



THE US CAPTURE OF MADURO IN VENEZUELA: AN ASSESSMENT UNDER INTERNATIONAL LAW

Dr. Kayser (Qaisar) NASRAT*

Abstract

This study examines the abduction of Venezuelan President Nicolás Maduro by the United States in light of international law. The article argues that this operation severely violated the founding norms of the system, such as the prohibition of the use of force, state sovereignty, and immunity. Analyzing the event within the framework of jus ad bellum, customary law, and state responsibility, the study demonstrates that the operation cannot be justified under the guise of "law enforcement activity" and does not comply with any legal exceptions to the prohibition of the use of force.

The study emphasizes that the forceful seizure of a sitting leader on foreign soil constitutes a direct attack on territorial integrity and political independence. Furthermore, it recalls that, according to customary law, the absolute personal immunity enjoyed by heads of state prevents foreign jurisdiction regardless of the severity of the crime. In this context, it underlines that the operation contradicts the US's own past legal positions and international precedents. In conclusion, the study argues that the selective instrumentalization of legal norms

* Dr., İbn Haldun Üniversitesi Hukuk Fakültesi, Uluslararası Hukuk Ana Bilim Dalı, İstanbul, Türkiye | Dr., University of İbn Haldun Faculty of Law, Department of International Law, İstanbul, Türkiye.

✉ qaisar.nasrat@ihu.edu.tr • ORCID 0000-0003-4676-8122.

✉ **Atıf Şekli** | Cite As: NASRAT, Kayser (Qaisar): "The US Capture of Maduro in Venezuela: An Assessment under International Law", SÜHFD, C. 34, S. 1, 2026, s. 247-272.

✉ **İntihal** | Plagiarism: Bu makale intihal programında taranmış ve en az iki hakem incelemesinden geçmiştir. | This article has been scanned via a plagiarism software and reviewed by at least two referees.

✉ Bu eser Creative Commons Atıf-GayriTicari 4.0 Uluslararası Lisansı ile lisanslanmıştır. | This work is licensed under Creative Commons Attribution-NonCommercial 4.0 International License.



by powerful states sets a dangerous precedent that threatens the universality and long-term legitimacy of the international legal order.

Keywords

• Head of State Immunity • Maduro Case • Sovereign Equality • Use of Force • Venezuela.

MADURO'NUN ABD TARAFINDAN YAKALANMASI: ULUSLARARASI HUKUK AÇISINDAN BİR DEĞERLENDİRME

Öz

Bu çalışma, Venezuela Devlet Başkanı Nicolás Maduro'nun Amerika Birleşik Devletleri tarafından alıkonulmasını uluslararası hukuk ışığında incelemektedir. Makale, söz konusu operasyonun; kuvvet kullanma yasağı, devlet egemenliği ve dokunulmazlık gibi sistemin kurucu normlarını ağır biçimde ihlal ettiğini savunmaktadır. Olayı jus ad bellum, teamül hukuku ve devletin sorumluluğu çerçevesinde analiz eden çalışma; operasyonun "kolluk faaliyeti" kılıfı altında meşrulaştırılamayacağını ve kuvvet kullanma yasağının hiçbir hukuki istisnasına uymadığını ortaya koymaktadır.

Çalışma, görevdeki bir liderin yabancı topraklara kaçırılmasını, toprak bütünlüğüne ve siyasi bağımsızlığa yönelik doğrudan bir saldırı teşkil ettiğini vurgulamaktadır. Ayrıca, teamül hukuku uyarınca devlet başkanlarının sahip olduğu mutlak kişisel dokunulmazlığın, suçun ağırlığına bakılmaksızın yabancı yargı yetkisini engellediğini hatırlatmaktadır. Bu bağlamda operasyonun, ABD'nin kendi geçmiş hukuki pozisyonları ve uluslararası emsallerle çeliştiğinin altı çizilmektedir. Sonuç olarak çalışma, güçlü devletlerin hukuk normlarını seçici bir şekilde araçsallaştırmasının, uluslararası hukuk düzeninin evrenselliğini ve uzun vadeli meşruiyetini tehdit eden tehlikeli bir emsal oluşturduğunu savunmaktadır.

Anahtar Kelimeler

• Devlet Başkanı Dokunulmazlığı • Maduro Vakası • Egemen Eşitlik • Kuvvet Kullanımı • Venezuela.

Extended Summary

This study comprehensively analyzes the capture and extradition of Venezuelan President Nicolás Maduro to the United States from an international law perspective, focusing on the principles of the prohibition of the use of force, state sovereignty, and the immunity of heads of state. The main thesis of the article is that this operation was more than just a routine law enforcement activity; it is a systemic event that directly undermines the fundamental norms upon which the

modern international legal order is built, and carries significant legal consequences. Evaluating the event within the framework of established doctrinal structures such as *jus ad bellum*, customary law, and the international responsibility of states, the study questions whether the extradition of a sitting head of state without their consent through a cross-border operation can be justified under existing legal exceptions, or whether it constitutes a radical violation of the principles of the global legal system.

The analysis begins with a reconstruction of the political and legal narrative surrounding the operation from a legal perspective. The United States administration justifies Maduro's capture by... The operation was framed as the final step in a years-long criminal investigation based on concrete allegations of drug trafficking and collaboration with international organized crime networks. In the US, this operation was presented as a technical judicial law enforcement measure based on local indictments and the universal principle that "no one is above the law." The Washington administration attempted to depoliticize the action by using rhetoric about accountability, the rule of law, and the prevention of transnational crime; portraying it as a routine judicial process rather than an intervention in another sovereign state. However, the article clearly demonstrates that such a discursive framework creates profound legal dilemmas and legitimacy crises in the face of established international norms governing coercive actions and the exercise of jurisdiction in foreign territories.

The next stage of the study examines the operation's compliance with Article 2(4) of the United Nations Charter, which prohibits the use of force, at a technical level. It is argued that the seizure of a sitting head of state in a foreign country without their consent constitutes a grave coercive action against both the territorial integrity and political independence of the target state. In light of the historical jurisprudence of the International Court of Justice (ICJ) and prevailing doctrinal interpretations, the article emphasizes that the legal character of an operation should be determined not by its political name, but by the objective nature of the action and its consequences. The absence of the consent of the relevant state, the lack of UN Security Council authorization, and the failure to meet the conditions for self-defense render any attempts to legitimize such an operation legally invalid. In this context, re-labeling a cross-border coercive action as "law enforcement activity" is insufficient to remove that action from the scope of the prohibition of the use of force.

