed Activities on the Territory of the Congo*, 2005).

The final possible exception would have been authorisation by the Security Council under Chapter VII of the UN Charter but no such authorisation was there because the Council did not adopt any resolution permitting the use of force against Venezuela or the apprehension of Maduro. In the absence of Security Council approval, the operation remained a unilateral use of force only.

3. HEAD OF STATE IMMUNITY AND EXTRATERRITORIAL JURISDICTION

3.1 Personal Immunity of a Sitting Head of State: Arrest Warrant (Democratic Republic of the Congo v Belgium)

There is another concept of personal immunity given to certain posts which inherent to them. Now even if we could say that Nicolás Maduro could lawfully be tried for narcotics related offences by the United States, a further obstacle remained: the personal immunity enjoyed by a sitting head of any sovereign state. Under customary international law, certain high ranking state officials like presidents, prime ministers and foreign ministers, possess this immunity that they cannot be arrested or tried while they remain in office. This immunity is procedural

rather than substantive because in no way it declares the individual to be innocent, but it only prevents foreign states from exercising criminal jurisdiction over them during their tenure.

The leading authority on this is the decision of the International Court of Justice in *Arrest Warrant (Democratic Republic of the Congo v Belgium)*. Belgium had issued an arrest warrant against the Congolese foreign minister for alleged international crimes. The Court held that a sitting foreign minister could not be subjected to criminal trial before another foreign domestic court, irrespective of the gravity of the allegations (*Arrest Warrant*, 2002).

This reasoning applies with even greater force to a sitting president. Maduro remained the internationally recognised head of Venezuela at the time of his arrest. The mere fact that the United States considered him responsible for serious wrongdoing could not remove the immunity attached to his office nor does the nature of the accusation makes any difference. Thus, arrest of Maduro is illegal as it has violated the rule of personal immunity.

3.2 United States v Noriega and Why the Analogy Fails

Various supporters of this operation have frequently relied on the example of Manuel Noriega, the Panamanian leader who was arrested by the United States during the 1989 invasion of Panama and later was prosecuted in Florida. At the very first look, the comparison appears attractive and justified. In both cases, the United States used armed forces abroad and then sought to justify the arrest and transfer of a foreign leader through domestic criminal charges.

The analogy, however, is much weaker than it first appears because Noriega's prosecution never established that the invasion of Panama was lawful. On the contrary, the U.S. intervention was widely condemned strongly by the UN General Assembly and by the Organisation of American States as a violation of Panamanian sovereignty. The subsequent criminal proceedings against Noriega also did not cure this illegality of the means by which he had been brought before the court (United Nations General Assembly Resolution 44/240, 1989). There is also an important difference in status. By 1989, Noriega's position as the lawful head of Panama was heavily disputed. The United States had already acknowledged Guillermo Endara as Panama's legitimate head. Maduro, by contrast, continued to exercise effective control over the Venezuela and remained its representative in the United Nations at the time of his arrest. So, both of these cases are completely different and Maduro case cannot be justified by relying on already condemned case of Manuel Noriega.

3.3 United States v Alvarez Machain and the Expansion of Cross Border Apprehension

The United States may also try to justify their action by taking the support from the case of United States v. Alvarez Machain. In this case, a Mexican doctor was accused of murder of a Drug Enforcement Administration agent and that doctor was abducted from Mexico and brought to the United States for trial. The Supreme Court of United States held that the manner in which Alvarez Machain had been brought before the court did not prevent his prosecution from continuing (United States v Alvarez Machain, 1992). This decision was concerned only with the jurisdiction of an American court under domestic law but it did not hold that the abduction itself was lawful under international law. In reality, when the operation was executed, it generated a diplomatic protest from Mexico and was widely criticised globally because it bypassed the ordinary extradition procedures.

The relevance of this Alvarez Machain case is very limited in context to Maduro case. At most, it shows us that a domestic court may proceed with a trial despite an unlawful capture across borders but it does not establish that one state may unlawfully enter another state.

3.4 Can Domestic Enforcement Practice Override Sovereign Equality?

The major concern behind the Maduro operation is that repeated American practice of condemned unilateral action can gradually normalise cross-border law enforcement against foreign leaders because international law does not allow one state to create new rules simply by acting unilaterally. Domestic legislations, court decisions and executive policy may explain why a state believes its conduct is just and lawful, but they cannot by themselves in any sense displace the important principle of sovereign equality. If it is allowed, the strongest states would effectively become the authors of international law through their own favourable conduct.

