

Sovereign Equality vs. Unilateral Enforcement: The Legality of Head-of-State Abduction and the Erosion of Immunity Ratione Personae

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ARTICLE INFO	ABSTRACT
<p><i>Keywords:</i> State Sovereignty, Head of State Immunity, Unilateral Intervention, Narcoterrorism, UN Security Council.</p>	<p><i>This research analyses the legal implications of unilateral United States intervention in Venezuela through the forced extraterritorial extraction of a legitimate head of state under the pretext of combating narcoterrorism. Utilizing normative legal research with statutory and conceptual approaches, this article deconstructs the sharp contradictions between such actions and the principles of territorial sovereignty and the doctrine of personal immunity (immunity ratione personae). The findings demonstrate that this forced extraction constitutes an internationally wrongful act that violates both customary international law and the United Nations Charter. This article further asserts that the doctrine of male captus, bene detentus has become obsolete within the modern due process of law paradigm, where narcotics charges are frequently politicized as a pretext for strategic economic interests, specifically the control of oil reserves. Additionally, this study evaluates the roles of the United Nations and the International Court of Justice, noting that their effectiveness is often hampered by the political realities of the veto power within the Security Council. In conclusion, the strengthening of international norms is imperative to prevent the disruption of global stability caused by superpower hegemony that disregards the rule of law.</i></p>
<p>email: drajatharwita@gmail.com</p> <p>The Southeast Asia Law Journal Volume 11 No. 2 December - May 2026 p-ISSN: 2477-4081 e-ISSN: 2502-5503 hh. 81-90</p> <p>Received date : 12/12/2025 Published date : 10/01/2026</p>	<p><i>Penelitian ini menganalisis implikasi hukum dari intervensi unilateral Amerika Serikat di Venezuela melalui operasi ekstraksi paksa terhadap kepala negara yang sah dengan dalih pemberantasan narkoterrorisme. Menggunakan metode penelitian hukum normatif dengan pendekatan perundang-undangan dan konseptual, artikel ini membongkar kontradiksi antara tindakan tersebut dengan prinsip kedaulatan teritorial dan doktrin kekebalan pribadi (immunity ratione personae). Hasil penelitian menunjukkan bahwa tindakan ekstraksi ekstrateritorial tersebut merupakan perbuatan salah secara internasional yang melanggar hukum kebiasaan internasional dan Piagam PBB. Artikel ini juga menegaskan bahwa doktrin male captus, bene detentus telah usang dalam paradigma due process of law modern, di mana tuduhan kejahatan narkoba sering kali dipolitisasi sebagai selubung bagi kepentingan ekonomi strategis berupa penguasaan cadangan minyak. Selain itu, penelitian ini mengevaluasi peran PBB dan Mahkamah Internasional yang efektivitasnya sering kali terhambat oleh realitas politik hak veto di Dewan Keamanan. Kesimpulannya, penguatan norma internasional sangat diperlukan untuk mencegah disrupsi stabilitas global akibat hegemoni negara adidaya yang mengabaikan supremasi hukum.</i></p> <p>©2026 SALJ. All rights reserved.</p>

INTRODUCTION

Contemporary international law is fundamentally anchored in the pillars of state sovereignty and the principle of non-intervention, which categorically prohibit foreign entities from interfering in domestic jurisdictions or employing coercive measures within the territory of a sovereign state (Anghie, 2004; Cassese, 2005). Nevertheless, this legal architecture is frequently disrupted by asymmetric geopolitical dynamics and superpower unilateralism. One of the most extreme legal anomalies and geopolitical precedents of the 21st century occurred in early January 2026, when United States military forces launched an aggression against Caracas to execute the forced extraction of the President of Venezuela, Nicolás Maduro—referred to in certain literatures as "Tago." This operation, sanctioned by the highest US authorities, was framed as an exercise of extraterritorial law enforcement under the pretext of combating narcotics trafficking and narco-terrorism involving the *Cartel de los Soles* (Akashi, 2026; Kamalina, 2026).

