

INTERNATIONAL LAW AND THE ARREST OF A SITTING HEAD OF STATE: A DETAILED LEGAL AND INTERNATIONAL RELATIONS ANALYSIS

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ABSTRACT

This paper critically examines the legality, implications, and failures associated with the arrest of a sitting head of state by another sovereign country, using the alleged arrest of the Venezuelan President by the United States as a contemporary reference point. The study analyses the incident through established principles of International Law, including state sovereignty, non-intervention, use of force, and head-of-state immunity. It further evaluates the episode through International Relations Theory to identify where and why the international system failed to prevent escalation. The paper argues that unilateral enforcement actions against foreign leaders undermine the rule-based international order and set a dangerous precedent, regardless of the political or moral justifications advanced.

INTRODUCTION

International law and international relations rest on the foundational assumption that states, irrespective of their military, economic, or political power, are legally equal and bound by commonly accepted rules. These rules were developed to prevent unilateral coercion and to ensure that disputes between states are resolved through peaceful and institutional means. Among these norms, respect for sovereignty, non-intervention, and the immunity of sitting heads of state occupy a central place, as they safeguard diplomatic dialogue and international stability.

The arrest of a serving president by a foreign power therefore represents an extraordinary departure from established legal and diplomatic practice. Such an act blurs the line between international law enforcement and the unilateral exercise of power. This paper situates the incident within the broader framework of international law and international relations to assess not only its legality, but also its implications for the credibility of global governance mechanisms.

BACKGROUND: WHAT HAPPENED

In the incident under discussion, the United States is alleged to have detained the sitting President of Venezuela and transferred him to U.S. jurisdiction to face domestic legal proceedings. The action was reportedly justified on grounds such as criminal accountability, national security, and the fight against transnational crime. However, the operation was conducted without the explicit consent of the Venezuelan state and without authorization from any international body. This immediately transformed what was presented as a law-enforcement action into a matter of international legal and diplomatic concern.

APPLICABLE PRINCIPLES OF INTERNATIONAL LAW

1. Sovereignty and Territorial Integrity

State sovereignty is a foundational principle of international law, affirmed in Article 2(1) and Article 2(4) of the United Nations Charter. It grants each state exclusive authority over its territory and internal affairs. Any foreign arrest operation carried out within another state's territory, without consent, constitutes a violation of territorial integrity and political independence.

2. Prohibition on the Use of Force

Article 2(4) of the UN Charter prohibits the threat or use of force against another state. Military or covert operations to seize a foreign leader amount to the use of force, regardless of whether large-scale hostilities occur. International law does not recognize unilateral law enforcement as a lawful exception to this prohibition.

3. Limited Exceptions to the Use of Force

International law permits force only under narrowly defined circumstances:

Self-defence (Article 51): This requires an actual or imminent armed attack. Allegations of criminal activity do not meet this threshold.

UN Security Council Authorization: Collective security actions must be approved by the Security Council.

Consent of the Territorial State: Voluntary and explicit consent legitimizes foreign operations. None of these conditions were clearly satisfied in the present case.

4. Head-of-State Immunity

Customary international law provides sitting heads of state with personal immunity (immunity *ratione personae*) from arrest, detention, or prosecution by foreign courts. This immunity applies irrespective of the nature of the alleged crimes and lasts for the duration of the official's term in office. The purpose is functional, not personal: it protects sovereign equality and ensures uninterrupted diplomatic engagement.

5. Extradition and International Criminal Accountability

International law offers lawful mechanisms to address allegations against foreign leaders, including extradition treaties, mutual legal assistance, and international criminal tribunals. Unilateral abduction bypasses these mechanisms and undermines procedural fairness and international cooperation.

INTERNATIONAL RELATIONS PERSPECTIVE: WHAT WENT WRONG

1. Breakdown of Multilateralism

The incident reflects a failure of multilateral institutions to act as effective forums for dispute resolution. Instead of engaging the United Nations or international courts, unilateral action prevailed.

2. Power Asymmetry and Selective Enforcement

International relations theory highlights how powerful states may disregard legal constraints when enforcement costs are low. This selective application of international law erodes its legitimacy and fosters resentment among weaker states.

3. Erosion of Norms and Trust

Norms such as non-intervention and sovereign equality survive only through consistent observance. Once violated by major powers, these norms weaken, increasing global instability.

