

FORCE DISGUISED AS LAW ENFORCEMENT IN VENEZUELA: THE 2026 CAPTURE OF MADURO, HYBRID JUSTIFICATION AND THE EROSION OF ARTICLE 2(4) OF THE UN CHARTER

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Abstract: On 3 January 2026, United States forces struck targets in and around Caracas, seized Venezuelan President Nicolás Maduro and his wife Cilia Flores, and flew them to New York to stand trial on narco-terrorism charges. Washington presented the raid not as a use of force against Venezuela but as a law enforcement operation facilitated by the military. This article examines two linked questions: whether that framing has any footing in the *jus ad bellum*, and whether the reaction of other states was strong enough to protect the prohibition of force laid down in Article 2(4) of the UN Charter. Doctrinal analysis of the five justificatory strands advanced by the United States (law enforcement, implicit self-defence, non-recognition of Maduro, the Noriega analogy and the narco-terrorism designation) shows that none satisfies a recognised exception and that their combination functions to avoid any single, testable legal claim. The original contribution of the article is the Normative Response Index (NRI), a five-point coding scale (from -2, explicit legal condemnation, to +2, explicit endorsement) applied to all 27 states that addressed the Security Council at its 10085th meeting on 5 January 2026. The mean NRI is -1.00 (SD = 1.18); only 11 of 27 states (40.7%) characterised the operation as unlawful, 13 (48.1%) voiced concern or equivocated, and 3 (11.1%) welcomed it. No Western European and Others Group speaker described the operation as illegal. Sensitivity analysis keeps the mean between -0.89 and -1.11 under every alternative coding, which places the case in the category of contested rejection rather than clear rejection. Compared with Panama in 1989, when the General Assembly condemned the intervention by 75 votes to 20, the institutional response in 2026 stopped at debate. The findings indicate that the discursive validity of Article 2(4) survives, but its institutional enforcement layer has thinned, and that hybrid justification exploits precisely this gap.

Keywords: *use of force, Article 2(4) UN Charter, jus ad bellum, extraterritorial law enforcement, Venezuela, Maduro, state practice and opinio juris, norm robustness.*

INTRODUCTION

In the early hours of 3 January 2026, the United States carried out large-scale strikes in and around Caracas and removed Nicolás Maduro and Cilia Flores from Venezuelan territory (Security Council Report, 2026). The raid left approximately seventy-five to eighty

Venezuelans and Cubans dead and six US service members injured, and it followed a months-long military build-up in the Caribbean that had included lethal strikes on vessels suspected of carrying narcotics, a blockade of sanctioned oil tankers announced on 16 December 2025, the seizure of tankers and repeated threats of force (Cogan, 2026).

It was also the culmination of more than a decade of US efforts to undermine the Maduro government, accompanied by unilateral sanctions regimes that were mirrored, and litigated, in Europe (Cogan, 2026; Silingardi, 2024). Within hours the President of the United States announced that Washington would “run” Venezuela until a safe transition could be arranged, and members of his cabinet spoke of controlling Venezuelan oil sales indefinitely (Cogan, 2026; Mazza, 2026). Few events since the Russian invasion of Ukraine in February 2022 have placed the prohibition of the use of force under comparable strain (Green et al., 2022; Redaelli, 2026).

What makes the case analytically distinctive is not the use of force itself but the vocabulary in which it was wrapped. The Chairman of the Joint Chiefs of Staff described the raid as an apprehension mission conducted in support of a request from the Department of Justice, and the presidential letter to Congress claimed that military forces were necessary to effectuate the arrest of two indicted persons (Cogan, 2026). Two days later, the US Permanent Representative told the Security Council that his country had conducted a surgical law enforcement operation, that there was no war against Venezuela or its people, and that the action resembled the 1989 arrest of Manuel Noriega (UN Security Council, 2026; UN News, 2026). In parallel, Washington invoked Article 51 of the Charter, denied that Maduro was a legitimate head of state and described him as the leader of a terrorist organisation (Mani, 2026; UN Security Council, 2026). Yet the administration never published an international legal rationale; the only official legal analysis available, a redacted opinion of the Office of Legal Counsel dated 23 December 2025, itself refers to the operation as a use of force that would initiate an international armed conflict with Venezuela (Cogan, 2026).

The early legal commentary converges on the verdict. Longobardo (2026) concludes that the operation violated the prohibition of the use of force, the principle of non-

intervention and the right of peoples to self-determination, irrespective of the undemocratic character of the Maduro government. Bultrini (2026) finds no plausible justification under international law and calls for a coherent response from the wider international community, while Sluiter (2025) catalogues the international law violations triggered by the abduction and the questions they will raise before the court in New York. The American Society of International Law (2026), in an unusually direct statement issued on 5 January, described the action as a violation of the Charter's prohibition on force. The question of legality, in other words, is not where the scholarly uncertainty lies.

The uncertainty lies elsewhere. A rule of customary international law is not weakened by a single violation, but it can be weakened by violations that are tolerated (International Court of Justice, 1986; International Law Commission, 2018). Whether the prohibition of force emerges from 2026 intact therefore depends less on the strength of the American arguments than on the response of the roughly 190 other states whose practice and *opinio juris* sustain the norm (Goldthorpe, 2023; Kleczkowska, 2019). That response has so far been described impressionistically. Commentators note that some states condemned the raid while others “equivocated”, apparently out of concern for US retaliation (Cogan, 2026), and international relations scholarship has begun to read the US conduct as contestation of the non-use of force norm from within the order (Yunazwardi & Ikawati, 2026). What has not been attempted is a systematic, replicable measurement of how the international audience actually reacted.

This article addresses that gap. Its central research question is whether the hybrid justification advanced by the United States, which fuses a domestic law enforcement narrative with fragments of *jus ad bellum* argument, found sufficient acquiescence among states to begin eroding Article 2(4) of the UN

Charter. Three hypotheses structure the inquiry. The first hypothesis (H1) holds that the US justification was structurally hybrid: it combined several legal registers, none of which satisfies a recognised exception to the prohibition of force, and their combination served to avoid a single, falsifiable legal claim. The second hypothesis (H2) holds that the reaction of states that addressed the Security Council fell below the threshold of unambiguous legal rejection, with fewer than half of them characterising the operation as unlawful. The third hypothesis (H3) holds that, compared with the US intervention in Panama in 1989, the institutional response to the removal of Maduro was markedly weaker, which signals erosion of the norm's enforcement layer even where its discursive validity is reaffirmed.

