

SOVEREIGNTY UNDER SIEGE:

International Law, the Use of Force, and the Caracas Operation of 2026

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ABSTRACT

On January 3, 2026, United States special operations forces conducted Operation Absolute Resolve, seizing Venezuelan President Nicolás Maduro from Fort Tiuna in Caracas and transporting him to New York to face narco-terrorism charges. This paper examines the profound implications of this operation for international law, state sovereignty, and the normative foundations of the post-1945 international order. Drawing upon the UN Charter's prohibition on the use of force (Article 2(4)), the doctrine of head-of-state immunity, and the precedent established by the 1989 capture of Manuel Noriega, this analysis interrogates the legal justifications offered by the Trump administration and assesses their viability under established international legal frameworks. The paper argues that while existing mechanisms for accountability—including the International Criminal Court—have proven inadequate for addressing crimes by sitting heads of state, unilateral military action to enforce domestic criminal charges represents a dangerous precedent that threatens the foundational principles of sovereign equality. The accountability-sovereignty dilemma exposed by the Caracas operation demands innovative multilateral solutions rather than the reassertion of great power prerogatives. This analysis concludes with policy recommendations for strengthening international accountability mechanisms while preserving the legal architecture that has maintained relative stability since World War II.

Keywords: *sovereignty, international law, use of force, head-of-state immunity, Venezuela, Maduro, intervention, UN Charter, accountability, extraterritorial jurisdiction*

1. INTRODUCTION

The early morning hours of January 3, 2026, witnessed an event that sent shockwaves through the international legal order. As Delta Force operators descended on Fort Tiuna in Caracas, seizing President Nicolás Maduro and his wife Cilia Flores, they executed more than a military operation—they challenged the foundational principles that have governed international relations since the Peace of Westphalia in 1648 and the establishment of the United Nations in 1945. Within hours, President Donald Trump declared that the United States would "run Venezuela" until a proper transition could occur, a statement without precedent in modern international relations.

The operation, designated "Absolute Resolve," involved over 150 aircraft from twenty different locations across the Western Hemisphere, striking multiple Venezuelan military installations including Fort Tiuna, La Carlota Air Base, and the port of La Guaira. The scale of the assault—described by some observers as the largest Caribbean military deployment since the Cuban Missile Crisis—belied the administration's characterization of the action as a "law enforcement operation" rather than an act of war. This paper examines the profound tensions between these characterizations and established international legal frameworks.

The significance of this event extends far beyond Venezuela's borders. As UN Secretary-General António Guterres warned, "independently of the situation in Venezuela, these developments constitute a dangerous precedent." The operation raises fundamental questions about the nature of sovereignty in the twenty-first century, the limits of great power prerogatives, and the capacity of international law to constrain state behavior in an era of renewed geopolitical competition. These questions demand rigorous scholarly analysis precisely because their answers will shape the international order for decades to come.

2. THE LEGAL FRAMEWORK: SOVEREIGNTY AND THE USE OF FORCE

2.1 The UN Charter's Prohibition on the Use of Force

The cornerstone of the post-World War II international legal order is Article 2(4) of the UN Charter, which provides that "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 Nations." This provision, described by the International Court of Justice as "the cornerstone of the United Nations Charter," emerged from the collective determination that the unfettered use of force by states—which had produced two devastating global conflicts within a generation—must be constrained by law.

The Charter provides only two exceptions to this categorical prohibition. The first is authorization by the UN Security Council under Chapter VII, which permits the use of force to maintain or restore international peace and security. The second is self-defense in response to an armed attack, as recognized in Article 51: "Nothing in the present Charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a Member of the United Nations." These exceptions are deliberately narrow, reflecting the founders' determination to prevent the promiscuous use of force that had characterized earlier eras.

