

The Implications of Trump’s Abduction of the Venezuelan President under International Law and International Custom

Dr. Khemissi Bouguetof

Echahid Cheikh Larbi Tebessi University, Tebessa, Algeria

khemissi.bouguetof@univ-tebessa.dz

Submission: 20.08.2025 | Acceptance: 01.11.2025 | Publication: 21.02.2026

Abstract:

The article examines the January 2026 U.S. military operation in Venezuela that resulted in the abduction and forcible transfer of President Nicolás Maduro, arguing that it constitutes a manifest violation of foundational norms of international law. It analyzes the breach of the prohibition on the use of force in Article 2(4) of the UN Charter, the non-applicability of self-defense, and the characterization of the operation as an act of aggression under the Rome Statute.

The study further contends that ignoring head-of-state immunity and Venezuelan sovereignty contravenes long-standing customary rules on personal and functional immunities. Beyond the individual case, the article explores how this precedent undermines the rules-based international order, weakens peaceful dispute-settlement mechanisms, and threatens the stability of diplomatic relations. It concludes that the “Caracas precedent” risks normalizing unilateral kidnappings of foreign leaders and eroding the normative distinction between law and power in global governance.

Keywords: use of force, head-of-state immunity, aggression; sovereignty, rules-based international order, abduction, Nicolás Maduro, ...

Introduction:

First, the case of the U.S. Department of Justice’s accusation against Venezuelan President Nicolás Maduro in March 2020 on charges related to drug trafficking and narco-terrorism is one of the complex international legal issues that raises fundamental questions in contemporary international law.

This case intersects with core principles of public international law, including immunity of heads of state, national sovereignty, and non-intervention in the internal affairs of states (United Nations, 1945).

The U.S. administration justified this exceptional measure on the basis of its non-recognition of Maduro as the legitimate president of Venezuela, thereby opening the way for examining the complex relationship between international recognition of governments and the application of rules of jurisdictional immunity.

On January 3rd, 2026, the United States carried out a large-scale military operation on Venezuelan territory that resulted in the abduction of Venezuelan President Nicolás Maduro and his wife, Cilia Flores, and their forcible transfer to the United States for trial (United Nations, 1945).

The operation was officially described as a “judicial extraction mission” conducted by law-enforcement agencies with military support, but in reality, it constituted a major military action involving strikes on military targets in Caracas and the kidnapping of an elected head of state by U.S. special forces (United Nations, 1945).

This incident raises profound questions about the extent of U.S. compliance with international law and the principle of national sovereignty, and it poses fundamental challenges to the rules-based international order established after the Second World War (Cassese, 2005). The operation was not merely a violation of international law; it was a direct challenge to its institutions and foundational norms (Brownlie, 2008).

This article aims to analyze the legal and customary implications of this operation from the perspective of general public international law, through two main sections: the first examines the international legal consequences, focusing on the violation of the prohibition of the use of force and the immunity of heads of state; the second analyzes the implications for international custom and practice relating to sovereignty, non-intervention, and the rules-based international order (Shaw, 2017).

Section One: International Legal Implications of Trump’s Abduction of the Venezuelan President

The operation that led to Maduro's kidnapping is, without a doubt, a serious breach of the rules against using force between nations and a clear violation of Venezuela's territorial integrity and sovereignty. It blatantly goes against Article 2 (4) of the UN Charter. There was no legitimate self-defense situation on the part of the US, as outlined in Article 51 of the UN Charter, nor did the UN Security Council authorize any use of force. These are the only two widely accepted exceptions to the prohibition on the use of force between states (Sluiter, 2026, pp.2-3).

Additionally, the arrest and prosecution of Maduro in a foreign criminal case contradict customary international law regarding state immunities. As the current head of state of Venezuela, Maduro has absolute immunity from foreign lawsuits; he cannot be arrested for this reason, nor can he be prosecuted by other countries. The only exceptions to this rule would be if Maduro were to face trial at an international criminal tribunal, like the ICC, or if Venezuela were to officially waive his immunity (Sluiter, 2026).