The Maduro case clearly illustrates this danger as the United States has relied upon its domestic charges and its own understanding of national security to defend their arbitrary actions. Thus, if every state is allowed to adopt the same approach, international order would quickly become unstable.

4. FROM CONSENT BASED ENFORCEMENT TO POWER MEDIATED ENFORCEMENT: A NEW PATTERN IN INTERNATIONAL LAW

4.1 Criminal Justice, Regime Change and the Language of Legality

The United States has defended the Maduro capture as the enforcement of existing criminal allegations but the official statements made after the capture pointed towards a different direction. President Donald Trump announced that the United States would temporarily “run” Venezuela until a justified transition of power could be organised (United Nations News, 2026). At this very point, this operation ceased to look like a limited prosecution and began to look like a possible regime change.

The understanding of difference between criminal justice and regime change is necessary in context to international law as criminal justice seeks to establish individual accountability for wrongdoings through legal process whereas regime change relates to alteration in political structure of another state. Thus, regime change in a state cannot be allowed to happen through the actions of another state by giving it the colour of criminal justice. The same thing is being done by United States. It is playing with the language of international law and is giving legality to its unilateral actions retrospectively.

4.2 Selective Enforcement and the Structural Inequality of States

Apart from all of this, the actions of U.S. government reveal to us an important issue that international law is not applied evenly among states. The reason for it is that powerful states are often able to project and safeguard their legal claims beyond their own local territory whereas weaker states are expected to remain within their conventional legal limits and territory. This creates a concerning divide between the formal equality and political reality. The UN Charter ensures equality to all sovereign states but only a small number of states have the military and economic power to enforce their own domestic laws abroad with ease. When we look at Venezuela, it could not plausibly do what America has done because it is weaker state than America. Thus, it clearly shows us the uneven application of international law.

4.3 Why Unilateral Enforcement Destabilises the Coherence of International Law

International law depends upon a basic degree of stability as well as consensus all the sovereign states. Even if some states are in disagreement with its particular

rules but the system can only function well if all of them accept this fact that the same standards are applicable to each state. Therefore, unilateral enforcement or actions weakens that very assumption because it allows an isolated state to decide, on its own, when force, jurisdiction and political intervention are lawful as per their benefit. The issue is not limited to the Maduro capture only rather it extends to any future incidents as well where one state might claim a right to seize foreign leaders abroad in the name of domestic charges which can result in instable legal order.

This would also make legal rules increasingly uncertain causing blurriness between extradition and abduction, prosecution and intervention, self defence and political convenience. International law would also cease to act as a common framework for all states. The whole Maduro incident thus raises a possibility in which international law is moving away from a system where rules are accepted in advance toward a system in which legality is shaped retrospectively by power and force.

5. CONCLUSION

The forcible capture of Venezuelan President and his wife by U.S.A.'s armed forces is legally significant not because it has removed a controversial leader from power instead it holds so much importance due to the fact of how force was arbitrarily used to achieve that result. The Trump-led government did not rely upon any of the options available like extradition or international adjudication but it took the path of imposing domestic law charges on Maduro and captured him to bring him to American land. While doing all of this, America has completely neglected the already established customary rules of international law as well as rules of UN Charter. Further, top leaders of America tried to defend their actions on the ground of self defence and national security. But in reality all was done to take control on the Venezuela which against the ethos of international law. The actions have also crossed the boundary between prosecution and intervention, between jurisdiction and force, and between legal process and political change.

This is the reason why this operation was so much in headlines because it acts as a test: whether the international order still rests upon the pillars of consent and sovereign equality or whether it is being transformed into an unjust model where powerful states play at a front-foot ignoring all the rules and procedures of international law. The other concerning issue about this incident is that how legal language is being interpreted to justify the unjust acts retrospectively in the name of national security or self defence. But whatever may be the intention of America, one thing cannot be negated that no state can remove a sitting head of other state merely on basis of domestic law charges.

Thus, the essay can be concluded on this note that though this Maduro capture has revealed a great danger of how powerful states are trying to become authors of international law but international law cannot be destroyed by open rejection. Though it get weakened each time when exceptional and arbitrary actions are gradually undertaken and later presented as ordinary conduct of powerful states. This is the reason that this Maduro capture cannot be taken lightly because if this pattern continues, the future of international law may no longer depend upon what states are permitted to do, but upon what the strongest states are capable of doing for their best.

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