Neither exception applied to Operation Absolute Resolve. There was no Security Council authorization—indeed, such authorization would have been impossible given the certain vetoes

of Russia and China. And there had been no armed attack by Venezuela against the United States or any other nation that would trigger the right of self-defense. Drug trafficking allegations, however serious, do not constitute an "armed attack" within the meaning of Article 51. The administration's attempt to characterize the operation as "law enforcement" rather than a use of force strikes international law experts as legally untenable when the operation involved "a large-scale strike" with "more than 150 United States Armed Forces aircraft" conducting airstrikes across northern Venezuela.

2.2 The Principle of Sovereign Equality

Beyond the specific prohibition on the use of force, the Caracas operation challenges the broader principle of sovereign equality enshrined in Article 2(1) of the UN Charter: "The Organization is based on the principle of the sovereign equality of all its Members." This principle holds that all states, regardless of size, power, or political system, enjoy equal legal status in the international community. Sovereignty, in this conception, is not a privilege earned through good behavior but an inherent attribute of statehood.

The concept of sovereignty has evolved significantly since its classical articulation in the Peace of Westphalia (1648), which established the principle that each state has exclusive authority within its territory. Modern international law recognizes that sovereignty is not absolute—states are bound by treaty obligations, customary international law, and peremptory norms (*ius cogens*) that cannot be derogated. However, the erosion of sovereignty has typically occurred through consensual mechanisms: states voluntarily accepting limitations through treaties, membership in international organizations, and acceptance of international judicial authority.

The Caracas operation represents a fundamentally different kind of sovereignty erosion: the unilateral determination by one state that another state's sovereignty should not protect its leader from forcible extraction and prosecution. As legal scholar Marc Weller of the University of Cambridge noted, "International law is quite clear that one country cannot lawfully overthrow the leader of another, nor can it try them in its domestic courts." For the United States to seize the leader of another UN member state, however odious that leader's conduct, is to assert a right that, if universalized, would destroy the very concept of sovereign equality.

2.3 Head-of-State Immunity

A critical legal question raised by the Maduro arrest concerns head-of-state immunity, a doctrine rooted in the principle that the head of state represents the sovereignty of the nation itself. Traditional international law provides sitting heads of state with immunity from foreign criminal prosecution, recognizing that subjecting leaders to foreign judicial processes would impair the conduct of international relations and violate the principle of sovereign equality.

The Trump administration's response to this immunity challenge relied on two arguments. First, it characterized Maduro as a "de facto but illegitimate ruler" rather than a recognized head of state, arguing that the United States had withdrawn recognition of his government following the disputed 2024 election. Second, it argued that Maduro's alleged drug trafficking activities were "private" rather than "official" acts—a distinction with potential implications given the Supreme Court's recent ruling in *Trump v. United States* (2024) granting presidents immunity for official acts.

However, Georgetown Law Professor Steve Vladeck noted that Maduro has a "stronger claim to legitimacy" than Manuel Noriega, who was never formally recognized as Panama's head of state. Maduro was recognized by the Obama administration and the first Trump administration

from 2013 to 2019. Even after recognition was withdrawn in favor of opposition leader Juan Guaidó, Maduro remained in effective control of Venezuelan territory and government apparatus—the traditional test for statehood under international law. The question of whether withdrawal of diplomatic recognition can retroactively strip immunity for acts committed while in power remains deeply contested.

3. THE NORIEGA PRECEDENT: LESSONS AND LIMITATIONS

3.1 Operation Just Cause (1989)

For those seeking to understand the legal basis of the Maduro operation, history offers an unavoidable comparison: Manuel Noriega. The parallels are striking and appear deliberate—Maduro's capture occurred exactly thirty-six years and fourteen days after Noriega's surrender to U.S. forces on January 3, 1990. Both leaders were indicted on drug trafficking charges in U.S. federal courts. Both were seized by U.S. military force from their countries. Both faced prosecution in the Southern District of Florida and the Southern District of New York.

Operation Just Cause, the December 1989 invasion of Panama, involved more than 26,000 U.S. troops and resulted in the deaths of 23 American service members, approximately 314 Panamanian military personnel, and an estimated 200 civilians. The stated justifications included safeguarding American lives, protecting democracy, preserving the Panama Canal treaties, and seizing Noriega to face federal drug charges. Critically, the operation followed a Panamanian National Assembly declaration of a "state of war" with the United States on December 15, 1989, and the subsequent killing of a U.S. Marine officer by Panamanian forces. These acts provided at least a colorable claim of self-defense.