Beyond the *jus ad bellum* dimension, the study focuses particularly on the *ratione personae* (personal immunity) enjoyed by sitting heads of state. It argues that this immunity is not a personal privilege, but an institutional guarantee designed to protect the equality of sovereign states and the minimum stability of international relations. The analysis, based on the ICJ's "Arrest Warrant"

decision and subsequent doctrinal developments, demonstrates that personal immunity is absolute during the term of office and cannot be subject to any exceptions based on the nature or gravity of the alleged crime in foreign local courts. Therefore, the serious criminal charges brought by the US authorities cannot legally override Maduro's immunity stemming from his presidential status. Furthermore, it is emphasized that attempts to circumvent immunity through unilateral non-recognition policies or local legal arrangements are incompatible with the protections provided by customary law.

The final section of the article assesses the far-reaching systemic implications of this case on the international legal order. The Maduro operation is presented as one of the most prominent examples of the tension between legal norms and "power politics" in contemporary international relations. The selective use of legal principles by powerful states in line with their strategic interests risks transforming international law from an impartial set of rules into a political instrument. The study warns that the normalization of unilateral extraterritorial enforcement actions against foreign leaders could encourage other states to engage in similar reciprocal actions, fundamentally undermining global diplomatic stability.

In conclusion, the article argues that the capture of Nicolás Maduro constitutes a critical test for the credibility and future validity of international law. While the pursuit of accountability for international crimes is a legitimate and necessary goal, it cannot be achieved through methods that weaken the system's pillars, such as sovereignty, immunity, and the prohibition of the use of force. The long-term legitimacy of the international legal order depends not on unilateral coercive actions, but on adherence to collective and institutional mechanisms.

INTRODUCTION

The modern international legal system is built upon fundamental pillars such as sovereignty, territorial integrity, and political independence. At the heart of this legal architecture lies Article 2(4) of the United Nations Charter, which unequivocally prohibits any "use of force" or "threat of force" in the international relations of states¹. The scope of this norm's protection is not limited to traditional territorial occupations or large-scale wars; it also creates a broad area of immunity that prevents coercive operations aimed at undermining a state's constitutional order, non-consensual interventions, and actions directly targeting political leaders². However, despite these clear prohibitions, recent years have

¹ UNITED NATIONS: Charter of the United Nations, San Francisco 1945, 2(4).

² GRAY, Christine, *International Law and the Use of Force*, 4th ed., Oxford 2018.

offered a critical perspective, particularly regarding the use of humanitarian or political rhetoric, such as “bringing democracy” or “establishing security,” by major powers as a cover for circumventing the rules of international law.

The event that brought this debate to a much more dramatic and concrete dimension was the arrest and forced deportation of Venezuelan President Nicolás Maduro and his wife to the United States on January 2, 2026, by a US operation. This process, formalized by the US President's announcement that Maduro had been captured and taken out of the country, brought with it profound legal debates. The presentation of the operation as a simple “law enforcement” and the attempt to legitimize it with the rhetoric of “the rule of law” through accusations such as drug trafficking marks a breaking point in international law³. The real legal dilemma here, beyond political considerations, is how a state's arrest and abduction of another state's sitting president against their will affects existing international rules (primarily sovereignty and immunity), and whether such an action can be defended on any legal grounds.

This study focuses on the unique and exceptional situation created by the arrest and transfer process of a sitting head of state without their consent. This action is not merely a cross-border police intervention; it is a multi-layered crisis that undermines many fundamental principles of international law, ranging from sovereign equality and the prohibition of interference to the prohibition of the use of force and the absolute personal immunity of the head of state. Indeed, the International Court of Justice, in its famous Arrest Warrant decision, clearly stated that high-ranking officials in office enjoy comprehensive protection against all coercive measures and judicial actions by foreign states⁴. Therefore, attempting to legitimize an operation of this nature under the heading of “law enforcement activity” is in structural conflict with the fundamental security and stability architecture of international law.

³ OLAY, Matthew: Trump Announces U.S. Military's Capture of Maduro, US Department of War, Jan. 3, 2026, <https://www.war.gov/News/News-Stories/Article/Article/4370431/trump-announces-us-militarys-capture-of-maduro/> (Erişim Tarihi: 10.01.2026); BBC NEWS TÜRKÇE: “ABD’den Venezuela’ya saldırı: ‘Maduro yakalanıp ülke dışına çıkarıldı’”, YouTube video, 3 January 2026.

⁴ Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo v. Belgium), Judgment, I.C.J. Reports 2002.

This study, centering on doctrinal international law methodology, meticulously analyzes the case in question within the framework of the UN Charter, the prohibition of intervention, jurisdiction, immunity rules, and state responsibility regimes. The case serves as a focused "laboratory sample" testing the validity of conflicting legal arguments, such as the element of consent, universal jurisdiction, and enforcement, in relation to established norms. While the factual basis of the research relies on data obtained from verifiable official and reputable sources, normative assessments are grounded in the well-established academic literature of international law. This approach aims to determine the limits of the practical application of legal rules by testing theoretical arguments through a concrete case.

This article centers on the fundamental question: "Can the extraterritorial capture of a sitting head of state be justified under international law?" To answer this question, a three-pronged methodology is employed: First, the operation's place within the scope of the prohibition of the use of force will be examined; second, the international accountability regime will be assessed in the context of sovereignty and the prohibition of intervention; finally, the personal immunity of the head of state and possible exceptions will be addressed. By blending this legal framework with strategic elements such as Venezuela's geopolitical position and the Monroe Doctrine, the study opens up a discussion on the tension between whether the action was a legal necessity or a political objective, and the limits of international law in the face of this crisis.