While the justification constructed by US authorities was couched in legalistic rhetoric through the "War on Drugs," the event exposes a profound contradiction between the purported anti-narcotics mandate and underlying economic and political motives (*ulterior motives*). Economically and geographically, Venezuela serves as a global energy epicenter, possessing the world's largest proven oil reserves (CNN Indonesia, 2026; Harvey, 2003). Suspicions regarding resource imperialism were further corroborated by official US statements post-capture, which explicitly detailed plans to deploy multinational oil corporations to monopolize Venezuela's energy infrastructure (Kamalina, 2026; Stokes, 2005). This strongly suggests that the anti-narcotics campaign was politicized as a strategic veil to legitimize military aggression aimed at securing global oil supplies.

The essential gap between the legal pretext and geopolitical motives places the US actions in diametrical opposition to the international legal regime. First, drug trafficking is a transnational crime that necessitates interstate cooperation—such as mutual legal assistance and extradition—rather than the exercise of armed jurisdictional enforcement (Bassiouni, 2014). Pursuant to the 1988 UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, the lawful mechanism for cross-border enforcement must rely on extradition treaties or diplomatic channels based on the principle of comity (Boister, 2018; UN Convention, 1988). Second, the apprehension of a sitting head of state constitutes a grave violation of the doctrine of personal immunity (*immunity ratione personae*). This immunity is an absolute rule of customary international law that cannot be superseded by claims of universal jurisdiction, particularly since narcotics offenses do not fall within the category of "core international crimes," such as genocide or crimes against humanity (Akande & Shah, 2014; Cassese, 2005).

The disregard for the principles of sovereignty, non-intervention, and head-of-state immunity qualifies the US operation as an internationally wrongful act. Such conduct not only invokes state responsibility and the subsequent obligation for reparation but also serves as a crucial litmus test for the International Court of Justice (ICJ) and the UN Security Council in responding to breaches of global peace under the UN Charter (Crawford, 2013; Sandi, 2026). In light of these legal anomalies and fundamental problematics, this research aims to critically deconstruct the legal implications of unilateral US intervention in Venezuela. Specifically, this article examines the justification for the forced extraction of a legitimate head of state when juxtaposed against territorial sovereignty and the doctrine of immunity in contemporary international law. Furthermore, the analysis evaluates the standing and efficacy of international enforcement instruments, particularly the UN Security Council and the ICJ, in addressing the

unilateral actions of superpowers that disrupt global stability and security.

RESEARCH METHODOLOGY

This study employs **normative legal research**, treating public international law as a coherent system of norms, principles, and doctrines. The primary methodological focus is to evaluate the legality of the extraterritorial forced extraction conducted by United States authorities against the Venezuelan head of state within the framework of the prevailing global legal order. To deconstruct these legal complexities, the study applies a dual analytical framework: the statute approach and the conceptual approach (Hutchinson, 2002; Marzuki, 2017).

The Statute Approach

The statute approach is utilized to examine the *ratio legis* and ontological foundations of written international legal instruments that carry universal binding authority. Through this lens, the researcher analyzes the provisions regarding the prohibition of the use of force and the principle of non-intervention as mandated by the Charter of the United Nations (United Nations, 1945). Furthermore, the 1961 Vienna Convention on Diplomatic Relations (United Nations, 1961) serves as a primary analytical instrument. Although this convention specifically regulates diplomatic representation, the underlying principles of protection and inviolability are used as the normative basis to analyze the absolute immunity inherent to a sitting head of state (*immunity ratione personae*).

The Conceptual Approach

Conversely, the conceptual approach is applied to explore views, doctrines, and general principles of international law that, while not fully codified, are recognized as customary international law. The central conceptual prism used in this research is the maxim *par in parem non habet imperium*—the

principle that equals have no jurisdiction over one another (Brownlie, 2008; Shaw, 2017). This fundamental principle is explored to demonstrate that even a superpower lacks the legal legitimacy to impose its domestic criminal jurisdiction, including in the context of transnational narcotics crimes, upon another sovereign entity.

Data Collection and Analysis

All primary legal materials and legal principles were gathered through extensive library research. These materials were subsequently analyzed using a normative qualitative technique underpinned by deductive syllogism. This process involves drawing conclusions from a *major premise*—comprising the principles of sovereignty and international legal immunity doctrines—and a *minor premise*—consisting of the empirical facts regarding the apprehension of the Venezuelan President—to formulate a precise and academically rigorous legal conclusion.