The original contribution of this article lies in the Normative Response Index (NRI), a five-point ordinal instrument that codes each state's public reaction to a specific use of force, from explicit legal condemnation to explicit endorsement, and aggregates those codes into indicators of norm robustness. Unlike prior work on the Maduro operation, which concentrates on the legality of the violator's conduct or on the violator's discourse, the NRI measures the audience: the states whose reactions decide whether a violation remains a violation or becomes a precedent. Applied to the 27 states that addressed the Security Council on 5 January 2026, the index yields a mean of -1.00, an explicit illegality share of 40.7% and a pattern of regional divergence that the existing literature has not documented.

The argument proceeds in six steps. The next section reviews the literature on the prohibition of force, extraterritorial law enforcement, customary law formation and norm robustness, and sets out the methodology, including the construction of the NRI. The research results section presents the coded data, the sensitivity analysis and the comparative institutional record. Four analytical sections then interpret those results: the

anatomy of the hybrid justification, the reasons why the law enforcement frame cannot escape Article 2(4), the arithmetic of acquiescence revealed by the NRI, and the thinning of institutional responses between Panama and Caracas. The conclusion evaluates the three hypotheses, states the limitations of the study and identifies implications for the defence of the Charter order.

LITERATURE REVIEW AND METHODOLOGY

Literature Review

Four bodies of scholarship bear directly on the problem. The first concerns the scope and exceptions of the prohibition of the use of force. The Charter text is short: Article 2(4) requires members to refrain from the threat or use of force against the territorial integrity or political independence of any state, and the only treaty exceptions are Security Council authorisation under Chapter VII and individual or collective self-defence under Article 51 (Charter of the United Nations, 1945). The International Court of Justice confirmed in 1986 that the prohibition also exists as customary law and that only the gravest forms of force qualify as an armed attack triggering self-defence (International Court of Justice, 1986). In 2005 the Court added that Article 51 does not allow force to protect perceived security interests beyond the parameters of an armed attack (International Court of Justice, 2005). The Definition of Aggression lists bombardment by the armed forces of a state against the territory of another state as an act of aggression and states that no consideration of a political, economic, military or other nature may justify it (UN General Assembly, 1974). The International Law Commission, in its 2022 conclusions on peremptory norms, placed the prohibition of aggression on its non-exhaustive list of jus cogens norms (International Law Commission, 2022). Corten (2021) reads this body of practice restrictively and argues

that most claimed expansions of the exceptions have failed to gain general acceptance, whereas Henderson (2023) offers a more contextual account in which state practice continuously tests the edges of the rules without dissolving their core.

Within that literature, the most active debate concerns self-defence against non-state actors. Müllerson (2019) accepts that armed attacks in the sense of Article 51 can be carried out by non-state actors, yet insists that a victim state must first seek the consent of the territorial state before responding on its soil. Tsaourias (2025) maps the attribution, Article 3(g) and “unwilling or unable” approaches and finds each methodologically fragile, proposing instead a morphological reading of self-defence as a primary rule. Henderson (2022) shows how the February 2021 US strikes in Syria were justified through a contextual and enabling notion of necessity that placed question marks over the armed attack requirement itself, and O'Meara (2022) documents a parallel loosening of the imminence criterion in state practice. Álvarez (2025), writing before the Venezuelan raid and with Mexico in view, concludes that drug trafficking does not *prima facie* fall within the notion of an armed attack and that an armed response to cartels would be unlikely to satisfy necessity and proportionality. These contributions establish the doctrinal baseline against which any self-defence claim in the Venezuelan case must be measured.

A second literature, smaller but directly relevant, examines the boundary between law enforcement and the use of force. Ma and Zhou (2024) identify the distinction between maritime law enforcement and military operations as the core problem in peacetime use of warships, and argue for a strict interpretation of the prohibition of force to prevent escalation. Chang (2021) reaches a comparable conclusion for disputed maritime zones, where coastal states routinely present coercive measures as policing. Schaller (2023) approaches the threshold from another angle and shows that even indirect contributions

can amount to a use of force where they are essential to and intended to bend the will of the target state. On land the problem is starker, because enforcement jurisdiction is strictly territorial; the US government itself accepted as early as 1989 that law enforcement actions in another state are not exempt from the rules prohibiting force, intervention and the exercise of governmental authority abroad (Cogan, 2026). Domestic courts in the United States nevertheless continue to apply the rule that the manner in which a defendant is brought before them does not, absent a treaty violation, defeat their jurisdiction (United States v. Alvarez-Machain, 1992). In Noriega's case, the trial court also rejected a head-of-state immunity defence (United States v. Noriega, 1990). This divergence between international illegality and domestic admissibility is the structural opening that hybrid justification exploits.

The terrorism framing deserves separate attention because it supplied much of the vocabulary of the 2026 operation. El Masri and Phillips (2024) analyse hundreds of militant organisations and find that designation lists are driven less by attack severity than by policy diffusion, with most countries following the United States. Deen (2025) argues that designating Mexican drug trafficking organisations as foreign terrorist organisations would open the door to new legal tools and to the use of special forces against their networks, a prescription that anticipated the path later taken against Venezuela. The AJIL record shows that the 2020 indictment already framed Maduro as the leader of the so-called *Cártel de los Soles* conspiring to use cocaine as a weapon against the United States (Galbraith, 2020). Domestic designation, however, has no bearing on the international legal characterisation of force used on another state's territory (Álvarez, 2025).

The third body of scholarship concerns how customary norms change, and especially the legal weight of reactions and silence. The International Law Commission (2018) accepts that failure to react over time to a

practice may serve as evidence of acceptance as law, provided that states were in a position to react and the circumstances called for some reaction. Kleczkowska (2019) applies this logic to the 2017 and 2018 strikes on Syria and shows how the ambiguous and divided statements of states produced uncertainty about whether any new exception had begun to form. In a later study she argues that the prohibition of threats of force has become a “silently contested” norm, eroded not by open rejection but by the habit of leaving threats unanswered (Kleczkowska, 2023). Goldthorpe (2023) adds a TWAIL perspective and asks whose views count: if *opinio juris* is read only from the reactions of a few powerful states, the armed attack requirement appears looser than it is when the positions of the Global South are included. Paddeu (2020) and Butchard (2020) contribute a structural point: the prohibition protects general reasons against force that do not disappear simply because a particular justification is offered, which means that the burden of justification rests permanently on the state using force.