I. THE CAPTURE OF MADURO AND THE US LEGAL NARRATIVE

Giriş Hugo Chávez's rise to power in 1998 began with social reforms based on high oil revenues, but ultimately led to an oil-dependent and politicized economy. Corporate corruption, coupled with the 2014 oil price collapse, evolved into hyperinflation and humanitarian disaster under Maduro. The controversial 2018 elections plunged the country into a global legitimacy crisis between the Western-backed opposition led by Guaidó and the Russian and Chinese-backed Maduro administration. Despite US sanctions, Maduro managed to maintain his power through pressure and external support. Even though the opposition returned to elections in 2024 as Guaidó's support eroded, Maduro's third term,

beginning with his declaration of victory, has trapped the country in a chronic political deadlock. This process summarizes a deep polarization that has made Venezuela a focal point of economic ruin and regional instability⁵.

US-Venezuela relations, which deteriorated with Chávez's rise to power in 1999, entered a crisis period deepened by sanctions after 2005. With the second Trump administration, this process evolved from negotiations to a strategy focused directly on "regime change." By 2025, with diplomatic avenues blocked, the Monroe Doctrine was revived through military pressure and the "Trump Corollary." This tension culminated in "Operation Absolute Resolve" on January 2 2026, when President Maduro and his wife were arrested on terrorism and narcotics charges and extradited to the US. This event confirmed that decades of diplomatic pressure had given way to a period of de facto intervention⁶.

From the US perspective, this operation was conceived not as a sudden political decision, but as the culmination of a years-long legal process. US officials emphasized that indictments against Maduro and high-ranking Venezuelan officials were made public as early as 2020, and rewards were offered for information leading to their capture⁷. In this context, the intervention in January 2026 was described not as a policy change, but as the "execution phase" of the existing legal framework; the timing of the operation was explained not as a strategic shift, but as the exploitation of a rare operational opportunity.

The U.S. described the operation as a "law enforcement action" rather than "war" or "intervention". Using domestic legal terms such as "suspect," "indictment," and "proceedings," the action was presented not as a violation of sovereignty, but as a judicial enforcement process against

⁵ CENTER FOR PREVENTIVE ACTION: U.S. Confrontation With Venezuela, Council on Foreign Relations, January 2026, <https://www.cfr.org/global-conflict-tracker/conflict/instability-venezuela> (Erişim Tarihi: 15.01.2026).

⁶ JÜTTEN, Marc/DELIVORIAS, Angelos: The US Military Intervention in Venezuela and the Regional and Geopolitical Context, European Parliamentary Research Service, Doc. No. PE 782.616, January 2026.

⁷ UNITED STATES DEPARTMENT OF STATE: Rewards for Justice Program: Venezuela, Washington DC 2020.

a guilty individual⁸. Thus, the U.S. assumed the role of an authority enforcing criminal law rather than an interventionist power.

The cornerstone of the legal framework constructed by the US is the widespread drug trafficking accusations against Maduro. US prosecutors have alleged that Maduro is a central figure coordinating cocaine shipments directly targeting the US, in collaboration with non-state armed groups and organized crime networks⁹. These allegations, presented as direct threats to US national security and public health, have sought to legitimize the harsh enforcement methods employed. By emphasizing the transnational nature of the crime, the US has attempted to legitimize the use of "extraterritorial jurisdiction" against transnational criminal activity as a necessary and normal response.

The US administration has reinforced its legal accusations with a discourse based on democracy and the rule of law. Official statements portray the operation as a universal pursuit of accountability and justice, not unique to Venezuela, based on the principle that no one is above the law. Furthermore, it employs indirect human rights rhetoric by linking drug trafficking to corruption, violence, and societal harm. US officials argue that the judicial process will ultimately protect civilians, thus linking the operation to humanitarian gains without directly resorting to controversial doctrines such as "humanitarian intervention." Consequently, this rhetorical strategy has avoided making direct political or moral judgments about Venezuela's form of government, instead building its legitimacy on the objectives of "law enforcement".

In summary, the legal framework constructed by the US regarding the arrest of Nicolás Maduro rests on four interconnected claims: First, the operation is a consequence of long-standing criminal charges; second, the action is described as a technical "law enforcement activity," not a "use of force"; third, the transnational nature of the crimes is presented as a basis for authorization for cross-border intervention; and finally, the operation is argued to be compatible with universal values such as accountability,

⁸ **HARB**, Ali: "Abduction of Venezuela's Maduro Illegal Despite US Charges, Experts Say", Al Jazeera, 8 January 2026, <https://www.aljazeera.com/news/2026/1/8/abduction-of-venezuelas-maduro-illegal-despite-us-charges-experts-say> (Erişim Tarihi: 10.01.2026).

⁹ U.S. DISTRICT COURT, SOUTHERN DISTRICT OF NEW YORK: United States v. Nicolás Maduro Moros, Superseding Indictment, S4 11 Cr. 205 (AKH).

democracy, and the rule of law. While the extent to which these claims are valid in light of international legal norms requires a separate legal analysis, the current narrative functions as a strategic and meticulously crafted legitimization framework aimed at presenting this arrest not as a crude power politics maneuver, but as an ordinary act of justice.

II. EXTRATERRITORIAL ARREST OF HEAD OF STATE AND SOVEREIGNTY

The arrest of a sitting head of state through an operation outside the country triggers profound debates that shake the foundations of modern international law, including sovereignty, territorial integrity, the prohibition of interference, and the prohibition of the use of force. This action differs fundamentally from a routine cross-border law enforcement operation or extradition dispute because the forceful detention of a head of state directly targets that state's constitutional authority and international legal personality. In legal terms, such an intervention is not merely an act against an individual, but a coercive intrusion into the exclusive sovereign territory of another state.

This section examines whether the detention of Nicolás Maduro is compatible with the legal framework governing respect for sovereignty and the prohibition of the use of force under international law. The analysis proceeds from the assumption that sovereignty is not a discretionary political concept but a binding principle enshrined in both treaty law and customary law. At the heart of this framework is Article 2(4) of the UN Charter, which, through a broad interpretation, has been consistently applied to include coercive actions under total military occupation.

Examining the operation from the perspective of the doctrine of the use of force and state sovereignty, this section aims to determine whether the US characterization of the action as a “law enforcement operation” alters its legal characterization under international law. It is argued that the form of the operation cannot be separated from its effects on the target state, and that sovereignty remains the fundamental legal criterion in evaluating such an action.