The legal framework established in *United States v. Noriega* (746 F. Supp. 1506, S.D. Fla. 1990) would loom large over Maduro's case. In that decision, Noriega's attorneys argued that as Panama's head of state, he enjoyed immunity from prosecution. The federal court rejected this argument on the grounds that Noriega had never been officially recognized by the United States as Panama's legitimate head of state—he was a *de facto* military strongman, not a *de jure* president. The Eleventh Circuit Court of Appeals affirmed this reasoning.

3.2 Critical Distinctions

Despite the superficial parallels, critical distinctions exist between the Noriega and Maduro cases that complicate the legal analysis. Unlike Noriega, Maduro had been formally recognized by the United States government as Venezuela's head of state from 2013 until 2019, when the Trump administration shifted recognition to opposition leader Juan Guaidó. The Biden administration had not restored recognition to Maduro, instead backing opposition candidate Edmundo González after Venezuela's contested July 2024 election. This creates an ambiguous situation: Maduro had once enjoyed clear recognition, and while that recognition had been withdrawn, he remained in control of Venezuela's government apparatus until the moment of his capture.

Moreover, unlike in Panama, there had been no declaration of war, no killed American service members immediately precipitating the intervention, and no clear act of armed aggression by Venezuela against the United States. The drug trafficking allegations, while serious, represented accusations rather than the kind of immediate threat that might justify self-defense. As the Cato Institute warned, if the United States can unilaterally deploy military force to seize Venezuela's president based on criminal charges, "what would prevent China from seizing

American officials it accused of violating Chinese law, or Russia from abducting dissidents granted U.S. asylum?"

3.3 The Alvarez-Machain Doctrine

The administration also relied on *United States v. Alvarez-Machain* (504 U.S. 655, 1992), in which the Supreme Court ruled that a defendant's forcible abduction from a foreign country did not prevent the United States from exercising jurisdiction to try him. Even if the manner of bringing someone to justice violated international law or treaty obligations, the Court held, it did not deprive American courts of jurisdiction over the defendant. Conservative legal analyst Jonathan Turley, writing for Fox News, argued that this precedent provided clear legal authority for the operation and that Maduro's drug trafficking activities placed him beyond the protection of head-of-state immunity.

However, *Alvarez-Machain* has been widely criticized by international legal scholars as reflecting American exceptionalism rather than established international law. The decision addressed only whether U.S. courts could exercise jurisdiction—not whether the abduction itself was lawful under international law. The scale of the Venezuela operation—involving military strikes on sovereign territory—goes far beyond the covert abduction in *Alvarez-Machain*. As UN General Assembly President Annalena Baerbock stated, the UN Charter "is not an optional document" and must serve as "the guiding framework" for international conduct "in moments of calm and in times of crisis."

4. THE ACCOUNTABILITY-SOVEREIGNTY DILEMMA

4.1 The Failure of Traditional Accountability Mechanisms

At the heart of the Venezuela operation lies a fundamental dilemma: How can the international community hold leaders accountable for serious crimes without violating the sovereignty that protects all nations—including from potential abuses of power? The inadequacy of existing accountability mechanisms has become painfully apparent through the Venezuelan case.

The International Criminal Court opened a formal investigation into crimes against humanity in Venezuela in November 2021. Yet nearly five years later, no arrest warrant had been issued. The ICC's preliminary examination had dragged on for years before the investigation began. Venezuela challenged the court's jurisdiction and refused meaningful cooperation. The court, lacking its own enforcement arm, depended entirely on member states to arrest suspects who entered their territory. The United States, not being a party to the Rome Statute, could not directly participate in ICC proceedings against Maduro—a situation that highlights the paradox of American extraterritorial enforcement outside multilateral frameworks it refuses to join.