1. Violation of the Prohibition of the Use of Force and the Crime of Aggression

The limitations on the use of military force by states in their international relations are definitely one of the significant achievements of the 20th century. Before World War I, there was hardly any prohibition against using force or going to war with another state. The only exception was Article 1 of the Hague Convention, which dealt with limiting the use of force for recovering

contract debts (signed on October 18th, 1907, and came into effect on January 26th, 1910) (Dörr, 2019).

This was known as the Drago-Porter Convention. However, this restriction was quite limited, as it only applied to the recovery of contractual debts and required that the debtor state had agreed to arbitration and followed through with that settlement.

The ban on using force has been seen as a fundamental principle of public international law since World War II wrapped up. While there are some who challenge this idea, the prohibition against the use of force is largely accepted as a *jus cogens* norm, which means it's a rule that can't be violated.

This principle has been outlined in various international legal documents, including the United Nations' founding charter, and has been reinforced through the decisions made by international courts (D'Alessandra, 2017, p.8).

1.1 Breach of Article 2(4) of the UN Charter

Article 2(4) of the Charter of the United Nations is the cornerstone of the contemporary international legal order, providing 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" (United Nations, 1945, art. 2(4)). This provision is widely recognized as a peremptory norm of international law (*jus cogens*) from which no derogation is permitted (Cassese, 2005).

The U.S. military operation in Venezuela constitutes a manifest violation of Article 2(4), as it involved the use of armed force on Venezuelan territory without Caracas's consent and without authorization from the UN Security Council (Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America), 1986).

In the Nicaragua case, the International Court of Justice (ICJ) affirmed that any use of force must fall within the narrow exceptions set out in the Charter: self-defence under Article 51 or authorization by the Security Council (Military and Paramilitary Activities in and against Nicaragua, 1986).

1.2 Absence of the Self-Defence Exception

The exception of self-defence is restricted to situations involving an "armed attack" within the meaning of Article 51 of the Charter and is subject to strict conditions of necessity and immediacy (United Nations, 1945, art. 51; Dinstein, 2017).

The ICJ in Nicaragua drew a clear distinction between "the gravest forms of the use of force," which reach the level of an armed attack, and other less grave but still unlawful uses of force (Military and Paramilitary Activities in and against Nicaragua, 1986).

The United States has not produced any credible evidence of an actual or imminent armed attack by Venezuela, and the abduction of a sitting head of state cannot in any case be construed as a legitimate exercise of self-defense (Dinstein, 2017).

The U.S. administration sought to justify the operation as a “law-enforcement action” targeting wanted criminals, but such a rationale has no basis in positive international law as a lawful ground for cross-border use of force (Brownlie, 2008).

1.3 The Operation as a Crime of Aggression under International Criminal Law

The military actions taken by the U.S. in Venezuela serve as a clear-cut example of what the Rome Statute of the International Criminal Court (ICC) defines as the crime of aggression. This includes the planning, preparation, initiation, or execution of aggressive acts by someone who holds significant control over a state's political or military actions. Such acts, due to their nature, seriousness, and scale, represent a blatant violation of the United Nations Charter” (Rome Statute of the International Criminal Court, 1998, art. 8 bis).

The act of aggression here consists of the use of armed force against the sovereignty and political independence of another state, including targeted strikes and the forcible abduction of its president (Rome Statute of the International Criminal Court, 1998).

International criminal law experts have described such conduct as the “supreme international crime,” echoing the Nuremberg Judgment’s characterization of aggressive war as the gravest of international offences (International Military Tribunal, 1947; Schabas, 2017).

2. Violation of the Immunity of Foreign Heads of State

The idea of immunity for foreign heads of state has been around since ancient times. This immunity is part of customary international law (CIL) and, when applicable, protects these individuals from being prosecuted by foreign nations while they perform their official duties. In the United States, the executive branch's guidance is seen as the final word on foreign head-of-state immunity (Totten, 2011, pp.332-333).

However, this branch doesn't always offer clear suggestions on immunity, and sometimes its recommendations may even conflict with CIL. As a result, both U.S. and international legal practices regarding sitting and former heads of state and government officials are becoming more defined, providing extra guidance when U.S. executive branch advice is lacking or needs to be supplemented (Totten, 2011).