A. Use of Force, Sovereignty, the Principle of Non-Intervention

1. State Sovereignty and Political Independence

State sovereignty, a cornerstone of the modern international legal order, is a concept rooted in the Westphalian system and concretized through centuries of state practices. Sovereignty refers to a state's exclusive authority over its own territory and internal affairs. From a legal perspective, sovereignty constitutes a presumption of inviolability against external interference, while also forming the normative basis for the principles of territorial integrity and political independence¹⁰. The United Nations Charter, in Article 2(1), reaffirmed this founding concept by recognizing the sovereign equality of all members¹¹.

Sovereignty is not merely a political ideal, but a concrete legal constraint limiting the conduct of states. As the International Court of Justice (ICJ) has consistently emphasized, a state cannot exercise jurisdiction over the territory of another state without consent, invitation, or a valid justification recognized under international law¹². This prohibition applies regardless of the stated aims, such as combating crime, counter-terrorism, or humanitarian concerns. The absence of consent or a recognized exception renders external interference *prima facie* (at first glance) unlawful.

In the case of Venezuela, the forceful removal of a sitting head of state in a foreign country represents one of the most serious infringements on sovereignty under international law. This act not only violates territorial integrity but also targets the institutional and symbolic center of the state. The head of state embodies the constitutional continuity and political independence of the state. Removing this figure through external coercion undermines the state's capacity to function as an autonomous political entity and constitutes a direct interference in its internal governance.

Territorial integrity and political independence are two inseparable dimensions of sovereignty. Article 2(4) of the UN Charter protects states not only against the fragmentation of their territories but also against

¹⁰ SHAW, Malcolm N., *International Law*, 8th ed., Cambridge 2017, s. 487–489.

¹¹ UNITED NATIONS: *Charter of the United Nations*, San Francisco 1945.

¹² *Corfu Channel (United Kingdom v. Albania)*, Judgment, I.C.J. Reports 1949, 4, s. 35.

actions that undermine their political independence¹³. The International Court of Justice (ICJ) has interpreted political independence to encompass a state's right to regulate its political life without external pressure and coercion¹⁴. From this perspective, any operation aimed at neutralizing or removing a sitting president (whether described as temporary or targeted) inevitably constitutes an interference with the most fundamental elements of sovereignty.

Furthermore, interventions aimed at removing a head of state constitute one of the most blatant violations of the prohibition of intervention, as their political consequences are inevitable and inherently destructive. Even if the intervening state claims its objectives are "limited," the forceful detention of a head of state fundamentally disrupts internal power dynamics, and this action cannot be isolated from its political effects. The violation of sovereignty here is not merely a physical transgression; it is a direct paralysis of the state's political independence.

Therefore, the US actions against Venezuela should be evaluated on this legal basis. Even if a government's legitimacy is questionable or it faces intense international criticism, this does not automatically mean that its sovereignty has ceased to exist. International law does not permit unilateral enforcement actions based solely on political non-recognition¹⁵. Thus, the framework of sovereignty sets a very high threshold that must be overcome for any external intervention to be considered lawful¹⁶.

2. The Prohibition of the Use of Force

In accordance with Article 2(4) of the UN Charter, "All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United

¹³ UNITED NATIONS: Charter of the United Nations, San Francisco 1945, art. 2(4).

¹⁴ Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States), Judgment, I.C.J. Reports 1986, para. 205.

¹⁵ CRAWFORD, James, *Brownlie's Principles of Public International Law*, 9th ed., Oxford 2019.

¹⁶ AHMED, Mustak: "The Politics of Kidnapping: U.S. Intervention and the Detention of Venezuela's President Nicolás Maduro—Implications for International Law and State Sovereignty", SSRN Working Paper, University of Rajshahi, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=6036036 (Erişim Tarihi: 20.01.2026).

Nations". This prohibition is widely accepted as the *jus cogens* norm; that is, no deviation from this norm is allowed¹⁷. The prohibition on the use of force under the UN Charter is interpreted broadly in doctrine and international practice. This prohibition has been extended to include not only total military operations or occupations, but also limited actions and indirect uses of force aimed at a specific objective. Therefore, any coercive action without the consent of the state, regardless of how limited the scale of an intervention or how local its aim, is considered a violation of this fundamental prohibition.

The established case law of the International Court of Justice confirms that the scope or duration of a military operation is not the sole criterion for determining its legal nature. As highlighted in the case of *Nicaragua v. United States*, paramilitary activities, support for armed groups, and coercive interventions in the sovereign territory of a foreign country can be considered unlawful violations of the 'prohibition of the use of force,' even in the absence of a state of total war¹⁸. In defining the scope of the non-intervention principle in the *Nicaragua* case, the International Court of Justice emphasized that for an intervention to be considered prohibited, it must involve an element of "coercion." According to the Court, coercion encompasses any action that impairs a state's ability to freely decide on matters within its sovereign domain (e.g., its right to choose its political system or leader). In the *Maduro* case, the arrest of a sitting head of state through an involuntary and coercive operation is the most direct example of "coercion" that can be inflicted on the target state's internal political will. According to the Court's jurisprudence, regardless of the political or judicial aims pursued by the intervening state, neutralizing a central figure in a state's constitutional order clearly violates the right to political independence, which constitutes the essence of the prohibition of intervention.

While states increasingly claim extraterritorial jurisdiction over international crimes such as terrorism and drug trafficking, international law does not permit law enforcement actions in foreign territories without

¹⁷ BROWNIE, Ian, *Principles of Public International Law*, 7th ed., Oxford 2008.

¹⁸ *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States)*, Judgment, I.C.J. Reports 1986, para. 228.

the consent of the relevant state¹⁹. The Eichmann case, often cited to justify such actions, remains controversial and has not become a general rule allowing cross-border abductions²⁰. Indeed, in the Eichmann case, the fact that Israel prosecuted the accused for crimes against humanity did not erase the violation of Argentine sovereignty; in fact, the UN Security Council explicitly condemned the abduction²¹. This stance points to a vital distinction in international law: pursuing criminal accountability does not retroactively legitimize the illegal cross-border interventions carried out in the process. The initiation of a trial does not negate the inherent illegality of the arrest.

The Maduro example underscores that the international order should operate on the principle of 'equality of sovereignty' rather than 'power politics'. Interventions against state sovereignty can only be considered lawful in exceptional circumstances, such as with the consent of the state concerned, the right of self-defense, or authorization from the UN Security Council. Any 'surgical operation' or limited intervention lacking this basis of legitimacy constitutes an unlawful use of force under international law. Furthermore, self-defense under Article 51 of the UN Charter is only possible in the presence of an "armed attack" attributable to a state²².