Universal jurisdiction—the principle that certain crimes are so heinous that any nation can prosecute them regardless of where they occurred—offered another possible pathway. But universal jurisdiction traditionally applies to crimes like genocide, war crimes, and crimes against humanity, not to drug trafficking. Moreover, it has been used sparingly and controversially, primarily by European courts and often with diplomatic rather than enforcement outcomes.

4.2 Maduro's Alleged Crimes

Nicolás Maduro's alleged crimes are substantial and well-documented. The 2020 indictment from the Southern District of New York charged him with narco-terrorism conspiracy, cocaine importation conspiracy, and weapons offenses, alleging that he and his associates facilitated the trafficking of "thousands of tons" of cocaine into the United States. The indictment detailed how Maduro allegedly used cocaine trafficking "as a weapon against America" and collaborated with Colombian FARC rebels in a cocaine-for-weapons scheme going back to the late 1990s. The narco-terrorism and cocaine importation charges each carry maximum sentences of life imprisonment.

Beyond these criminal charges, the UN Independent International Fact-Finding Mission on Venezuela has documented systematic human rights violations under Maduro's government: extrajudicial killings, arbitrary detention, enforced disappearances, torture, and sexual violence. More than seven million Venezuelans have fled the country since 2015, creating one of the world's largest displacement crises. These facts are not in serious dispute. Maduro presided over a government that combined authoritarian repression with criminal enterprise. The suffering of the Venezuelan people is real and documented.

The question, however, is not whether Maduro should be held accountable, but how—and by whom. The U.S. operation cut through the complexity of international accountability mechanisms with brutal simplicity: send in special forces, capture the suspect, prosecute him in American courts. But this approach raises profound questions about reciprocity, precedent, and the implications for international order.

4.3 The Reciprocity Problem

The Cato Institute's warning about "dangerous reciprocity" deserves serious consideration. If the United States can unilaterally abduct foreign leaders based on domestic indictments, what prevents China from seizing American officials it accuses of violating Chinese national security laws? What stops Russia from kidnapping dissidents granted asylum in the United States? Iran's Supreme Leader Ayatollah Khamenei's defiant response to the Maduro operation—accusing the United States of "arrogantly trying to impose something on the country, on the officials, on the government, and on the nation" of Venezuela—reflected Tehran's recognition that it could face similar treatment.

The precedent is troubling precisely because it invites reciprocity in a world where norms of restraint have been increasingly eroded. As the Cato Institute observed, "norms being eroded protect everyone, including Americans abroad." The operation does not merely affect relations with Venezuela; it potentially affects the security of American officials, diplomats, and citizens worldwide by legitimizing the use of force to pursue criminal charges across international boundaries.

5. THE GLOBAL RESPONSE AND ITS IMPLICATIONS

5.1 The United Nations Response

The response from the United Nations was swift and unequivocal. Secretary-General António Guterres declared himself "deeply alarmed" by the U.S. military action. His spokesman Stéphane Dujarric stated: "The Secretary-General continues to emphasize the importance of full respect—by all—of international law, including the UN Charter. He's deeply concerned that the rules of international law have not been respected." The phrase "by all" was pointed, a reminder that no nation, regardless of its power or the righteousness of its claimed motives, stands above the legal framework that binds all UN member states.

UN General Assembly President Annalena Baerbock spoke with even greater directness, emphasizing that the UN Charter "is not an optional document" and must serve as "the guiding framework" for international conduct "in moments of calm and in times of crisis." Her warning carried the weight of historical memory: "A peaceful, safe and just world for everyone is only possible if the rule of law prevails instead of might makes right." This formulation—law versus might—encapsulated the fundamental question raised by Operation Absolute Resolve.

5.2 Regional Fractures

The operation cleaved Latin America along ideological, historical, and geopolitical fault lines. Brazilian President Luiz Inácio Lula da Silva was among the first major regional leaders to condemn the operation: "The bombings on Venezuelan territory and the capture of its president cross an unacceptable line. These acts represent a most serious affront to Venezuela's sovereignty and yet another extremely dangerous precedent for the entire international community." Colombia's President Gustavo Petro deployed military forces to the Venezuelan border within hours, calling for "urgent de-escalation." Mexico invoked Article 2 of the UN Charter in its condemnation.