RESEARCH FINDINGS AND DISCUSSION

The Binding Nature of International Law and the Absolutism of State Sovereignty

International law, in essence, operates within a coordinative rather than a subordinative system. Unlike domestic legal orders, which are characterized by a vertical and hierarchical power structure overseen by a superordinate executive authority, the global legal order is constructed upon horizontal relations between sovereign states (Cassese, 2005; Starke, 1989). This coordinative characteristic implies that all states, regardless of disparities in military prowess or economic capacity, maintain juridical equality before the law. This equivalent standing is the manifestation of the doctrine of sovereign equality of states, which serves as the core tenet of the UN Charter (Crawford, 2012; Shaw, 2017). Consequently, international law derives its binding force not from the coercion of a superior authority, but through

consensus and mutual respect for the jurisdictional boundaries of equal entities.

Under this theory of sovereignty, the power of a state is strictly confined by its territorial sovereignty. This doctrine establishes a rigorous prohibition against any state exercising enforcement jurisdiction within the territory of another state without the host nation's explicit consent (Ryngaert, 2015; Shaw, 2017). In this context, enforcement jurisdiction encompasses any police operation, arrest, search, or forced extraction conducted by the apparatus of a foreign state. Transborder coercive actions executed without authorization are not merely administrative infractions; they constitute a direct threat to the existence of an independent state and a lateral usurpation of that state's exclusive right to govern its own territory (Cassese, 2005; Ryngaert, 2015).

When this theory of coordinative sovereignty is juxtaposed with the empirical facts of the aggression and abduction of the Venezuelan President by United States (US) authorities, a fatal legal anomaly becomes apparent. The deployment of coercive force by US authorities to unilaterally extract "Tago" in Caracas represents an attempt to impose a subordinative paradigm upon a system that is inherently coordinative. Through this forced apprehension, the US has unlawfully positioned its domestic legal instruments as superior to Venezuelan national sovereignty. Under international law, regardless of the perceived gravity of the domestic criminal enforcement justifications cited by the US—including the eradication of narcotics—such pretexts instantaneously lose their legitimacy if their implementation unilaterally tramples upon the principle of another state's territorial sovereignty.

Violations of Sovereignty, Territorial Integrity, and Head-of-State Immunity

The construct of international law provides absolute protection for a sitting head of state

through the doctrine of personal immunity, or *immunity ratione personae*. This doctrine is not a personal privilege but a manifestation of state sovereignty itself, designed to ensure that a supreme leader can perform constitutional functions and represent the state internationally without the threat of foreign jurisdiction (Akande & Shah, 2010; Watts, 1994). In the landmark case *Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo v. Belgium)*, the International Court of Justice (ICJ) explicitly affirmed that high-ranking state officials, including heads of state, enjoy full immunity from foreign criminal jurisdiction regardless of the gravity of the alleged crimes, provided they remain in office (ICJ, 2002). Consequently, the actions of United States (US) law enforcement and military apparatus in apprehending "Tago" as the legitimate President of Venezuela constitute a fundamental breach of this absolute immunity doctrine.

Furthermore, the forced extraction conducted within the territory of Caracas represents a grave violation of the principles of territorial integrity and non-intervention. Article 2(4) of the UN Charter imperatively requires all member states to refrain from the threat or use of force against the territorial integrity or political independence of any state (United Nations, 1945). The entry of foreign agents or US military forces into sovereign Venezuelan territory—whether clandestinely or overtly—to abduct a head of state is a form of armed intervention and direct interference in domestic jurisdiction (Cassese, 2005; Shaw, 2017). This coercive border violation delegitimizes the entire legal process attempted by the US, as international law does not recognize legal outcomes derived from illegal military aggression, pursuant to the doctrine of *ex injuria jus non oritur* (law cannot arise from an unlawful act).

The pattern of US unilateralism—using domestic law enforcement instruments to justify sovereignty violations—finds an identical historical precedent

in the 1989 US invasion of Panama, which resulted in the capture of General Manuel Noriega (Farer, 1990; Maechling, 1990). Under the codename *Operation Just Cause*, the US deployed military force to arrest Noriega on international narcotics trafficking and money laundering charges issued by a federal court in Miami. Although US domestic courts ultimately affirmed their jurisdiction over Noriega in *United States v. Noriega* (1990), the international legal community widely condemned the invasion as a flagrant violation of Panamanian sovereignty and the UN Charter (Farer, 1990). While domestic courts may overlook illegal capture under the principle of *male captus, bene detentus* (wrongly captured, properly detained), the international legal regime rigorously rejects such practices.