The Russian invasion of Ukraine re-energised this literature. Green et al. (2022) dissect the legal justifications advanced by Moscow and find them devoid of substance and credibility, while warning that the real test lies in the response of other states. Gill (2022) reaches a similar conclusion about the pre-textual character of the “special military operation”. Trahan (2024) and Maluwa (2025) examine how the veto paralysed the Security Council and how the General Assembly and the African Union responded, while Barber (2023) and Pan (2026) assess the General Assembly's 2022 veto initiative, which requires the Assembly to meet whenever a permanent member casts a veto (UN General Assembly, 2022). Pan (2026) reads the initiative as authoritative subsequent practice affecting the interpretation of the Charter. These studies matter for the Venezuelan case because the institutional machinery they describe was

activated in 2022 but, as shown below, remained largely idle in 2026.

The fourth literature comes from international relations and concerns norm robustness and contestation. Deitelhoff and Zimmermann (2019) define robustness along two dimensions: validity, meaning discursive acceptance of a norm's claims, and facticity, meaning the extent to which the norm actually guides behaviour. Sandholtz (2019) shows that the effect of contestation on robustness depends on the characteristics of challengers and defenders and on the institutional embeddedness of the norm. Lesch et al. (2024) compare African contestation of the duty to prosecute with US contestation of the torture prohibition and find that hierarchies inside the liberal order shape whether contestation radicalises or remains contained. Lesch (2023) demonstrates that violations do not only weaken norms but also develop them, because international institutions determine the meaning of deviant behaviour. Deitelhoff (2020) cautions against equating every contestation with backlash, and Price (2021) traces how performative challenges by governments produce norm erosion over time. Rogstad (2022) explains why the stigmatisation of Russia after 2014 failed to deter later aggression. A first application of this framework to the Maduro case already exists: Yunazwardi and Ikawati (2026) argue that the United States did not exit the international legal system but engaged in justificatory and applicatory contestation of the non-use of force principle. Their analysis, however, is confined to the discourse of the violating state.

A final strand situates the raid historically. O'Rourke (2020), using an original dataset, shows that during the Cold War Washington attempted 64 covert regime changes against only 6 overt ones, which makes the overt and acknowledged character of the 2026 operation itself a departure. Villa et al. (2022) find that economic expropriation signalled to the United States that a state might leave its hierarchy, thereby raising the probability of

foreign-imposed regime change, a mechanism that resonates with the oil-centred rationale documented by Mazza (2026). Downes (2021) and Willard-Foster (2019) explain why foreign-imposed regime change frequently fails to produce stable outcomes, while Brownlee (2024) treats Panama in 1989 and 1990 as one of the rare post-Cold War “successes”. Scarfi (2020) recovers the Latin American legal anti-imperialist tradition that developed against the Monroe Doctrine, and Mazza (2026) argues that the so-called “Donroe Doctrine” exceeds rather than follows that tradition. Wirtz (2022) traces how the theory of special operations shaped the 2011 Abbottabad raid, the closest operational precedent for a leadership seizure on foreign soil.

Taken together, the literature produces a clear doctrinal verdict on the legality of operations such as the 2026 raid, an extensive debate on the erosion of the self-defence requirements, a recognised theory of how silence and reactions affect custom, and a robust IR vocabulary for norm contestation. What it lacks is an instrument that connects these strands by measuring, case by case and state by state, the reactions on which the legal theory of custom depends. Kleczkowska (2019) and Goldthorpe (2023) analyse reactions qualitatively; Deitelhoff and Zimmermann (2019) propose indicators of validity but do not operationalise them for single uses of force. The Normative Response Index is designed to fill that space.

Research Methodology

The study adopts a mixed design that integrates doctrinal legal analysis, systematic content analysis of state statements and structured comparison of historical cases. The doctrinal component examines the five justificatory strands advanced by the US government between 3 and 5 January 2026 against the requirements of Article 2(4), Article 51 and the customary rules identified by the International Court of Justice

(International Court of Justice, 1986, 2005). Primary sources include the record of the 10085th meeting of the Security Council (UN Security Council, 2026), the account of the presidential letter to Congress and of the Office of Legal Counsel opinion published in the American Journal of International Law (Cogan, 2026), the statements reported by UN News (UN News, 2026) and the Venezuelan request for an emergency meeting summarised by Security Council Report (Security Council Report, 2026).

I chose the Security Council meeting of 5 January 2026 as the core dataset for three reasons. It was the first formal multilateral forum in which states reacted to the operation on the record; it occurred within 48 hours, before diplomatic positions could be negotiated into joint texts; and it brought together all fifteen Council members and twelve invited non-members, including the immediate neighbours of Venezuela and the chairs of two large groupings, the Non-Aligned Movement and the Group of Friends in Defence of the Charter of the United Nations (UN Security Council, 2026). The International Law Commission (2018) treats statements in international organisations as a recognised form of state practice and evidence of *opinio juris*, which makes this venue legally relevant and not merely politically symbolic.

The comparative component sets the 2026 case against two historical precedents involving the forcible seizure of persons on foreign territory and their transfer for trial. The abduction of Adolf Eichmann from Argentina in 1960 produced Security Council Resolution 138, which requested Israel to make appropriate reparation (UN Security Council, 1960). The US intervention in Panama in 1989, which ended with the capture of Manuel Noriega, produced a draft Security Council resolution vetoed by France, the United Kingdom and the United States, and General Assembly Resolution 44/240, which deplored the intervention as a flagrant violation of international law (Security Council Report, 2026; UN General Assembly, 1989).

The Abbottabad raid of 2011 is used qualitatively as an operational, not legal, reference point (Wirtz, 2022). The comparison is structured around one ordinal variable, the Institutional Response Level, defined in the next sub-section.

The study covers the period from 3 January to 30 September 2026. It relies exclusively on public sources. Where official verbatim records were not yet available, I relied on the UN Meetings Coverage summary and on UN News, which summarise every speaker; this choice creates a risk of condensation bias, which the sensitivity analysis described below is designed to control. Out-of-Council statements, such as the joint declaration of Brazil, Chile, Colombia, Mexico, Uruguay and Spain of 4 January 2026 and the statements of the African Union and the European Union (Cogan, 2026), are used to validate and, where necessary, challenge the Council-based codes.