Yet right-wing governments offered support. Argentina's President Javier Milei celebrated: "Long Live Freedom, Dammit!" Ecuador's President Daniel Noboa warned that "all the criminal narco-Chavistas will have their moment." The regional split revealed more than contemporary political alignments—it exposed historical memory's enduring power in shaping responses to U.S. military action, evoking the long history of American interventions from the 1954 Guatemala coup to the 1989 Panama invasion.

5.3 Great Power Constraints

Russia condemned the operation as "armed aggression" and an "unacceptable assault" on Venezuelan sovereignty, reaffirming "solidarity" with the Venezuelan people. China declared itself "deeply shocked" by the U.S. "recklessly using force against a sovereign state." However, both powers appeared constrained in their practical responses. Russia's ongoing focus on its war in Ukraine severely limited its ability to project power into Latin America. China, despite massive economic stakes in Venezuela (importing between 700,000 and 900,000 barrels of Venezuelan oil per day), was predicted to "limit response to diplomatic protest rather than hard power."

The great power response illustrated a paradox of contemporary international relations: strong rhetorical opposition combined with practical acquiescence. The Security Council convened an emergency session, but the outcome was predictable—passionate speeches, draft resolutions, and American vetoes. The session demonstrated the Council's paralysis rather than its authority when one of the permanent five members is itself the actor whose conduct is at issue.

6. IMPLICATIONS FOR INTERNATIONAL ORDER

6.1 The Erosion of Normative Constraints

The Caracas operation accelerates trends that were already reshaping the international system: the erosion of American credibility and legitimacy as a defender of international law, the formation of competing geopolitical blocs, the weaponization of economic interdependence, the decline of shared norms, and the return of naked power politics. The operation did not create these trends—but it dramatically accelerated them.

International law itself appeared to transition from command to suggestion. The freezing of Russian foreign reserves following Moscow's 2022 invasion of Ukraine had already demonstrated the weaponization of the dollar-based financial system. Now, the physical seizure of a sitting head of state suggested that sovereignty itself had become conditional—a privilege extended to those with sufficient military power or geopolitical protection, rather than an inherent attribute of statehood.

6.2 The Target List Problem

The immediate question facing governments worldwide was whether they might be next. Any leader on U.S. sanctions lists or subject to American criminal charges—whether for narcotics trafficking, terrorism financing, human rights abuses, or other alleged crimes—could theoretically become a target. The threshold question was no longer whether international law permitted such operations, but whether the United States had the political will and military capability to execute them. The answer, delivered in the early morning hours of January 3, 2026, appeared to be yes.

Perhaps most significantly, any leader subject to an International Criminal Court arrest warrant faced heightened vulnerability. While the ICC operated under a completely different legal framework than U.S. domestic indictments, the Maduro operation demonstrated that powerful states willing to act unilaterally need not wait for multilateral legal processes. Russian President Vladimir Putin, subject to an ICC arrest warrant since March 2023 for the alleged unlawful deportation of Ukrainian children, had carefully avoided travel to ICC member states that might enforce the warrant. The Maduro precedent suggested that relying on the unwillingness of friendly states to enforce ICC warrants might not be sufficient protection.

6.3 The Mexico Question

Among all the potential targets of future U.S. intervention, none generated more immediate concern than Mexico. President Trump's comments during a Fox News interview on the morning of the Maduro operation sent shockwaves through Mexico City. When asked whether the Venezuela operation was sending a message to Mexico, Trump dismissed that interpretation but then immediately pivoted to attacking Mexican President Claudia Sheinbaum's government: "She's a good woman, but the cartels are running Mexico. She's not running Mexico, the cartels are running Mexico... something's going to have to be done with Mexico."