The parallels between the Noriega precedent and the abduction of "Tago" confirm a recurring pattern of hegemony. The US utilizes the narrative of national security and the "War on Drugs" as a doctrine of exceptionalism to transcend its territorial jurisdictional boundaries (Krasner, 1999; Maechling, 1990). Although narcotics crimes are recognized as serious global threats, international law never authorizes any state to act as a "global policeman" by overriding territorial integrity or stripping away the diplomatic and personal immunity of another state's leader. The legitimacy of combating transnational crime cannot be constructed upon the ruins of another state's sovereignty.

Narcotics Enforcement versus the Hegemony of National Interest

In justifying jurisdiction over individuals abducted from foreign territories, United States (US) domestic courts have historically sought refuge behind the doctrine of *male captus, bene detentus*—the notion that a faulty arrest does not invalidate a subsequent detention. This archaic doctrine asserts that a court does not lose jurisdiction to try a defendant simply because the individual was

brought before the bench through unlawful means, including extraterritorial abduction (Paul, 2008). However, within the contemporary international legal landscape—which prioritizes human rights instruments—the application of this doctrine has met with universal condemnation for frontally undermining the principle of due process of law. Modern international judicial practice, including the jurisprudence of various international criminal tribunals, has shifted toward the abuse of process principle. Under this modern framework, a chamber is obligated to decline jurisdiction if the defendant's presence was obtained through grave violations of international law and the usurpation of another state's sovereignty (Bassiouni, 2014; Safferling, 2012). Consequently, the legitimacy of the US judicial proceedings against "Tago" is fundamentally flawed from the very inception of the military apprehension.

The staunch defense of this obsolete and manipulative doctrine by US authorities indicates a hidden agenda that transcends mere concern for pure law enforcement. A holistic analysis reveals that narco-terrorism charges are merely a pretext to facilitate strategic national interests. Superpower foreign policy often appropriates universal rhetoric—such as the eradication of narcotics or terrorism—to cloak unilateral interventions driven by the calculations of political and economic realism (Chomsky, 1999; Krasner, 1999). In the Venezuelan geopolitical context, US national interest is explicitly intertwined with the agenda of controlling energy infrastructure.

As a global epicenter possessing the world's largest proven oil reserves, Venezuela's internal political dynamics and leadership have direct implications for global energy stability and security. The abduction of "Tago" resonates strongly with the theory of resource imperialism, wherein military aggression and forced regime change aim to clear the path for US multinational corporations to re-monopolize the hydrocarbon sector in Latin

America (Harvey, 2003; Stokes, 2005). Thus, the mechanism of transnational narcotics enforcement has been reduced to a legalistic justification to accommodate economic hegemony and secure petroleum supplies. This manipulation of the law not only violates the principles of justice but also erodes the moral foundation and integrity of the international legal system itself.

Furthermore, modern law enforcement standards—including those adopted within the Indonesian national framework—require that any restriction of individual liberty must satisfy the principles of legality, necessity, and proportionality. Internationally, this commitment is reinforced by the International Covenant on Civil and Political Rights (ICCPR), which guarantees the right to personal security and the prohibition of arbitrary arrest (United Nations, 1966). The obligation of police forces to respect the ICCPR underscores that arrests lacking a valid legal basis constitute a violation of non-derogable fundamental rights. Therefore, the abduction of a foreign president by the apparatus of another state is not only a violation of sovereignty but potentially meets the threshold for cruel and inhumane treatment, strictly prohibited by international standards of conduct for law enforcement.

Ultimately, the use of narcotics charges as a unilateral operational basis represents a profound abuse of international legal mechanisms. While narcotics crimes are recognized as serious offenses under the 1988 UN Convention, the convention mandates that such crimes be addressed through formal cooperation, such as extradition, rather than through unilateral coercive measures (United Nations, 1988). International extradition law emphasizes that the surrender of a suspect must be based on bilateral treaties or comity, while respecting the sovereignty of the state where the suspect is located. When the extradition mechanism is bypassed in favor of abduction, a severe procedural and substantive distortion occurs. Such

actions stand in direct contradiction to the obligation to provide immunity and privileges to high-ranking foreign officials. The reliance on the *male captus, bene detentus* doctrine in this politicized economic scenario is no longer tenable, as it collides directly with the definitive boundaries established by the evolution of modern international law, which enshrines state sovereignty and the prohibition of arbitrary state conduct as its primary pillars.

