

Written Material – Targeting a Foreign President: U.S. and International Law Frameworks

Course Context

- Case Study: On January 3, 2026, U.S. forces captured Nicolás Maduro in Venezuela, following armed resistance.
- Course Focus: Examination of legal frameworks governing the lawful targeting (capture or killing) of a sitting foreign head of state.
- Analysis Sources: U.S. constitutional law, executive authority, international law on the use of force, and norms against assassination.

I. International Law Governing the Use of Force

- A. The UN Charter Framework
 - Baseline Rule: Prohibition on the use of force under Article 2(4) of the United Nations Charter.
 - Exceptions:
 1. UN Security Council Authorization.
 2. Self-Defense under Article 51 in response to an armed attack.
 - Targeting a foreign president without these conditions is an unlawful use of force.
- B. Heads of State and Sovereignty
 - A head of state is an organ of the state itself, implicating sovereignty directly.
 - International law does not permit force against foreign leaders based on criminality, corruption, or regime illegitimacy (e.g., narcotics trafficking, human rights abuses).

II. Armed Conflict and Lawful Targeting

- A. International Armed Conflict (IAC)
 - If the U.S. is engaged in an international armed conflict, political and military leaders may be lawful military objectives.
 - Legality flows from the role in hostilities, not identity.
 - Requirement: Armed conflict must already exist (not established by sanctions, covert action, etc.).
- B. Venezuela and the Threshold Problem
 - The U.S. was not in an acknowledged armed conflict with Venezuela on January 3, making reliance on the law of armed conflict legally difficult.
 - Greater weight is placed on self-defense or law enforcement justifications.

III. Self-Defense Outside Armed Conflict

- A. Imminence Requirement
 - International law permits anticipatory self-defense only when an armed attack is

- imminent and unavoidable (a narrow, fact-intensive standard).
 - Justification Requirements: The threat must be immediate and concrete; the response must be necessary and proportionate; non-forcible alternatives must be inadequate.
 - B. Application to Heads of State
 - Applying self-defense is legally extraordinary, requiring proof that the leader themselves posed an imminent armed threat.

IV. Capture Versus Killing

- A. Legal Significance of Capture
 - U.S. law and international practice distinguish between apprehension and lethal targeting.
 - Capture operations may be framed as law-enforcement actions where the target is criminally indicted, lethal force is minimized, and the primary objective is arrest.
- B. Foreseeability of Lethal Force
 - If lethal force is foreseeable or inevitable, international law may treat the operation as a use of force equivalent to a military strike.

V. U.S. Domestic Law Constraints

- A. Executive Order 12333 (Assassination Ban)
 - Prohibits U.S. personnel from engaging in assassination.
 - Lawful acts of war and self-defense killings have been concluded not to be assassinations.
- B. Role of the Office of Legal Counsel (OLC)
 - Any operation targeting a head of state requires a detailed OLC opinion addressing War Powers, Executive Order 12333, international law, and Congressional authorization.

VI. Criminal Indictments and Their Limits

- Criminal indictments (like the one against Maduro) support arrest warrants but do not independently authorize military force abroad.
- International law sharply distinguishes between extradition/law enforcement and military operations on foreign soil.

VII. War Powers and Congressional Authorization

- The Constitution allocates war powers between Congress and the President.
- Operations against a foreign government raise serious Article I and Article II questions.
- Absent an Authorization for Use of Military Force (AUMF), the legal footing is narrower.

VIII. Norms, Precedent, and Escalation Risk

- Restraint is heavily based on custom and norms, not just enforceable adjudication.
- Weakening these norms creates reciprocal risk, as rationales may be adopted by adversaries.

Key Takeaways for Attorneys

- Targeting a foreign president is among the most legally constrained uses of force.
- Armed conflict fundamentally alters legality but must preexist.
- Self-defense requires imminence, necessity, and proportionality.
- Executive Order 12333 remains a significant domestic constraint.
- Criminal indictments do not authorize military force.