4. Failure of Preventive Diplomacy

Diplomatic channels, mediation, and negotiated solutions were either insufficient or ignored. Preventive diplomacy, a key function of international relations, failed to contain the dispute.

From an international relations perspective, this episode reveals a breakdown of multilateral restraint. Sachs criticizes the muted response of traditional Western allies, particularly European states, suggesting that their reluctance to challenge unilateral actions reflects power dependence rather than principled commitment to international law.

He further argues that the burden of defending the UN Charter may increasingly fall on emerging powers and groupings such as BRICS, including India. The failure of collective resistance to norm violations weakens deterrence against future unilateral interventions and normalizes coercive diplomacy.

STRATEGIC MOTIVATIONS BEHIND THE ACTION

States may resort to such extraordinary actions due to a combination of legal, political, and strategic considerations. These may include the desire to demonstrate resolve against transnational crime, terrorism, or illicit financial networks; to assert dominance in a geopolitically sensitive region; or to send a deterrent message to other governments perceived as non-compliant with international norms. Domestic political factors, such as public opinion, electoral considerations, and institutional pressure, may further influence decision-making.

From a strategic perspective, unilateral action may appear efficient and decisive. However, this approach prioritizes short-term political objectives over long-term systemic stability, often underestimating diplomatic backlash and institutional consequences.

International observers argue that such unilateral actions must be understood within a broader strategic framework rather than as isolated legal enforcement. Economist Jeffrey Sachs, in a televised interview, contends that the action against Venezuela reflects a pattern of coercive foreign policy aimed at regime compliance. He cautions that references to Iran as a potential next target indicate an expansion of this strategy beyond the Western Hemisphere.

According to Sachs, such policies are often influenced by geopolitical dominance and control over strategic resources, particularly energy reserves. This perception undermines the claim that such actions are purely legal or security-driven and reinforces suspicions of selective enforcement. When strategic interests overshadow legal norms, international legitimacy is severely compromised.

DRAWBACKS AND LONG-TERM CONSEQUENCES

Precedent Risk: Normalizing unilateral arrests weakens the principle of sovereign equality and may encourage reciprocal actions by other states.

Diplomatic Fallout: Such actions strain bilateral and multilateral relations, leading to loss of trust and diplomatic isolation.

Escalation and Instability: The targeted state may experience internal unrest, while the broader region faces increased geopolitical tension.

Institutional Marginalization: Bypassing international institutions undermines their authority and effectiveness.

Erosion of Legal Certainty: Selective application of international law diminishes its predictability and legitimacy.

Risk of Chain Interventions: Targeting additional states such as Iran could trigger cascading regional conflicts.

Delegitimization of International Law: Selective application reinforces the belief that international law applies unevenly.

Polarization of Global Order: Deepens divisions between Western powers and the Global South.

Reduced Diplomatic Space: Coercive actions narrow opportunities for negotiation and peaceful settlement.

SUGGESTED SOLUTIONS

Strengthening UN Authority: Reinforce the role of the UN Security Council in authorizing enforcement actions.

International Judicial Mechanisms: Utilize the ICJ and international criminal institutions for accountability.

Collective Norm Enforcement: Encourage coordinated responses by regional and global institutions.

Preventive Diplomacy: Prioritize mediation, dialogue, and confidence-building measures.

Global South Leadership: Empower emerging powers to actively defend sovereignty and legal equality.

CONCLUSION

The unilateral arrest of a sitting foreign head of state represents a serious challenge to both international law and the practice of international relations. While combating serious international crimes is a legitimate concern of the global community, the means employed to achieve accountability are as important as the objective itself. Actions taken outside established legal frameworks risk replacing the rule of law with the rule of power.

This case illustrates how failures in multilateralism, preventive diplomacy, and respect for legal norms can destabilize the international system. Sustainable global order depends upon adherence to shared rules, consistent application of legal principles, and reliance on international institutions rather than unilateral coercion. Strengthening these mechanisms remains essential to preserving peace, legitimacy, and cooperation in international affairs.

A sustainable global order requires renewed commitment to sovereignty, immunity, and collective decision-making. Upholding these principles is essential not only for legal consistency but for preserving international peace and cooperation.

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