The Role of the United Nations and the Paradox of International Law Enforcement

The efficacy of international law in responding to the unilateral actions of a superpower is heavily contingent upon the institutional capacity of the United Nations (UN). Theoretically, under Chapter VII of the UN Charter, the UN Security Council (UNSC) holds a superordinate mandate as the guardian of international peace and security, possessing the authority to determine the existence of any threat to the peace, breach of the peace, or act of aggression (United Nations, 1945). Through Articles 39, 41, and 42, the UNSC is juridically equipped with coercive instruments ranging from economic sanctions and the severance of diplomatic relations to the use of military force to restore global order (Simma, 2012). In the context of the abduction of a sovereign head of state via military aggression, the UNSC should serve as the primary forum for imposing legal sanctions against the offending state to uphold the dignity of sovereignty guaranteed by the Charter.

However, in the reality of international politics, the enforcement function of the UNSC frequently suffers from institutional paralysis due to the structural design of the veto power held by the five permanent members (P5). The veto power creates a legal anomaly wherein a superpower, such as the United States, possesses the legal capacity to obstruct any draft resolution aimed at penalizing or condemning its own actions or those of its strategic allies (Fassbender, 2009; Koskeniemi, 2005). This

phenomenon demonstrates that international law is often ensnared in a paradox between the ideal of the rule of law and the dominance of the rule of power. When a superpower commits an internationally wrongful act, the UNSC tends to become an arena of political stagnation rather than an institution of justice, thereby rendering the sovereignty of smaller or developing nations vulnerable to intervention (Krasner, 1999).

Nevertheless, a deadlock within the UNSC does not entirely preclude avenues for accountability. International law provides alternative mechanisms through the UN General Assembly (UNGA), specifically via the "Uniting for Peace" resolution (Resolution 377A). This mechanism allows the General Assembly to assume responsibility for maintaining peace and security if the UNSC is deemed to have failed in its functions due to a lack of unanimity among its permanent members (Carswell, 2013). Furthermore, the role of the International Court of Justice (ICJ) remains crucial as a judicial body capable of delivering advisory opinions or adjudicating interstate disputes concerning breaches of international obligations, even if the effective execution of its judgments remains dependent on international political will (Shaw, 2017). Ultimately, the role of the UN in the case of the Venezuelan President's abduction serves primarily as a platform for moral and normative legitimization—affirming the illegality of such unilateral acts—even while the enforcement of physical sanctions remains hindered by the realities of global political hegemony.

CONCLUSION

This study deconstructs the unilateral intervention by the United States in Venezuela, demonstrating that the forced extraction of President "Tago" constitutes a severe violation of the fundamental pillars of contemporary international law. The legal implications of such actions confirm that the exercise of extraterritorial coercive force under the

pretext of domestic law enforcement is **juridically indefensible**. A critical analysis of these actions reveals a diametrical opposition to the principles of territorial sovereignty and the doctrine of personal immunity (*immunity ratione personae*) inherent to a sitting head of state. The justification of law enforcement against narcotics crimes lacks sufficient legitimacy to derogate from international obligations regarding the respect for territorial integrity and the adherence to lawful extradition procedures.

Furthermore, this article concludes that attempts to legitimize abduction through the *male captus, bene detentus* doctrine are obsolete and no longer relevant within a modern legal paradigm that prioritizes human rights and the **due process of law**. When allegations of transnational crime are utilized as a veil to secure strategic economic interests, such as oil reserves, the integrity of the international legal system faces a grave existential threat. Such practices reduce the law to a mere instrument of power politics, which in turn disrupts global stability and erodes interstate trust in law enforcement cooperation based on mutual respect.

An evaluation of international law enforcement instruments reveals a wide chasm between legal norms and geopolitical realities. The **UN Security Council**, as the vanguard of global security, exhibits systemic limitations due to the superpower veto power, which frequently paralyzes functional justice. Meanwhile, although the **International Court of Justice (ICJ)** remains a **normative lighthouse** of justice, its efficacy in responding to unilateralism remains dependent on the collective will of the international community. Consequently, there is an urgent need to strengthen global commitment to rejecting all forms of intervention that infringe upon sovereignty, ensuring that the world order remains anchored in the **rule of law** rather than the mere hegemony of military might.

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