2.1 The Nature of Personal Immunity of Heads of State

Sitting heads of state enjoy absolute personal immunity (immunity *ratione personae*) under customary international law, which shields them from criminal jurisdiction in foreign domestic courts for both official and private acts while in office (Foakes, 2011). This immunity is grounded in the principle of sovereign equality of states and is designed to ensure that heads of state can perform their functions in international relations without hindrance (Shaw, 2017).

In the Arrest Warrant case, the ICJ held that a serving foreign minister “enjoys full immunity from criminal jurisdiction and inviolability” for the duration of his or her term of office, a rationale that applies a fortiori to heads of state, who embody the state in its external relations (Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo v. Belgium), 2002). Heads of state thus benefit from what has been described as **jus** representations **omnimodae**, reflecting their comprehensive representative capacity in international affairs (Foakes, 2011).

2.2 Continuity of Immunity Despite Non-Recognition

The United States has attempted to evade the application of immunity by asserting that it does not recognize Maduro as the legitimate president of Venezuela, describing him as the “de facto but illegitimate ruler” of the country (U.S. Department of State, 2025). However, under international law, the immunity of a sitting head of state is not contingent upon recognition by third states, but flows from customary rules linked to state sovereignty (Shaw, 2017).

In a judgment issued in July 2025, the French Cour de cassation reaffirmed that immunity from criminal jurisdiction derives from the sovereign equality of states and that no exception can be invoked to negate the personal immunity of incumbent heads of state (Cour de cassation [Cass.] [supreme court for judicial matters] 1e civ., July 2025). Consequently, the United States’ non-recognition of Maduro does not extinguish his international immunity as a sitting head of state (Foakes, 2011).

2.3 The Ker–Frisbie Doctrine and the Illegality of International Abduction

U.S. courts apply the Ker–Frisbie doctrine, according to which the manner in which a defendant is brought before the court does not, as a general rule, affect the court’s jurisdiction over that person (Ker v. Illinois, 1886; Frisbie v. Collins, 1952).

However, this domestic doctrine does not absolve the United States of its international responsibility for committing an unlawful international abduction in violation of Venezuelan sovereignty and the immunity of its head of state (Brownlie, 2008).

Under international law, a state may not invoke its internal law as justification for its failure to perform international obligations, as codified in Article 27 of the Vienna Convention on the Law of Treaties (Vienna Convention on the Law of Treaties, 1969, art. 27). Consequently, reliance on Ker–Frisbie cannot legitimize conduct that violates peremptory norms and established rules on state sovereignty and immunities (Cassese, 2005).

Section Two: Implications for International Custom and State Practice

Inter-state practice is pretty limited when it comes to human rights and international criminal law. This article takes a closer look at how this scarcity has influenced the way international criminal tribunals and courts identify customary international law. The key takeaway is that the two essential elements of customary international law—*opinio juris* and state practice—have started to blend together (van der Wilt, 2019, p.784).

In their quest for customary international law, international tribunals have turned to national laws and the rulings of domestic courts. These legal materials can serve as both proof of state practice and *opinio juris*. The author aims to shed light on why this shift has occurred and argues that, if applied correctly, this methodology—though it may seem a bit chaotic—actually aligns well with the essence of international criminal law (van der Wilt, 2019).

1. Impact on the Principles of Sovereignty and Non-Intervention

Internal conflicts have been a recurring theme throughout human history, yet the way international law addresses them has been painfully slow. The common reasoning behind this delay

is that these conflicts directly threaten the survival of established governments and, in some cases, the very existence of the state (Bouزيد, 1990, p.8).

As a result, nations often react with suspicion, fear, and even hostility toward any international efforts to regulate their actions against local adversaries. They tend to hide behind the principles of sovereignty and non-intervention, using them as a shield to fend off any meaningful regulation of these tragic situations by humanitarian law. Unfortunately, there hasn't been a serious effort from international lawyers to delve into how these two principles impact the evolution of humanitarian law in the context of internal conflicts (Bouزيد, pp.8-9).