Many academics and legal experts specializing in international law agree that 'Operation Resolve' clearly violates Article 2(4) of the UN Charter, which prohibits the use of force. From Just Security writers to Professor Marc Weller of Chatham House, many argue that there is no legal basis for the forced transfer of Maduro to the US or for military attacks²³. In particular, former UN War Crimes Tribunal President Geoffrey Robertson KC, referring to the Nuremberg principles, described this action as the 'act of aggression' and stated that the US directly violated

¹⁹ RYNGAERT, Cedric, *Jurisdiction in International Law*, 2nd ed., Oxford 2015.

²⁰ BASSIOUNI, M. Cherif, *Introduction to International Criminal Law*, 2nd ed., Leiden 2011.

²¹ United Nations Security Council Resolution 138, UNSC Res. 138 (1960).

²² United Nations, *Charter of the United Nations* (1945), art. 51.

²³ CURTIS, John: *The US Capture of Nicolás Maduro*, House of Commons Library Briefing Paper CBP-10452, January 2026, <https://commonslibrary.parliament.uk/research-briefings/cbp-10452/> (Erişim Tarihi: 18.01.2026).

the UN Charter. Authorities such as Professor Elvira Domínguez-Redondo and Professor Susan Breau also support this view, emphasizing that neither a UN Security Council resolution nor the element of self-defense, which are necessary for the intervention to be considered lawful, were present in the event²⁴. In conclusion, from a legal perspective, this operation is characterized as an unlawful use of force against the sovereignty of another state.

Furthermore, although the UN Security Council theoretically has the power to impose sanctions, the US veto power effectively makes this process impossible. According to legal scholars Robertson and Domínguez-Redondo, this privilege renders the Council dysfunctional and allows powerful states to gain immunity from violations of international law. This represents a deadlock in which the global justice mechanism is paralyzed by its own permanent members²⁵.

In conclusion, the US characterization of the operation as a mere "criminal apprehension" activity is a legally weak argument in the face of the prohibition on the use of force stipulated in Article 2(4) of the UN Charter. In international law, the use of force is not limited to large-scale warfare but also encompasses any low-intensity, cross-border operation carried out without the consent of a foreign state. Because the law enforcement and judicial powers of states are strictly limited to their own territory, any coercive action carried out within the sovereign territory of another state inherently constitutes a "use of force." Especially when the targeted figure is a head of state, the alleged judicial aim of the operation is overshadowed by the legal consequences of the direct blow to the country's political independence and constitutional order. For characterizing forced cross-border apprehension activities as 'judicial law enforcement operations' is insufficient to exempt these actions from the oversight of international law. International law does not permit the unilateral exercise of enforcement jurisdiction in foreign territory without consent or a valid extradition mechanism; Because, as a rule, a state's jurisdiction ends at its borders.

²⁴ MCKELVIE, Geraldine: "Is There Any Legal Justification for the US Attack on Venezuela?", The Guardian, 3 January 2026, <https://www.theguardian.com/world/2026/jan/03/is-there-any-legal-justification-for-the-us-attack-on-venezuela-trump-maduro> (Erişim Tarihi:20.01.2026).

²⁵ *ibid.*

B. Capturing a Sitting Head of State Under International Law

In the previous section, we established that the capture of Nicolás Maduro was a violation of Article 2(4) of the UN Charter and constituted unlawful use of force. This section examines an additional violation that goes beyond the unlawful use of force: whether this action also constitutes a serious violation of the personal immunity (*immunity ratione personae*) and other immunities granted to sitting heads of state under international law. The text analyzes the link between these two cumulative legal violations and whether presidential protection has been breached.

In international law, the special legal status enjoyed by sitting heads of state stems not from a personal privilege, but from the functional necessity of protecting the sovereign equality and diplomatic stability of states. As the highest representatives of their state, these leaders represent the legal personality of the state itself; therefore, interventions against them are considered not merely individual actions, but direct actions targeting the state concerned²⁶. The International Court of Justice (ICJ) has consistently emphasized that coercive measures applied against high-level state officials are, in legal terms, equivalent to measures taken against the state they represent²⁷. This approach explains why the forceful detention of a sitting head of state carries extraordinary weight in the international legal order and constitutes a fundamental attack on state sovereignty.

International law and judicial practice maintain the immunity granted to sitting heads of state to protect the stability of the system. Although the principle of individual criminal responsibility has been strengthened, under "*immunity ratione personae*," heads of state are absolutely exempt from foreign jurisdiction and all coercive measures during their term of office²⁸. This protection, encompassing both official and private actions, aims to prevent external interference and ensure the

²⁶ SHAW, Malcolm N., *International Law*, 8th ed., Cambridge 2017, s. 546–548.

²⁷ Arrest Warrant of 11 April 2000 (*Democratic Republic of the Congo v. Belgium*), Judgment, I.C.J. Reports 2002, para. 51.

²⁸ FOX, Hazel/WEBB, Philippa, *The Law of State Immunity*, 3rd ed., Oxford 2015, s. 455–458.

continuity of international relations²⁹. Ultimately, rather than completely disregarding justice, the law establishes a functional balance between institutional functioning and criminal justice by postponing accountability until after the term of office.

In international law, the personal immunity (*ratione personae*) enjoyed by high-ranking state officials in office is not a state of absolute irresponsibility, but merely a procedural impediment limited to their term of office. The International Court of Justice (ICJ), in the Arrest Warrant case, clarified the critical difference between 'immunity' and 'impunity,' ruling that diplomatic protection does not absolve a person of material responsibility for alleged crimes³⁰. According to the Court, this shield of immunity can be breached or rendered ineffective in four situations:

- The individual being tried in their own national courts,
- The represented state waiving immunity,
- Being subject to trial by foreign courts for past 'unofficial' actions after the end of their term,
- Proceedings before competent international judicial bodies such as the International Criminal Court (ICC)³¹.

This immunity is based not only on international customary law but has also been explicitly confirmed in the 2013 report of the International Commission on Criminal Law³² and in the Special Rapporteur's "Second Report on Criminal Immunities"³³.