The Normative Response Index: Construction and Coding Rules

The Normative Response Index assigns each state statement to one of five ordinal categories. A score of -2 (explicit legal condemnation) applies where a state characterises the operation as aggression, as a violation of the Charter or of international law, or as illegal, or where it demands the reversal of the operation's effects, such as the release of the persons seized, since such a demand denies the operation any lawful basis. A score of -1 (normative concern) applies where a state invokes the Charter, sovereignty or the danger of precedent in relation to the operation, without qualifying it as unlawful. A score of 0 (equivocation) applies where a state reaffirms international law only in general terms, without linking it critically to the operation, and dwells mainly on the character of the Maduro government. A score of +1 (qualified acceptance) applies where a state welcomes the outcome, typically Maduro's departure, without endorsing the legality of the means.

A score of +2 (explicit endorsement) applies where a state praises or supports the operation itself.

The coding unit is the state. Where one delegation spoke on behalf of several states, as Liberia did for itself, Somalia and the Democratic Republic of the Congo, each state receives the code of the joint statement (UN Security Council, 2026). Where a state spoke on behalf of a broader group, as Uganda did for the Non-Aligned Movement and Eritrea for the Group of Friends of the Charter, only the speaking state is coded, so that the index does not inflate the weight of groups whose individual members did not take the floor. The acting state (the United States) and the target state (Venezuela) are excluded, because their positions are constitutive of the dispute rather than reactions to it.

From the individual codes, four indicators are derived. The NRI mean is the arithmetic mean of all codes. The Explicit Illegality Share (EIS) is the proportion of states coded -2. The Ambiguity Share is the proportion coded -1 or 0, and the Support Share the proportion coded +1 or +2. To translate these values into a qualitative judgement about norm robustness, I adopt an analytical convention with four bands: clear rejection (mean of -1.5 or lower and EIS of at least 50%), contested rejection (mean between -1.5 and -0.5), ambiguity (mean between -0.5 and +0.5) and acceptance (mean above +0.5). The thresholds are a heuristic, not a legal test, and are reported so that other researchers can contest or recalibrate them.

The Institutional Response Level (IRL) captures the strongest formal output produced by the principal UN organs in response to a given use of force, on an ordinal scale from 0 to 4: 0 for no institutional reaction, 1 for statements by the Secretary-General only, 2 for a debate in a principal organ without a draft text, 3 for a draft resolution tabled but not adopted, and 4 for a resolution adopted by the Security Council or the General Assembly. Together, the NRI and the

IRL distinguish between what states say about a norm and what the institutions designed to defend it actually do, which corresponds to the validity and facticity dimensions of robustness identified by Deitelhoff and Zimmermann (2019).

Two safeguards address the reliability of the coding. First, every code in Table 1 is accompanied by a paraphrase of the statement on which it rests, so that readers can verify or dispute the assignment. Second, a sensitivity analysis recodes the most ambiguous statements under alternative readings and reports how the aggregate indicators change. In my judgement this transparency matters more than formal inter-coder statistics, which a single-author study cannot credibly produce.

RESEARCH RESULTS

The empirical findings fall into three blocks that correspond to the three hypotheses: the structure of the justification advanced by the United States, the coded reactions of states at the Security Council, and the

institutional output compared with earlier cases of extraterritorial seizure.

The first block concerns the justificatory record. Between 3 and 5 January 2026 the US government advanced five distinct strands of justification through four channels: the presidential letter to Congress, statements by the Chairman of the Joint Chiefs of Staff and the Attorney General, the address of the Permanent Representative to the Security Council, and public statements by the President (Cogan, 2026; UN Security Council, 2026). Table 1 sets out each strand, the legal register to which it belongs and the forum in which it was used. Only one strand, the self-defence claim, belongs to the *jus ad bellum*; it was voiced by the US Permanent Representative but was never developed in a letter to the Security Council setting out an armed attack, as Article 51 requires (Mani, 2026; Cogan, 2026). The administration provided no public international legal rationale at all, and the only official legal document available, the Office of Legal Counsel opinion of 23 December 2025, expressly characterises the operation as a use of force (Cogan, 2026).

Strand	Core claim	Legal register	Principal forum
Law enforcement	Military support to arrest two indicted fugitives	Domestic criminal law	Letter to Congress; Security Council
Self-defence	Maduro ran a hybrid criminal state threatening the US	<i>Jus ad bellum</i> (Art. 51)	Security Council; letter to Congress
Non-recognition	Maduro was not a legitimate head of state	Recognition of governments	Security Council
Historical precedent	The raid resembled the 1989 arrest of Noriega	Analogy	Security Council
Narco-terrorism	Maduro led a terrorist drug organisation	Domestic designation and indictment	Security Council; indictment

Table 1. *Justificatory strands advanced by the United States, 3–5 January 2026. Source: compiled by the author from Cogan (2026), Mani (2026) and UN Security Council (2026).*

The second block presents the Normative Response Index. According to the summary record, twenty-seven delegations addressed the Council at its 10085th meeting; after excluding the United States and Venezuela, and after attributing the joint statement delivered by Liberia to Liberia, Somalia and the Democratic Republic of the Congo, the

dataset comprises 27 states (UN Security Council, 2026; UN News, 2026). Fourteen of them were Council members and thirteen were invited non-members. Table 2 reports the code assigned to each state together with a paraphrase of the statement on which it rests.

State	Group	Status	Basis for code (paraphrase)	NRI
China	APG	P5	Condemned unilateral, illegal and bullying acts against Venezuela	-2
Russian Federation	EEG	P5	Rejected US claim to act as supreme judge; characterised action as armed aggression	-2
France	WEOG	P5	Operation contrary to peaceful settlement; weakens international order	-1
United Kingdom	WEOG	P5	Stressed regime's abuses; general reaffirmation of the Charter	0
Colombia	GRULAC	Elected	Rejected any unilateral use of force; warned of civilian costs	-2
Denmark	WEOG	Elected	Inviolability of borders; dangerous precedent; non-recognition of Maduro	-1
Greece	WEOG	Elected	Concern over precedent alongside criticism of regime	-1
Pakistan	APG	Elected	Escalation sets dangerous precedents; peaceful means only	-1
Panama	GRULAC	Elected	Region a zone of peace; unilateral action destabilising; criticised regime	-1
Somalia	AG	Elected	Joint statement: dangerous precedent; peaceful means	-1
Bahrain	APG	Elected	Focused on regime's harms; no critical link to operation	0
DR Congo	AG	Elected	Joint statement: dangerous precedent; peaceful means	-1
Latvia	EEG	Elected	Focused on regime's harms; no critical link to operation	0
Liberia	AG	Elected	Joint statement: dangerous precedent; peaceful means	-1
Argentina	GRULAC	Invited	Praised the decisive action of the US President	+2
Brazil	GRULAC	Invited	Seizure crossed an unacceptable line; aggression violates Charter	-2
Chile	GRULAC	Invited	Concern over precedent alongside criticism of regime	-1
Cuba	GRULAC	Invited	Imperialist aggression; demanded release of Maduro	-2
Eritrea	AG	Invited	For Group of Friends of the Charter: aggression violates Charter	-2
Iran	APG	Invited	Condemned aggression; linked it to threats against Iran	-2
Mexico	GRULAC	Invited	Aggression violates Charter; imposed regime change unlawful	-2
Nicaragua	GRULAC	Invited	Demanded immediate release of Maduro as rightful leader	-2
Paraguay	GRULAC	Invited	Welcomed Maduro's exit; called for democratic restoration	+1
South Africa	AG	Invited	Aggression violates Charter; threat to multilateralism	-2
Spain	WEOG	Invited	Concern over precedent alongside criticism of regime	-1
Trinidad and Tobago	GRULAC	Invited	Steadfast support for US-led regional security efforts	+2
Uganda	AG	Invited	For Non-Aligned Movement: aggression and act of war	-2