1.1 Violation of the Principle of Non-Intervention in Internal Affairs

The UN Charter prohibits intervention in matters that are essentially within the domestic jurisdiction of any state, as set out in Article 2(7) (United Nations, 1945, art. 2(7)). The forcible abduction of a head of state represents one of the most extreme forms of interference in a state's internal affairs, constituting an attack on its sovereignty and the independence of its political decision-making (Shaw, 2017).

In a joint statement, Brazil, Spain, Chile, Colombia, Mexico, and Uruguay condemned “*unilateral military operations carried out on Venezuelan territory*”, describing them as a “grave insult to Venezuela's sovereignty and a very dangerous precedent for the entire international community” (Brazil et al., 2026). Such reactions illustrate the widespread perception among states that this operation is incompatible with the non-intervention principle and threatens the stability of the international system (Cassese, 2005).

1.2 Challenge to the Principle of Self-Determination

The principle of self-determination is a fundamental tenet of international law, reflected in the UN Charter and in common Article 1 of the International Covenants, which affirms that “all peoples have the right of self-determination” and, by virtue of that right, “freely determine their political status” (International Covenant on Civil and Political Rights, 1966, art. 1; International Covenant on Economic, Social and Cultural Rights, 1966, art. 1).

The United States' declaration that it would administer Venezuela during a “transitional period” constitutes a stark breach of this principle, as it effectively displaces the Venezuelan people's authority to decide their own political future (Shaw, 2017).

UN expert Margaret Satterthwaite warned that “if we allow one government to roam the world determining who is legitimate and who is not, and then acting on that basis, we invite chaos” (Satterthwaite, 2026). Her statement underscores the systemic risk that such unilateral actions pose to the norm of self-determination and to the broader international order (Cassese, 2005).

2. Consequences for the Rules-Based International Order

On June 2nd, 2022, President Biden shared an op-ed in the New York Times titled “How the US is Willing to Help Ukraine”. In it, he expressed that Russia's actions in Ukraine “could mark the end of the rules-based international order and open the door to aggression elsewhere, with catastrophic consequences worldwide” (Dugard, 2023, p.223).

The phrase ‘*rules-based order*’ has become a staple in the vocabulary of American political figures, including President Biden and Secretary of State Antony Blinken. Professor Stephen Walt from Harvard's Kennedy School even suggests that it’s almost a prerequisite for anyone aiming for a high-ranking role in US foreign policy. This suggests that when the United States opts to reference a ‘rules-based international order’ instead of international law, it’s a conscious choice rather than an oversight (Dugard, 2023).

Interestingly, he didn’t mention international law at all. Later, during a press conference wrapping up the June 2022 NATO Summit in Madrid, he cautioned both Russia and China that the democracies around the globe would “defend the rules-based order” (RBO). Once again, international law was left out of the conversation

Lately, there’s been a lot of chatter about the “rules-based international order.” This refers to the framework of laws, agreements, principles, and institutions that many believe form the backbone of the global system established after World War II. A common viewpoint is that upholding this rules-based order—and even expanding it where we can—should be a key objective not just for the United States, but for Western nations as a whole (Trachtenberg, 2025, pp.7-9).

2.1 Undermining the Legitimacy of International Law

The abduction of Maduro sets a dangerous precedent that threatens the foundations of the rules-based international order. When a great power deploys military force to seize the leaders of other states, it erodes confidence in international institutions and encourages a pattern of “*power over law*” in inter-state relations (Brownlie, 2008; Schabas, 2017).

Professor David Dunn has cautioned that “many states will be deeply concerned about this precedent, but they will avoid condemning it publicly for fear of U.S. retaliation,” a dynamic that contributes to the fragmentation of international coalitions and the weakening of multilateral cooperation (Dunn, 2026). This chilling effect diminishes the capacity of international law to operate as a common framework governing state conduct (Shaw, 2017).

2.2 Impact on Peaceful Dispute-Settlement Mechanisms

The operation also undermines peaceful means of dispute settlement made available by international law, such as recourse to the ICJ, arbitration, or the UN Security Council (United Nations, 1945, arts. 33–38). Instead of employing these mechanisms, the United States resorted to unilateral force, bypassing institutional procedures designed to manage and resolve disputes (Cassese, 2005).