Under this legal regime, an involuntary detention operation against a sitting head of state like Maduro is legally invalid, regardless of the gravity of the allegations. This is because immunity *ratione personae* provides absolute protection against unilateral judicial or executive

²⁹ CRAWFORD, James, *Brownlie's Principles of Public International Law*, 9th ed., Oxford 2019, s. 489.

³⁰ Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo v. Belgium), Judgment, I.C.J. Reports 2002.

³¹ *Ibid.*

³² INTERNATIONAL LAW COMMISSION: Report of the International Law Commission on the Work of Its Sixty-Fifth Session, UN Doc. A/68/10, 2013.

³³ INTERNATIONAL LAW COMMISSION: Second Report on Immunity of State Officials from Foreign Criminal Jurisdiction, UN Doc. A/CN.4/661, 2013.

interventions by another state during the term of office; a violation of this protection constitutes a radical breach of the principle of sovereign equality of states.

As highlighted by Akande and Shah (2011), the personal immunity (immunity *ratione personae*) enjoyed by a sitting head of state provides absolute protection throughout their term of office; this protection even covers allegations of serious international crimes, unless there is intervention by a competent international court³⁴. Although the Rome Statute makes an exception to the immunity regime only within the jurisdiction of the International Criminal Court (ICC) and with certain procedural limits, this does not constitute a basis for unilateral actions by third states. Unilateral interventions by a foreign state against a head of state using its own judicial mechanisms cannot legally invalidate this absolute immunity under international law³⁵.

The SDNY's accusations of narcoterrorism and drug trafficking against Nicolás Maduro do not negate the personal immunity (immunity *ratione personae*) enjoyed by a sitting head of state³⁶. This immunity, specifically based on status, is not subject to any exceptions, regardless of the gravity of the crime, as confirmed in UN and ILC reports³⁷. Arguments for crime-based exceptions can only be made for limited international crimes and within the context of functional immunity (*ratione materiae*). The US's assertion of an exception in this case would be legally

³⁴ **AKANDE**, Dapo/**SHAH**, Sangeeta: "Immunities of State Officials, International Crimes, and Foreign Domestic Courts", *European Journal of International Law*, C. 21, S. 4, 2011, s. 815–852.

³⁵ **AHMED**, Mustak: "The Politics of Kidnapping: U.S. Intervention and the Detention of Venezuela's President Nicolás Maduro Implications for International Law and State Sovereignty", SSRN Working Paper, University of Rajshahi, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=6036036 (Erişim Tarihi: 20.01.2026).

³⁶ **AGENJO**, Adrián: "Which Immunity for Nicolás Maduro? Personal Immunity, Inviolability, and the Implausible Exceptions the US Might Claim", *EJIL: Talk!*, 22 January 2026, <https://www.ejiltalk.org/which-immunity-for-nicolas-maduro-personal-immunity-inviolability-and-the-implausible-exceptions-the-us-might-claim/> (Erişim Tarihi:12.01.2026).

³⁷ United Nations Secretariat, Memorandum on the Immunity of State Officials, 2008, paras. 147–148.

inconsistent, as it contradicts its established doctrine rejecting crime-based exceptions even for the most serious offenses³⁸.

Since 2019, the US has used its policy of not recognizing Maduro as the legitimate leader to circumvent judicial immunity through the executive branch's "exclusive power of recognition" within domestic law; however, this approach is vulnerable to the principles of international law. In international customary law, the status of head of state and the associated personal immunity (*ratione personae*) are based not on a subjective recognition decision by a single state, but on the individual's actual authority to represent and bind their state internationally³⁹. Therefore, since the status of a leader who holds effective control, regardless of how they came to power, continues to be protected by international law, the US's argument of "non-recognition" based on domestic law is legally insufficient to overcome this obstacle of absolute immunity. Furthermore, the fact that a government is not recognized does not create a legal basis for a foreign state to unilaterally acquire executive power in that region. The lack of recognition essentially only affects representation and consent processes; however, for this consent to gain legal validity, it must be given by a legally attributable and authorized authority.

The forceful detention of a head of state in office constitutes an "internationally wrongful act", giving rise to state responsibility, as it is attributable to the state committing the act and violates international obligations⁴⁰. Such actions, carried out through the exercise of extraterritorial authority, violate not only personal inviolability but also state sovereignty and the prohibition of the use of force. International custom confirms that this does not negate the illegality of the act, no matter how strong the political or moral justifications may be. The UN

³⁸ **AGENJO**, Adrián: "Which Immunity for Nicolás Maduro? Personal Immunity, Inviolability, and the Implausible Exceptions the US Might Claim", *EJIL: Talk!*, 22 January 2026, <https://www.ejiltalk.org/which-immunity-for-nicolas-maduro-personal-immunity-inviolability-and-the-implausible-exceptions-the-us-might-claim/> (Erişim Tarihi:12.01.2026).

³⁹ **KEITNER**, Chimène I.: "Head of State Immunity and Maduro on Trial", *Just Security*, 6 January 2026, <https://www.justsecurity.org/128073/head-of-state-immunity-maduro-trial/> (Erişim Tarihi: 23.01.2026).

⁴⁰ International Law Commission, *Articles on Responsibility of States for Internationally Wrongful Acts* (2001), art. 2.

Security Council's stance in the Eichmann case, in particular, demonstrates that the illegality lies in the method employed rather than the aim pursued⁴¹. The fact that the victim is a head of state further aggravates the violation; this constitutes a direct interference with the constitutional structure of the target state and undermines the stability of international relations.