Table 2. *Normative Response Index* codes, Security Council, 5 January 2026. Source: coded by the author from UN Security Council (2026) and UN News (2026). Groups: AG = African Group; APG = Asia-Pacific Group; EEG = Eastern European Group; GRULAC = Latin American and Caribbean Group; WEOG = Western European and Others Group.

Aggregation of the 27 codes produces a sum of -27 and a mean NRI of -1.00, with a sample standard deviation of 1.18. Eleven states (40.7%) were coded -2, ten (37.0%) -1, three (11.1%) 0, one (3.7%) +1 and two (7.4%) +2. The Explicit Illegality Share therefore stands at 40.7%, the Ambiguity Share at 48.1% and the Support Share at 11.1%. Under the banding convention set out in the methodology, the case falls in the category of contested rejection: a clear majority of

speakers distanced themselves from the operation, but fewer than half described it as unlawful.

The distribution is not uniform across regional groups. As Table 3 shows, the African Group produced the most negative mean (-1.50), followed by the Asia-Pacific Group (-1.25), the Eastern European Group (-1.00), the Western European and Others Group (-0.80) and the Latin American and Caribbean Group (-0.70). The two groups closest to zero differ sharply in structure. The five

WEOG speakers clustered tightly around normative concern, with a standard deviation of 0.45 and not a single explicit finding of illegality. The ten GRULAC speakers were the

most polarised of all (SD = 1.70): five described the operation as unlawful, while Argentina and Trinidad and Tobago endorsed it and Paraguay welcomed its outcome.

Category	n	Sum	Mean	SD	EIS (%)
African Group	6	-9	-1.50	0.55	50.0
Asia-Pacific Group	4	-5	-1.25	0.96	50.0
Eastern European Group	2	-2	-1.00	1.41	50.0
WEOG	5	-4	-0.80	0.45	0.0
GRULAC	10	-7	-0.70	1.70	50.0
Council members	14	-14	-1.00	0.68	21.4
Invited non-members	13	-13	-1.00	1.58	61.5
All states	27	-27	-1.00	1.18	40.7

Table 3. Aggregate NRI indicators by regional group and Council status. Source: calculated by the author from Table 2. SD = sample standard deviation; EIS = Explicit Illegality Share.

A further pattern emerges when Council members are separated from invited states. Both groups share an identical mean of -1.00, yet only 3 of the 14 Council members (21.4%) qualified the operation as unlawful, against 8 of the 13 invited states (61.5%). Among the ten elected members, the Explicit Illegality Share falls to 10%, since Colombia was the only elected member to reject the operation in explicitly legal terms. Members sitting at the table, in other words, chose softer language than states that attended only for the debate. Because the coding rests partly on summary records, Table 4 reports four

alternative specifications. The first recodes Chile and Spain as -2 on the strength of the joint statement of 4 January 2026, in which both governments, together with Brazil, Colombia, Mexico and Uruguay, rejected the military actions as contrary to the prohibition of the use and threat of force (Cogan, 2026). The second additionally recodes Pakistan as -2, following the UN News account that grouped Pakistan with states describing the action as armed aggression (UN News, 2026). The third applies the most favourable reading for the United States: Nicaragua is recoded as -1, Paraguay as +2 and Panama as 0.

Specification	Sum	Mean	EIS (%)	Band
Baseline (Table 2)	-27	-1.00	40.7	Contested rejection
S1: Chile, Spain to -2	-29	-1.07	48.1	Contested rejection
S2: S1 plus Pakistan to -2	-30	-1.11	51.9	Contested rejection
S3: Nicaragua -1, Paraguay +2, Panama 0	-24	-0.89	37.0	Contested rejection

Table 4. Sensitivity analysis of aggregate NRI indicators. Source: calculated by the author.

Across all specifications, the mean NRI stays between -0.89 and -1.11 and the case remains in the band of contested rejection. Only the most expansive recoding pushes the Explicit Illegality Share above 50%, and even then the mean remains well above the -1.5 threshold of clear rejection. The finding that the reaction fell short of unambiguous legal rejection is therefore robust to the main sources of coding uncertainty.

Out-of-Council statements confirm the overall picture while sharpening its edges. The African Union reaffirmed its commitment to sovereignty and territorial integrity without naming the United States; the European Union's High Representative recalled that the principles of the Charter must be upheld but added that Maduro lacked democratic legitimacy and that the Union shared the priority of combating drug trafficking; the German Chancellor described the legal

assessment as complex; and the British Prime Minister declined to state whether the strikes broke international law (Cogan, 2026). Coded with the NRI scale, all four reactions would receive 0. Israel and Argentina openly approved the operation (Cogan, 2026).

The third block concerns institutional output. Table 5 compares the 2026 case with the two historical seizures that reached the principal organs of the United Nations. Both earlier cases produced an adopted resolution, giving each an Institutional Response Level

of 4. The 2026 case produced an emergency meeting convened at the request of Colombia with the support of China and Russia (Security Council Report, 2026), a statement delivered on behalf of the Secretary-General warning of the precedent being set (UN Security Council, 2026), and no draft resolution put to a vote in either the Security Council or the General Assembly during the period studied. Its Institutional Response Level is therefore 2.