Unlike Venezuela, which the United States had deemed an illegitimate regime led by a narcodictator, Mexico is a functioning democracy and a formal U.S. ally bound by the United States-Mexico-Canada Agreement (USMCA), which governs trilateral trade relationships worth over \$1.5 trillion annually. Any military incursion into Mexican territory without the government's consent would not only violate international law but would also potentially destroy the carefully constructed economic and security architecture that has defined North American relations for decades.

7. POLICY RECOMMENDATIONS

The Caracas operation exposes fundamental weaknesses in the international accountability architecture that demand innovative solutions. This paper concludes with recommendations for strengthening accountability mechanisms while preserving the legal foundations of international order.

7.1 Strengthening the ICC

First, the international community should strengthen the International Criminal Court through adequate funding, enhanced investigative capacity, and mechanisms to accelerate proceedings against sitting heads of state. The five-year delay between opening a formal investigation into Venezuela and the Maduro capture underscores the urgent need for faster action. States parties should consider mandatory arrest provisions for ICC warrant subjects entering their territory and coordinate to create "no safe haven" policies for indicted leaders.

7.2 Regional Accountability Mechanisms

Second, regional organizations should develop enhanced accountability mechanisms. The Organization of American States, despite its institutional weaknesses, could coordinate multilateral pressure and democratic monitoring. The Lima Group model—regional democracies coordinating pressure on authoritarian governments—proved more effective than UN mechanisms in generating diplomatic isolation. Future iterations should include clearer enforcement mechanisms and criteria for collective action.

7.3 Multilateral Enforcement Frameworks

Third, the international community should develop multilateral frameworks for addressing situations where traditional accountability mechanisms have failed. This might include Security Council reform to limit veto power in cases of mass atrocities, enhanced regional court authority, or treaties establishing clearer conditions under which international enforcement action becomes permissible. The key is to channel enforcement impulses through multilateral processes that provide legitimacy and constrain abuse.

7.4 U.S. Domestic Constraints

Fourth, the United States Congress should reassert its constitutional role in foreign military operations. The War Powers Resolution has proven inadequate to constrain unilateral executive action. Reforms might include requiring explicit congressional authorization for any military operation against a sovereign government, mandatory consultation with congressional leadership before operations affecting heads of state, and clearer definitions of what constitutes "law enforcement" versus "use of force."

7.5 Norm Reinforcement

Fifth, scholars, diplomats, and policymakers must actively reinforce the norms against unilateral military action to seize foreign leaders. This includes documenting violations, supporting international legal institutions, and articulating clear standards for when intervention becomes permissible. The alternative—a world where powerful states routinely seize leaders they dislike—promises instability, arms races, and conflict escalation.

8. CONCLUSION

The capture of Nicolás Maduro represents one of the most significant challenges to the post-1945 international legal order. Operation Absolute Resolve, whatever its tactical success,

established a precedent that threatens the foundational principles of sovereign equality, territorial integrity, and the prohibition on the use of force that have provided the architecture for international stability for nearly eight decades.

This paper has argued that while existing mechanisms for accountability have proven inadequate for addressing crimes by sitting heads of state, unilateral military action to enforce domestic criminal charges represents a dangerous alternative that invites reciprocity, undermines the rule of law, and accelerates the erosion of normative constraints on state behavior. The accountability-sovereignty dilemma exposed by the Caracas operation demands innovative multilateral solutions rather than the reassertion of great power prerogatives.

The fundamental challenge endures: creating an international system that can hold the powerful accountable without descending into a Hobbesian war of all against all. The Caracas Gambit offers one response to that challenge. Whether it is the right response—or even a defensible one—future generations will decide. History will judge not only whether Nicolás Maduro was guilty of the crimes alleged, but whether the manner of his arrest served justice or merely power.

As UN Secretary-General Guterres observed, these developments "constitute a dangerous precedent" regardless of the situation in Venezuela. The rules of international law have not been respected. A peaceful, safe, and just world for everyone is only possible if the rule of law prevails instead of might makes right. The international community's response to the Caracas operation will shape whether that principle endures or becomes merely aspirational in the emerging multipolar disorder.

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