From an international law perspective, the forceful arrest of Nicolás Maduro would constitute one of the most egregious violations a state can commit outside of armed conflict. Such an action would not only violate personal and functional immunity but also undermine institutional accountability mechanisms, substituting the rule of law for unilateral brute force. Accusations of narcoterrorism leveled by the US, disputes over political recognition, or operational justifications by law enforcement cannot suspend the protective shield Maduro enjoys. International law draws a clear red line here: the pursuit of justice must be carried out through legitimate, institutional, and collective mechanisms, not through unilateral coercion. Consequently, Maduro's detention while in office would go beyond a simple "illegal arrest"; it would represent a systemic attack on sovereignty, the equality of states, and the legal architecture of the global order. Even if the operation is characterized as a "law enforcement activity," the legal distinction between rule-making and enforcement authority must be rigorously maintained. While universal jurisdiction grants the right to try, it does not permit coercive enforcement in foreign territory without consent or international authorization. Allegations of transnational crimes alone cannot override the prohibition of intervention in the UN Charter; consent is only valid with the explicit approval of the competent authorities at the time of the operation. The Eichmann case is not a general jurisdictional precedent, but a warning about a violation of sovereignty. Ultimately, all arguments confirm the necessity of a rule-based assessment based on the UN Charter and established limits of jurisdiction. Furthermore, the Eichmann case, rather than constituting a general legal right granting states the right to violate sovereignty, is an exceptional and still legally debated example reflecting the chronic

⁴¹ UNITED NATIONS SECURITY COUNCIL: Resolution 138, UNSC Res. 138 (1960).

tension between "effectiveness in the administration of justice" and "national sovereignty".

III. POWER POLITICS OVER LAW? VENEZUELA AS A DANGEROUS PRECEDENT FOR THE INTERNATIONAL LEGAL ORDER

The forceful arrest of Nicolás Maduro represents more than an isolated violation of Article 2(4) of the UN Charter and the norms of immunity; it represents a structural break in the principle of "sovereign equality", which has been the foundation of the international order since Westphalia. This unilateral judicial move by the US under the pretext of narcoterrorism embodies "the law of power" rather than the rule of law, and the instrumentalization of law as a weapon of foreign policy. This case illustrates how international law is selectively applied and strategically interpreted when hegemonic interests override legal limitations. These coercive measures carried out through national courts risk normalizing practices that erode the stability and coherence of the global legal order; they set an irreversible and dangerous precedent for the system.

The principle of "sovereign equality," which forms the backbone of international law and is embodied in Article 2(1) of the UN Charter⁴², and the rule *par in parem non habet imperium* (there is no superiority among equals), absolutely prohibit one state from prosecuting a representative of another state. In this context, any judicial action against Nicolás Maduro, who is identified with the state's legal personality, constitutes a direct violation of Venezuela's sovereignty. The US Department of Justice's characterization of Maduro as a "cartel leader" is merely a strategic statement developed to circumvent this legal shield. As clearly stated in the International Court of Justice's Arrest Warrant (2002) decision, state officials in office enjoy absolute immunity even from accusations of war crimes⁴³. The US's disregard for established jurisprudence and its imposition of its own RICO laws (extraterritorial jurisdiction) as if they were a universal norm, undermines the hierarchy of international law and

⁴² UNITED NATIONS: Charter of the United Nations, San Francisco 1945, 2(1).

⁴³ Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo v. Belgium), Judgment, I.C.J. Reports 2002, p. 3, paras. 58-61.

threatens to transform the legal order into a power-centric interpretation of international law where "might makes right".

The Maduro case sets a precedent because the US uses the institution of "recognition" as a legal weapon to circumvent immunity. Although US courts disregard Maduro's status based on a political decision by the executive branch, in international law the presidency is "declaratory"; that is, legitimacy depends not on recognition but on "effective control" and "de facto authority" in the country. According to this rule, confirmed by the Tinoco Arbitration (1923) jurisprudence, reducing a leader who holds real power to the status of a "simple citizen" is a legal construct⁴⁴. The US's recognition of actors without de facto representation widens the gap between de jure recognition and de facto reality, leading to diplomatic chaos in the international system.

The forced abduction and trial of Maduro in the US would seriously damage international criminal justice, a system based on collective and treaty law. While Article 27 of the Rome Statute lifts immunity in some cases, this rule applies only to jurisdiction of an "international" nature⁴⁵. The US, which is not a party to the ICC and seeks absolute immunity for its own citizens, is demonstrating a clear example of "double standards" by attempting to unilaterally prosecute a foreign leader. The place to resolve criminal charges is The Hague, not New York. The US's unilateral intervention bypasses the architecture of international law, reducing justice to selective accountability.

Finally, the forced detention of Maduro has the potential to create a dangerous boomerang effect. The US unilaterally revoking the immunity of a head of state on the grounds of narcoterrorism will pave the way for other global powers, such as Russia or China, to declare leaders they deem adversaries as "terrorists" under their own domestic laws and arrest them, thus eliminating the legal basis for Washington to object to these actions. Indeed, the spokesperson for UN Secretary-General Antonio Guterres has described these developments in Venezuela as a "dangerous precedent," emphasizing the vital importance of full respect for international law, including the UN Charter, by all parties. In conclusion,

⁴⁴ Arbitration Between Great Britain and Costa Rica (Tinoco Case), 1 R.I.A.A. 369 (1923).

⁴⁵ ROME STATUTE OF THE INTERNATIONAL CRIMINAL COURT, 17 July 1998, 2187 U.N.T.S. 90.

this move is not merely an isolated judicial process, but a systemic threat that undermines global diplomatic security and the rule of sovereignty.

CONCLUSION

As analyzed throughout this study, the capture and trial of Nicolás Maduro by the United States in an extraterritorial operation carries implications far beyond a mere technical criminal case. This case represents a systemic breaking point that tests the resilience of the fundamental pillars upon which the modern international legal order is built: sovereign equality, the prohibition of the use of force, state immunity, and the prohibition of interference in internal affairs. The findings demonstrate that the transformation of law from an instrument of justice into a weapon of foreign policy by hegemonic powers will inflict irreparable damage on the global order.

When assessed within the framework of *jus ad bellum*, the forceful detention of a head of state in foreign territory is a clear violation of Article 2(4) of the UN Charter. Such an operation constitutes a direct use of coercive force against both the territorial integrity and political independence of the state concerned. The absence of the consent of the state in which the operation was carried out, the lack of an "armed attack" that would give rise to a right of self-defense, and the failure of the action to meet the criteria of necessity and proportionality confirm this illegality. Re-classifying the operation as a "law enforcement activity" does not change the legal nature of the action; because international law evaluates state conduct not through local definitions, but through the essence of the action and the concrete consequences it produces.