Case	Council debate	Draft text	Adopted outcome	IRL
Eichmann (Argentina), 1960	Yes, at Argentina's request	Yes	SC Res. 138 requests appropriate reparation	4
Noriega (Panama), 1989	Yes	Vetoed by France, UK, US	GA Res. 44/240 (75–20–40) deplores flagrant violation	4
Maduro (Venezuela), 2026	Yes, at Colombia's request	None put to vote	No outcome document	2

Table 5. Institutional responses to forcible seizures of persons abroad. Source: compiled by the author from UN Security Council (1960), UN General Assembly (1989), Security Council Report (2026) and UN Security Council (2026). IRL = Institutional Response Level.

The voting record on Resolution 44/240 also allows a cross-temporal comparison for twelve states that both voted in 1989 and spoke in 2026 (UN General Assembly, 1989). Of the six that voted to condemn the Panama intervention (Argentina, Brazil, Chile, China, Colombia and Cuba), four were coded -2 in 2026, Chile was coded -1 and Argentina moved to explicit endorsement (+2). Of the three that voted against the 1989 resolution (Denmark, France and Panama), all three were coded -1 in 2026, which places them closer to criticism of Washington than they were a generation earlier. The three abstainers of 1989 (Bahrain, Greece and Liberia) were coded 0, -1 and -1 respectively. The direction of change is therefore mixed: erosion of rejection in one Latin American state is offset by Western states moving from defence of the United States to expressions of concern.

THE ANATOMY OF HYBRID JUSTIFICATION

The five strands in Table 1 are usually discussed one by one, each dismissed in turn. Read together, they reveal a more consequential pattern. A state that uses force and wants to remain inside the Charter system normally advances one primary legal claim, anchored in an exception, and supplements it with facts that support that exception. Russia's justifications for the invasion of Ukraine were pretextual, but they were cast as claims of self-defence and collective self-defence, which allowed other states and scholars to test them against Article 51 and reject them (Green et al., 2022; Gill, 2022). The US justification in January 2026 was built differently. Its principal strand was not a jus ad bellum claim at all, its single jus ad bellum strand was never developed, and the remaining strands were drawn from domestic criminal law, from the law of recognition and from historical analogy (Cogan, 2026; Mani, 2026).

This configuration is what the article calls hybrid justification. Its defining feature is the

distribution of the justificatory burden across legal registers that cannot be cumulated. A law enforcement claim presupposes that no use of force against Venezuela occurred; a self-defence claim presupposes that force against Venezuela did occur and was a response to an armed attack; the non-recognition claim presupposes that Venezuela's government was not entitled to the protections that a recognised government enjoys; and the Noriega analogy presupposes that the 1989 justifications, which rested on self-defence and the consent of the incoming Panamanian government, can be transposed to a case in which neither element is present (Cogan, 2026). Each premise contradicts at least one of the others. The rhetorical effect is that no single claim bears the full weight of the argument, so that refuting any one of them leaves the others standing in public discourse.

The International Court of Justice offered in 1986 a criterion that sharpens the significance of this pattern. When a state acts in a way *prima facie* incompatible with a recognised rule but defends its conduct by appealing to exceptions or justifications contained within the rule itself, the Court reasoned, that attitude confirms rather than weakens the rule, whether or not the justification is valid (International Court of Justice, 1986). Classical pretextual uses of force therefore paradoxically reinforce Article 2(4) at the level of *opinio juris*. Hybrid justification escapes this mechanism. By leading with a law enforcement narrative, the United States did not claim that its conduct fell within an exception to the prohibition of force; it implied that the prohibition did not apply at all. The Charter-based strand, self-defence, was voiced but left undeveloped, functioning as a fallback rather than as a claim. Measured against the Court's criterion, the justification neither confirmed the rule nor openly rejected it.

Contemporary norm research gives this phenomenon a name. Drawing on the robustness framework of Deitelhoff and Zimmermann (2019), Yunazwardi and Ikawati (2026) distinguish justificatory from applica-

tory contestation and argue that the United States engaged in both with regard to the non-use of force. Hybrid justification, as reconstructed here, is a specific form of applicatory contestation: it does not deny that force is prohibited, it denies that the operation was force in the relevant sense. That move has antecedents. Henderson (2022) shows how the US justification of the February 2021 strikes in Syria downplayed the treaty source of self-defence and the armed attack requirement, and Krieger (2019) documents an instrumental, cherry-picking approach to international law among populist governments. Lesch et al. (2024) show that US contestation of the torture prohibition, unlike African contestation of the duty to prosecute, remained contained within the liberal order rather than radicalising. That earlier episode is remembered above all for the redefinition of the prohibited act rather than for open denial of the prohibition, a pattern strikingly similar to the redefinition of a military raid as an arrest.

The strand of non-recognition deserves particular scrutiny because it carried real weight in the reactions of Western states. The United States, the European Union and several Latin American governments had refused to accept the official results of the 28 July 2024 presidential election, and Denmark stated on 5 January that it did not recognise Maduro as the legitimate President (UN Security Council, 2026). The recognition literature shows, however, that recognition practice has become arbitrary and condition-laden, which makes it a poor basis for legal entitlements (Hasar, 2024; Galbraith et al., 2025). The Venezuelan saga of competing boards of the central bank before English courts and of competing representatives before investment tribunals illustrates how recognition can be fragmented across fora without resolving the underlying question of who represents the state (Akhtar, 2024; Dumberry, 2026). The Friendly Relations Declaration affirms that every state has an inalienable right to choose its political,

economic, social and cultural systems without interference in any form by another state (UN General Assembly, 1970). Above all, Article 2(4) protects states, not governments; the territorial integrity and political independence of Venezuela did not depend on Washington's view of its president (Charter of the United Nations, 1945; Cogan, 2026). The non-recognition strand was legally irrelevant to the prohibition of force but politically effective in softening the reactions of states that shared the US assessment of the regime.

The narco-terrorism strand worked in a similar way. The 2020 indictment, which accused Maduro of leading the *Cártel de los Soles* and of conspiring to use cocaine as a weapon against the United States, supplied the legal hook for the arrest (Galbraith, 2020). At the Security Council, the US representative described Maduro as the leader of a vicious terrorist organisation (UN Security Council, 2026). The terrorism vocabulary is not neutral. El Masri and Phillips (2024) demonstrate that terrorist designations diffuse from the United States to other states regardless of attack severity, and Deen (2025) shows how designation is explicitly advocated as a gateway to special forces operations against criminal networks. Within the logic of hybrid justification, the label performs a translation: it converts a foreign head of state into a criminal fugitive, and a military raid into the execution of a warrant.

The cumulative effect of the five strands can be summarised in one sentence. None of them satisfies a recognised exception to the prohibition of force, yet their combination made it possible for many states to criticise the operation without calling it illegal. That is precisely what the NRI data show, and it is the core of the first hypothesis.