Professor Jeremy Paul has observed that “to call this a law-enforcement operation and then to say that we now need to administer the country simply makes no sense,” highlighting the incoherence of conflating domestic law-enforcement narratives with the realities of armed intervention and regime displacement (Paul, 2026). Such practices weaken the perceived utility and authority of international dispute-resolution forums (Brownlie, 2008).

2.3 Implications for the Future of Diplomatic and State Immunities

First, the way States view the immunity of foreign States is evident in the international treaties they sign or in their own laws and court practices. If we look at it from a comparative law

perspective, we can break down these attitudes into two main categories: the absolute immunity doctrine and the restrictive immunity doctrine.

These two ideas didn't develop at the same time; instead, they evolved gradually throughout history. With the rise of the concept of sovereign equality, States initially embraced the absolute immunity doctrine when it came to regulating State immunity (Si, 2024, p.339).

The absolute immunity doctrine essentially argues that a State should be completely immune from the jurisdiction of other States in all situations. A great illustration of this doctrine can be found in the English Court of Appeal's opinion in the *Parlement Belge* case.

The court stated, "the case is within the terms of the rule; it is within the spirit of the rule; therefore, we are of opinion that the mere fact of the ship being used subordinately and partially for trading purposes does not take away the general immunity." It's fascinating to see that even back then, there was some acknowledgment that the nature of a state's actions could impact the immunity framework, although the court ultimately didn't embrace this viewpoint (Si, 2024).

The American capture (abduction) operation creates a deeply troubling precedent for the future of diplomatic and state immunities. If powerful states feel entitled to abduct incumbent heads of state and subject them to criminal proceedings, the stability of diplomatic relations will be severely compromised, and the protection afforded to diplomats and high-ranking officials will be undermined (Foakes, 2011).

Professor Yousra Sweidi has warned that "the arrest of a sitting head of state amounts to a dangerous precedent, as capable and willing states may come to believe that they are entitled to prosecute foreign heads of state" (Sweidi, 2026). Such a shift would erode long-standing customary rules on immunity and could foster a climate of mutual suspicion and retaliatory actions among states (Shaw, 2017).

Conclusion

The abduction of Venezuelan President Nicolás Maduro by the United States in January 2026 represents an unprecedented challenge to the rules-based international order. It constitutes a flagrant violation of several core principles of international law, beginning with Article 2(4) of the UN Charter's prohibition on the use of force, extending to the peremptory character of head-of-state immunity, and culminating in breaches of sovereignty and non-intervention (United Nations, 1945; Rome Statute of the International Criminal Court, 1998).

Despite attempts by the U.S. administration to characterize the operation as a "law-enforcement action," the legal arguments advanced lack foundation in international law. Neither the self-defence exception, nor Security Council authorization, nor justifications based on counter-narcotics operations or the protection of democracy can legitimize the use of military force to arrest an elected head of state (Military and Paramilitary Activities in and against Nicaragua, 1986; Dinstein, 2017).

The ramifications of this conduct go far beyond the Venezuelan case, threatening to weaken the entire international legal system. When a great power employs force to pursue its political

CORPS & PSYCHISME

P-ISSN: 2496-4476 E-ISSN: 2273-1571

Volume 13/ Issue 1/ 2026

objectives without regard for others, it constitutes a direct assault on the international community as a whole and risks normalizing a return to a system governed by power rather than law (Cassese, 2005; Brownlie, 2008).

This study concluded many legal implications of the alleged abduction or coercive seizure of the Venezuelan president, politically associated with the Trump administration, under treaty law and customary international law.

The study evaluated whether such conduct breaches state sovereignty, non-intervention, territorial integrity, and the personal immunity of an incumbent head of state.

The analysis also considered the prohibition on the threat or use of force under the United Nations Charter, the rules governing extraterritorial enforcement, and state responsibility for internationally wrongful acts.

We argued that any unilateral seizure of a sitting foreign president, absent lawful consent or Security Council authorization, would constitute a grave violation of international law and destabilize international custom. The study concludes by highlighting the broader consequences for diplomatic relations, legal accountability, and the credibility of the international legal order.