Beyond the dimension of unlawful use of force, the personal immunity enjoyed by heads of state is not an individual privilege but a structural necessity ensuring the stability and sustainability of international relations. The US allegations of narcoterrorism against Maduro, regardless of the gravity of the alleged crime, cannot legally invalidate this absolute protective shield provided by customary law. As the International Court of Justice ruled in the Arrest Warrant (2002) case, attempting to prosecute a sitting state representative by foreign courts constitutes an attack not only on the individual but also directly on the sovereignty of the state he represents. The US courts' attempt to use domestic legal instruments such as RICO as if they were universal jurisdiction is a unilateral imposition that clearly violates the hierarchical

structure of international law and the principle of sovereign equality of states.

In short, the Nicolás Maduro case represents a historical crossroads regarding whether international law is a genuine set of norms or a temporary facade covering hegemonic interests. While the ideals of justice and accountability are common denominators for the global community, sacrificing fundamental pillars such as sovereignty and immunity in pursuit of these goals is unacceptable. Unilateral coercive measures and the use of law as a weapon of war, while yielding short-term political successes, undermine the foundations of the rules-based system meticulously built since the Westphalian order in the long run. The future stability of the international community depends not on submission to the law of power, but on adherence to the rule of law. Genuine global justice can only be realized on collective and legitimate platforms based on the principle of sovereign equality of states, not in the transnational interventions of local courts.

BIBLIOGRAPHY

- AGENJO**, Adrián: “Which Immunity for Nicolás Maduro? Personal Immunity, Inviolability, and the Implausible Exceptions the US Might Claim”, EJIL: Talk!, 22 January 2026, <https://www.ejiltalk.org/which-immunity-for-nicolas-maduro-personal-immunity-inviolability-and-the-implausible-exceptions-the-us-might-claim/> (Erişim Tarihi: 10.01.2026).
- AHMED**, Mustak: “The Politics of Kidnapping: U.S. Intervention and the Detention of Venezuela’s President Nicolás Maduro—Implications for International Law and State Sovereignty”, SSRN Working Paper, University of Rajshahi, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=6036036 (Erişim Tarihi: 20.01.2026).
- AKANDE**, Dapo/**SHAH**, Sangeeta: “Immunities of State Officials, International Crimes, and Foreign Domestic Courts”, *European Journal of International Law*, C. 21, S. 4, 2011, s. 815–852.
- Arbitration Between Great Britain and Costa Rica (Tinoco Case)*, 1 R.I.A.A. 369 (1923).
- Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo v. Belgium)*, Judgment, I.C.J. Reports 2002.
- BASSIOUNI**, M. Cherif: *Introduction to International Criminal Law*, 2nd ed., Leiden 2011.
- BBC NEWS TÜRKÇE: “ABD’den Venezuela’ya saldırı: ‘Maduro yakalanıp ülke dışına çıkarıldı’”, YouTube video, 3 January 2026.
- BROWNIE**, Ian: *Principles of Public International Law*, 7th ed., Oxford 2008.
- CENTER FOR PREVENTIVE ACTION: *U.S. Confrontation With Venezuela*, Council on Foreign Relations, January 2026, <https://www.cfr.org/global-conflict-tracker/conflict/instability-venezuela> (Erişim Tarihi: 18.01.2026).
- Corfu Channel (United Kingdom v. Albania)*, Judgment, I.C.J. Reports 1949.

CRAWFORD, James: *Brownlie's Principles of Public International Law*, 9th ed., Oxford 2019.

CURTIS, John: *The US Capture of Nicolás Maduro*, House of Commons Library Briefing Paper CBP-10452, January 2026, <https://commonslibrary.parliament.uk/research-briefings/cbp-10452/> (Erişim Tarihi: 15.01.2026).

FOX, Hazel/**WEBB**, Philippa: *The Law of State Immunity*, 3rd ed., Oxford 2015.

GRAY, Christine: *International Law and the Use of Force*, 4th ed., Oxford 2018.

HARB, Ali: "Abduction of Venezuela's Maduro Illegal Despite US Charges, Experts Say", *Al Jazeera*, 8 January 2026, <https://www.aljazeera.com/news/2026/1/8/abduction-of-venezuelas-maduro-illegal-despite-us-charges-experts-say> (Erişim Tarihi: 20.01.2026).

INTERNATIONAL LAW COMMISSION: *Articles on Responsibility of States for Internationally Wrongful Acts*, 2001.

INTERNATIONAL LAW COMMISSION: *Report of the International Law Commission on the Work of Its Sixty-Fifth Session*, UN Doc. A/68/10, 2013.

INTERNATIONAL LAW COMMISSION: *Second Report on Immunity of State Officials from Foreign Criminal Jurisdiction*, UN Doc. A/CN.4/661, 2013.

KEITNER, Chimène I.: "Head of State Immunity and Maduro on Trial", *Just Security*, 6 January 2026, <https://www.justsecurity.org/128073/head-of-state-immunity-maduro-trial/> (Erişim Tarihi: 18.01.2026).

MCKELVIE, Geraldine: "Is There Any Legal Justification for the US Attack on Venezuela?", *The Guardian*, 3 January 2026, <https://www.theguardian.com/world/2026/jan/03/is-there-any-legal-justification-for-the-us-attack-on-venezuela-trump-maduro> (Erişim Tarihi: 20.01.2026).

Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States), Judgment, I.C.J. Reports 1986.

OLAY, Matthew: Trump Announces U.S. Military's Capture of Maduro, US Department of War, Jan. 3, 2026, <https://www.war.gov/News/News-Stories/Article/Article/4370431/trump-announces-us-militarys-capture-of-maduro/> (Erişim Tarihi: 10.01.2026).

ROME STATUTE OF THE INTERNATIONAL CRIMINAL COURT, 17 July 1998, 2187 U.N.T.S. 90.

RYNGAERT, Cedric: Jurisdiction in International Law, 2nd ed., Oxford 2015.

SHAW, Malcolm N.: International Law, 8th ed., Cambridge 2017.

UNITED NATIONS: Charter of the United Nations, San Francisco 1945.

UNITED NATIONS SECURITY COUNCIL: Resolution 138, UNSC Res. 138 (1960).

UNITED NATIONS SECRETARIAT: Memorandum on the Immunity of State Officials, 2008.

UNITED STATES DEPARTMENT OF STATE: Rewards for Justice Program: Venezuela, Washington DC 2020.

U.S. DISTRICT COURT, SOUTHERN DISTRICT OF NEW YORK: United States v. Nicolás Maduro Moros, Superseding Indictment, S4 11 Cr. 205 (AKH).