WHY THE LAW ENFORCEMENT FRAME CANNOT ESCAPE ARTICLE 2(4)

The decisive legal question is whether a military operation becomes something other

than a use of force when its declared purpose is to arrest an indicted person. The answer in international law is negative, and it rests on three independent grounds.

The first ground is the territorial nature of enforcement jurisdiction. A state may prescribe rules with extraterritorial reach, but it may not enforce them on the territory of another state without consent (Sluiter, 2025). The United States itself endorsed this position in congressional testimony delivered by the State Department Legal Adviser in November 1989, weeks before the Panama intervention, when it accepted that law enforcement actions abroad are not exempt from the rules prohibiting force, intervention and the exercise of governmental authority in foreign territory (Cogan, 2026). Nasrat (2026) concludes in the same vein that the forcible seizure of a sitting leader on foreign soil cannot be justified under the guise of law enforcement activity. The 2026 raid involved large-scale strikes in and around the capital and resulted in approximately seventy-five to eighty deaths (Cogan, 2026). On any reading of the Definition of Aggression, bombardment of a state's territory by the armed forces of another state is an act of aggression, and no political or other consideration can justify it (UN General Assembly, 1974).

The second ground concerns the threshold of force. The distinction between policing and military action has been examined most carefully in the maritime context, where coastal states routinely use coercive measures against foreign vessels. Ma and Zhou (2024) argue that a strict interpretation of Article 2(4) is required precisely because law enforcement by warships can trigger international armed conflicts, and Chang (2021) shows that the legitimacy of such measures depends on their being confined to genuine policing in areas of undisputed jurisdiction. Neither condition was met in Caracas. The operation involved large-scale strikes in and around the capital, was carried out by military forces rather than police officers, and was described by the government's own lawyers as

a use of force that would initiate an international armed conflict (Security Council Report, 2026; Cogan, 2026). Schaller (2023) adds that even indirect contributions become a use of force when they are intended to bend the will of the target state; the direct and intentional removal of its president falls far above that threshold. The analysis of sub-threshold coercion in this journal confirms the point by contrast: models of coercion below the threshold of armed conflict, such as the weaponisation of migration on the Belarus–Poland border, derive their leverage precisely from staying beneath the level of military force (Vardanian, 2026), whereas the Caracas raid made no attempt to stay below it.

The third ground concerns the exceptions. Security Council authorisation was neither sought nor obtained. Venezuela did not consent; on the contrary, its government requested an emergency meeting and invoked its own right of self-defence (Security Council Report, 2026). Self-defence required an armed attack by Venezuela, or attributable to it, against the United States. The presidential letter alluded to a hybrid criminal state that had perpetrated an invasion of the United States (Cogan, 2026), but drug trafficking and irregular migration do not *prima facie* constitute an armed attack (Álvarez, 2025). Even scholars who accept a broader reading of self-defence against non-state actors require that the territorial state first be asked to act or consent (Müllerson, 2019), and recent reconstructions of the right insist on its limits rather than its expansion (Tsagourias, 2025). The contextual theories of imminence surveyed by O'Meara (2022) do not stretch to a campaign of narcotics smuggling, and the necessity requirement could not be met by a raid planned for months and preceded by a naval build-up (Cogan, 2026; “The US Pressure Campaign,” 2025).

If the law enforcement frame fails internationally, why was it chosen? The answer lies in the domestic legal environment. US courts do not ask how a defendant arrived before them, provided no extradition treaty

was breached (United States v. Alvarez-Machain, 1992), and in 1990 a federal court rejected Noriega's claim to head-of-state immunity (United States v. Noriega, 1990). The Office of Legal Counsel advised that international law does not restrict the President as a matter of domestic law, at least in the context of extraordinary rendition (Cogan, 2026). The law enforcement narrative thus operates on two levels simultaneously. Domestically, it channels the matter into a federal courtroom where international illegality has little procedural consequence; internationally, it blurs the characterisation of the act. On 2 September 2026 Maduro's lawyers moved to dismiss the indictment on head-of-state immunity grounds, and the court scheduled oral argument for 17 November 2026, with trial set for 1 June 2027 if the motion fails (JURIST, 2026; Dominican Today, 2026). Whatever the outcome, it will not cure the breach of Article 2(4): admissibility before a domestic court and lawfulness under the Charter are different questions, and only the latter concerns the prohibition of force.

The early literature on the case shares this conclusion. Longobardo (2026) finds the operation unlawful under the prohibition of force, the principle of non-intervention and self-determination; Bultrini (2026) sees no plausible justification; Sluiter (2025) identifies multiple violations; and the editors of the leading specialised journal treat the case as a stress test of the resilience of the prohibition (Redaelli, 2026). The legal analysis therefore does not need to be repeated at length. What remains open, and what the doctrinal consensus cannot decide by itself, is whether states accepted the verdict.

SILENCE, EQUIVOCATION AND THE ARITHMETIC OF ACQUIESCENCE

Customary international law is formed, maintained and eroded through the conduct of states, and the reaction to a violation is part of that conduct. The International Law

Commission (2018) accepts that a failure to react may count as acceptance where states were in a position to react and the circumstances called for a reaction. Both conditions were met in January 2026. The Security Council met within 48 hours, 27 states took the floor, and the violation was neither secret nor technical: it was a televised raid on a capital city followed by a public declaration that the attacking state would run the country (Security Council Report, 2026; Cogan, 2026). Under these conditions, the content of what states said carries legal weight.

The NRI shows that most states did react, and that the reaction was predominantly negative: 21 of 27 speakers (77.8%) were coded -1 or -2. To that extent, the reaction is incompatible with any claim that a new exception permitting the forcible arrest of foreign leaders has emerged. The discursive validity of Article 2(4), in the sense used by Deitelhoff and Zimmermann (2019), held. Yet the Explicit Illegality Share of 40.7% shows that most of the critics chose the language of concern, precedent and principle rather than the language of violation. In legal terms this matters. A statement that an operation “sets a dangerous precedent” or “chips away at the international order” acknowledges a problem without attributing a breach; it preserves diplomatic room and, by the same token, weakens the evidentiary value of the reaction as *opinio juris* against the conduct (Kleczkowska, 2019; Kleczkowska, 2023).