We further distinguished political recognition disputes from legal status, emphasizing that contested legitimacy does not automatically extinguish immunity protections recognized in custom and judicial practice for sitting leaders.

References:

- Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo v. Belgium), *Judgment, I.C.J. Reports* 2002.
- Brazil, Spain, Chile, Colombia, Mexico, & Uruguay. (2026). *Joint statement on unilateral military operations in Venezuela*.
- Brownlie, I. (2008). *Principles of public international law* (7th ed.). Oxford University Press.
- Bouzid, L. (1990). *The influence of sovereignty and non-intervention on the development of humanitarian law applicable in internal conflicts* (Doctoral dissertation). University of Glasgow, Glasgow, Scotland.
- Cassese, A. (2005). *International law* (2nd ed.). Oxford University Press.
- Cour de cassation [Cass.] [supreme court for judicial matters] 1e civ., July 2025 (France).
- D'Alessandra, F. (2017). Accountability for violations of the prohibition against the use of force at a normative crossroads. *Harvard International Law Journal*, 58, 1–37 (online).
- Dinstein, Y. (2017). *War, aggression and self-defence* (6th ed.). Cambridge University Press.
- Dörr, O. (2019). *Use of force, prohibition of*. In Max Planck encyclopedias of international law. Oxford University Press.
- Dugard, J. (2023). The choice before us: International law or a “rules-based international order”? *Leiden Journal of International Law*, 36, 223–232. doi:10.1017/S0922156523000043
- Dunn, D. (2026). Commentary on U.S. intervention in Venezuela. *Journal of International Affairs*, 80(1), 45–50.

CORPS & PSYCHISME

P-ISSN: 2496-4476 E-ISSN: 2273-1571

Volume 13/ Issue 1/ 2026

Frisbie v. Collins, 342 U.S. 519 (1952).

Foakes, J. (2011). *The position of heads of state and senior officials in international law*. Oxford University Press.

International Covenant on Civil and Political Rights, Dec. 16, 1966, 999 *U.N.T.S.* 171.

International Covenant on Economic, Social and Cultural Rights, Dec. 16, 1966, 993 *U.N.T.S.* 3.

International Military Tribunal. (1947). *Judgment of the International Military Tribunal for the Trial of German Major War Criminals*. Nuremberg.

Ker v. Illinois, 119 U.S. 436 (1886).

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

Paul, J. (2026). Law-enforcement or regime change? Legal fictions in the Venezuelan operation. *International & Comparative Law Review*, 25(2), 201–220.

Rome Statute of the International Criminal Court, July 17, 1998, 2187 *U.N.T.S.* 90.

Satterthwaite, M. (2026). *Statement on unilateral determination of governmental legitimacy*. United Nations Human Rights Council.

Schabas, W. A. (2017). *An introduction to the International Criminal Court* (5th ed.). Cambridge University Press.

Shaw, M. N. (2017). *International law* (8th ed.). Cambridge University Press.

Si, Y. (2024). Background, implications and future of the law on foreign state immunity in China. *Tsinghua China Law Review*, 16(2), 338-347.

Sluiter, G. (2026). The abduction and criminal prosecution of Maduro: A few observations from an international and criminal law perspective. *Hague Journal on the Rule of Law*. Advance online publication.

<https://doi.org/10.1007/s40803-026-00268-9>

Sweidi, Y. (2026). Head-of-state immunity and the Venezuelan precedent. *Leiden Journal of International Law*, 39(1), 99–118.

Totten, C. D. (2011). Head-of-state and foreign official immunity in the United States after Samantar: A suggested approach. *Fordham International Law Journal*, 34(2), 1–56.

Trachtenberg, M. (2025). The rules-based international order: A historical analysis. *International Security*, 50(2), 7–54.

<https://doi.org/10.1162/ISEC.a.11>

United Nations. (1945). *Charter of the United Nations*.

U.S. Department of State. (2025). *U.S. policy toward Venezuela: Recognition and legitimacy*.

Van der Wilt, H. (2019). State practice as element of customary international law: A white knight in international criminal law. *International Criminal Law Review*, 20, 1–25.

Vienna Convention on the Law of Treaties, May 23, 1969, 1155 *U.N.T.S.* 331.