

US capture of Maduro, Venezuela attacks have no justification in int'l law



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OPINION

The capture of Venezuelan President Nicolás Maduro and his wife by US forces operating in Venezuela, and his forced transfer to the US for trial, poses a significant challenge for international law.

The US has described the operation as a judicial "extraction mission" undertaken by law enforcement operatives supported by the military. Yet this was a military operation of considerable scale, involving strikes on military targets in and around Caracas, the capital, and the forcible abduction of a sitting president by US special forces. It is clearly a significant violation of Venezuelan sovereignty and the UN Charter.

This fact is compounded by President Donald Trump's announcement during his press conference of January 3 that the US will "run" Venezuela and administer a political transition, or regime change, under the threat of further, more massive uses of force. In addition, there seems to be a determination to use the threat of force to extract funds and resources in compensation for supposed "stolen" or nationalized US assets and oil.

Justifications are hard to see

It is difficult to conceive of possible legal justifications for transporting Maduro to the US or for the attacks. There is no UN Security Council mandate that might authorize force. Clearly, this was not an instance of a US act of self-defence triggered by a prior or ongoing armed attack by Venezuela.

The White House asserts that it is defending the American people from the devastating consequences of the illegal importation of drugs by "narco-terrorists" — consequences that could be compared to an armed attack against the US. However, in international law, only a kinetic assault with military or similar means qualifies as a trigger for self-defense.

Restoring democracy

This leaves the argument of pro-democratic intervention. Notably, the US did not use pro-democratic action as a formal legal justification when it invaded Grenada in 1983 and displaced its communist-leaning government. Neither did it do so when it invaded Panama in 1989 and captured President Manuel A. Noriega, with a view to putting him on trial for drug offenses.

Washington avoided doing so because it feared creating a precedent that would

justify pro-democratic interventions by other countries that it might oppose. Instead, it relied on an unconvincing claim to self-defence.

In the case of Venezuela, the US alleges that Maduro stole the presidential poll of 2024, that opposition candidate Edmundo Gonzales Urrutia was the true victor, and that Venezuelan authorities falsified the result of 2025's parliamentary elections. While this is disputed, there is little doubt that the electoral process was deeply flawed.

In 1948, the UN Declaration on Human Rights first enunciated the doctrine that the authority of a government must be based on the will of its people.

But in classical international practice, those who exercise effective control over a country's population and territory will be treated as the government. Considerations of legal or political legitimacy matter less. Accordingly, most governments have abandoned the practice of formally recognizing newly established governments, however they come to power. If they are effective, they are the government.

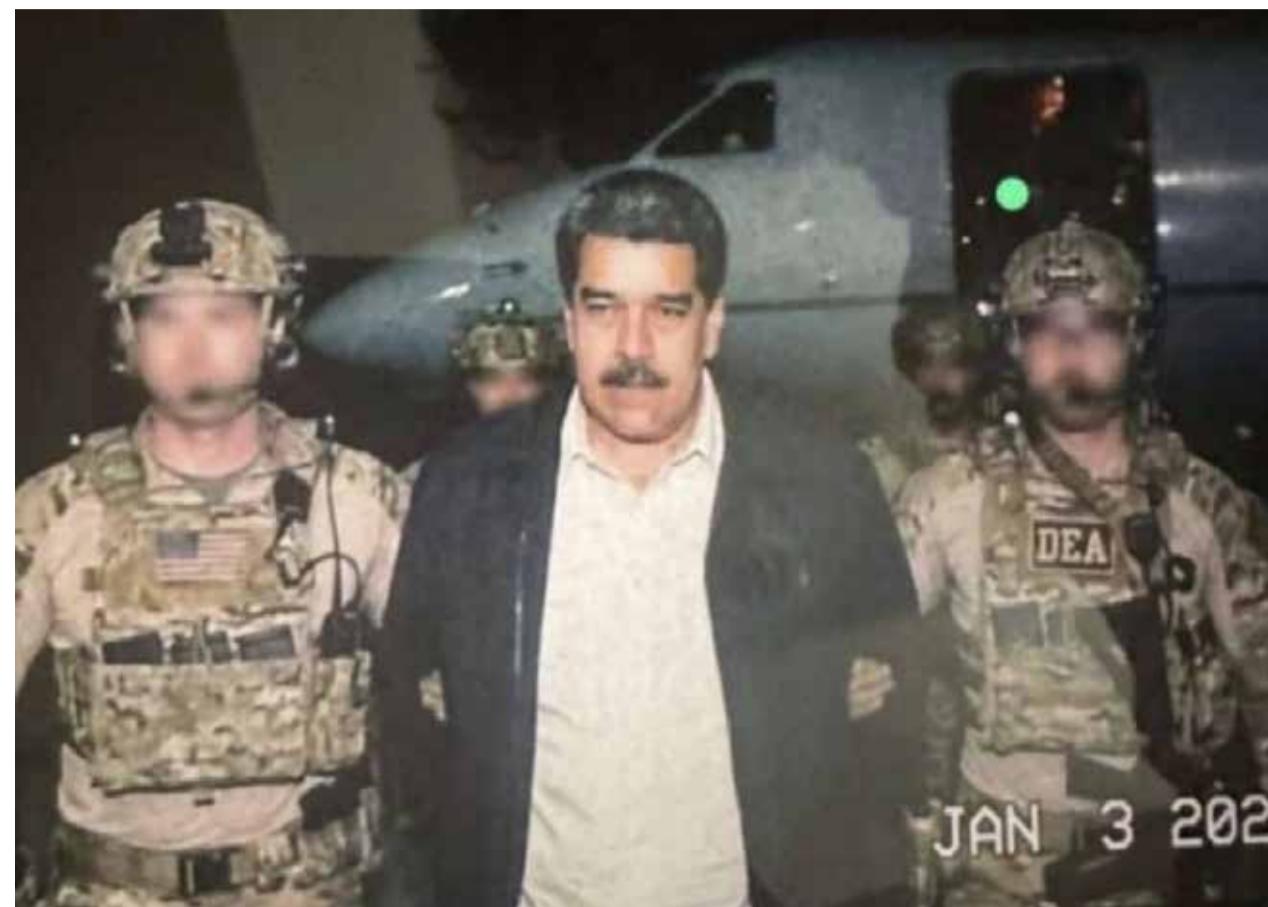
However, in the 1990s, with the end of the Cold War, the doctrine articulated by the UN Declaration on Human Rights gained in currency.

In 1990, Jean-Bertrand Aristide was elected President of Haiti. But he was soon displaced in a coup mounted by a military junta. In 1994, after many failed diplomatic attempts to restore the democratic outcome of the elections, the UN Security Council formally authorized a US-led force to facilitate the departure of the generals. Faced with the imminent US invasion, they gave in, and power was restored to Aristide.

Since then, a whole clutch of coups in Africa were opposed by the Organization of African Unity (OAU) and its successor, the African Union (AU), or sub-regional organizations. In several instances, these organizations authorized the use of force to restore democracy. Most recently, force was used to overturn the attempted coup in Benin last December with the backing of regional organizations.

African institutions and governments have also used sanctions and threats of force where an incumbent government refused to hand over power after having lost elections. However, these instances generally required a formal election result.

This doctrine cannot be invoked in cases of creeping authoritarianism or in response to claims that elections have not been free and fair. It only applies in cases of counter-constitutional coups or where there is an election result that remains unimplemented by a sitting government.



The doctrine is generally only applied where the UN Security Council, or at least a credible regional organization, has granted a mandate — to avoid individual states seeking regime change in pursuit of their own agendas. Clearly, in this instance, there was no mandate from the UN or the Organization of American States.

The apparent wish of the US government to work through the former vice president of the Maduro government Delcy Rodriguez and her cabinet and officials, rather than putting in place those who are believed to have won the elections of 2024/5, undermines any argument of pro-democratic intervention.

US courts

Mr. Maduro and his wife will find little comfort in the fact that they were removed from Venezuela by way of an internationally unlawful intervention. US courts consistently apply the so-called Ker-Frisbie doctrine, which holds that they will exercise jurisdiction, irrespective of the means by which the body of the defendant was procured for trial. The US will also refuse to extend to Maduro the immunities that automatically apply to a serving president when travelling abroad. This, too, is legally controversial. But as Noriega experienced be-



Venezuelan President Nicolás Maduro (c) is seen being flanked by heavily-armed US Drug Enforcement Administration (DEA) agents after being captured during an illegal operation on January 3, 2026.



The apparent wish of the US government to work through the former vice president of the Maduro government Delcy Rodriguez and her cabinet and officials, rather than putting in place those who are believed to have won the elections of 2024/5, undermines any argument of pro-democratic intervention. The fact that the US now claims to run Venezuela and to put in place its future government under the shadow of the gun, along with the demand to dominate the oil sector and extract "compensation," will reawaken uncomfortable memories of previous US dominance in the region.



In this courtroom sketch, Venezuelan President Nicolás Maduro (l) and his wife, Cilia Flores (2nd-r), appear in Manhattan federal court in New York with their defense attorneys on January 5, 2026.

• ELIZABETH WILLIAMS/AP

fore him, the US authorities are unlikely to be deterred by this fact. Overall, this episode further erodes international confidence in the principle, agreed after the horrors of the 20th century's world wars, that states must not enforce their legal claims or political demands through the use of force.

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To stop illegal conduct from turning into a precedent undermining the rule of law, it is necessary for other states and international bodies to identify the action as an infraction of the law and condemn it. The UN secretary-general promptly noted that the rules of international law have not been met in this instance, calling it a "dangerous precedent".

At an emergency meeting of the UN Security Council held within days of the intervention, several Council members identified the operation as a violation of the UN Charter and international law. This included the Non-Aligned Movement, composed of 125 states. Russia was given the unifying opportunity to present itself as a defender of the international prohibition of the use of force, despite its attack on Ukraine.

Another group of states, including the UK, was unwilling to identify the US as the author of an unlawful act. Instead, they referred to the democratic deficit of the Maduro government, its alleged involvement in drug trafficking, and human rights violations — without actually justifying the intervention. This was balanced with meek and formulaic general affirmations of the value of the international rule of law.

It was left to South Africa and other non-Western representatives to offer the most detailed and persuasive analyses in defence of the international legal order. Even if cautious Western diplomats at the UN may not yet be mandated to criticize the US's intervention, this may be the moment when Western Europe also realizes that the US has decisively abandoned the core values that united them for the past century.

The full article first appeared on Chatham House.