The regional distribution of codes illuminates the mechanisms at work. The WEOG pattern, tightly clustered at -1 with no explicit finding of illegality, corresponds to what the AJIL report describes as tepid criticism, apparently motivated by concern over retaliation (Cogan, 2026). It also corresponds to the weight of the non-recognition strand: Denmark, France, Greece, Spain and the United Kingdom all coupled their remarks on the Charter with criticism of Maduro's legitimacy (UN Security Council, 2026). The European Union's own statement went further, stating that it shared the priority of combating

transnational organised crime (Cogan, 2026). Bultrini (2026) calls for a clear and resolute response from the European Union in particular; the data show that, at least in the first institutional test, this response did not materialise. The pattern also fits Goldthorpe's (2023) warning that the views of a narrow group of powerful states should not be read as the views of the international community: if one looked only at WEOG reactions, the conclusion would be that the raid passed without legal objection.

The African and Asia-Pacific groups, by contrast, delivered the most negative means. Uganda, speaking for the Non-Aligned Movement, called the operation an act of war, and South Africa and Eritrea, the latter for the Group of Friends of the Charter, described it as aggression in violation of the Charter (UN Security Council, 2026). These states also have the most to lose from the normalisation of forcible regime change, a point consistent with the literature on the Global South's role in the formation of the armed attack requirement (Goldthorpe, 2023) and with the African perspective on Security Council reform after Ukraine (Maluwa, 2025). The data thus support a reading in which the prohibition of force is now defended most explicitly by states outside the Western core, which recalls the historical Latin American anti-imperialist tradition of international law reconstructed by Scarfi (2020).

GRULAC is the most revealing group because it was the most divided. Its mean of -0.70 conceals a bimodal distribution: half of its speakers condemned the operation as unlawful, while Argentina, Paraguay and Trinidad and Tobago welcomed it. For states in the region, Venezuela was not an abstract case. The displacement of millions of Venezuelans had already strained the asylum systems of neighbouring states; by mid-2020 more than five million people had left the country, and only Mexico and Brazil had applied the broad Cartagena refugee definition to them (Freier et al., 2022). The US

representative cited more than eight million refugees in his address to the Council (UN Security Council, 2026). Governments that bore the costs of the crisis were more willing to accept its forcible termination, which suggests that the robustness of the prohibition of force in a given region depends partly on the perceived costs of the status quo that the violation disrupted.

The difference between Council members and invited states adds a further layer. The Explicit Illegality Share among Council members was 21.4%, against 61.5% among invited non-members, while the means were identical. Members sit at the same table as the United States for months and negotiate with it on every other file on the agenda; their incentive to avoid accusatory language is structurally higher. If this “chamber effect” is confirmed in other cases, it would mean that the Security Council, as currently composed, systematically under-represents the legal objections of the wider membership. That finding reinforces the case made by Trahan (2024), Barber (2023) and Pan (2026) for a stronger role of the General Assembly whenever the Council cannot act.

What, then, is the legal significance of contested rejection? It is not acquiescence in the sense required for the formation of a new rule, because the majority of reactions were critical and a significant minority were explicitly legal. But it is not the clear rejection that would neutralise the precedent either. In terms of the norm robustness framework, validity remains high while the clarity of the reaction declines (Deitelhoff & Zimmermann, 2019; Sandholtz, 2019). Kleczkowska (2023) described the prohibition of threats of force as silently contested; the reaction to the Maduro raid suggests that the prohibition of force itself is entering a phase of politely contested application, in which states affirm the principle and decline to apply it to a powerful violator. Price (2021) shows that norm erosion often begins exactly this way, with performative challenges that are criticised in general terms but not sanctioned. Lesch (2023)

reminds us that violations can also develop norms when institutions authoritatively define the deviant behaviour; the problem in 2026 is that no institution did so.

FROM PANAMA TO CARACAS: THE THINNING OF THE INSTITUTIONAL RESPONSE

The comparison with Panama is unavoidable, because the United States made it itself (UN Security Council, 2026; Mazza, 2026). It is also instructive, because it shows how much the institutional environment has changed while the legal rules have not.

In December 1989 the United States invoked self-defence and the consent of the newly installed Panamanian government, and it vetoed, together with France and the United Kingdom, a draft resolution criticising the intervention (Cogan, 2026; Security Council Report, 2026). The General Assembly nonetheless adopted Resolution 44/240 within nine days, by 75 votes to 20 with 40 abstentions, strongly deploring the intervention as a flagrant violation of international law (UN General Assembly, 1989). The US justification was weak, but it was cast in Charter terms; the institutional response was divided, but it produced a formal legal characterisation. In 2026, the justification was cast mainly in domestic terms and the institutional response stopped at an open debate, with an Institutional Response Level of 2 against 4 in both earlier cases (Table 5).

Several factors explain the difference. The veto initiative adopted in 2022 is triggered only by an actual veto (UN General Assembly, 2022; Barber, 2023), and since no draft resolution was tabled in the Council, the Assembly was never automatically seized. The calculus of tabling also changed: a draft certain to be vetoed by the United States would have forced Council members, including European allies, to vote on the record, which the WEOG reactions suggest they wished to avoid. The General Assembly, which in 1989 acted on the initiative of Cuba

and Nicaragua, did not convene on the matter in 2026, although the same two states took the floor in the Council and condemned the operation (UN Security Council, 2026). Maluwa (2025) and Trahan (2024) describe the Assembly's growing role after the Russian invasion of Ukraine; the Venezuelan case shows that this role depends on political initiative, which is not guaranteed when the violator is the most powerful state in the system.

The cross-temporal voting data complicate any simple narrative of decline. Argentina, which voted in 1989 to condemn the Panama intervention, endorsed the Caracas raid in 2026, a shift consistent with the observation that states with close ties to the current US administration approved the operation (Cogan, 2026). Denmark and France, which in 1989 voted against the condemnation of the United States, expressed concern in 2026 (UN General Assembly, 1989; UN Security Council, 2026). Western states have thus become more willing to criticise unilateral force in principle, perhaps because the Russian invasion of Ukraine taught them how much they depend on Article 2(4), while some Latin American governments have become more willing to tolerate it when it serves their regional priorities. The erosion documented here is therefore not a uniform loss of commitment but a re-sorting of positions along political rather than legal lines.

The broader trajectory adds weight to this concern. The same symposium that analysed the Venezuelan raid announced a second instalment devoted to military operations against Iran in February 2026 (Redaelli, 2026). Cogan (2026) records that threats of force against Greenland and Cuba followed within days of the raid. Dugard (2023) warns that the language of a “rules-based international order” can displace international law with a more flexible set of standards selected by powerful states, and Orakhelashvili (2025) reminds us that governments use force only when they judge that its benefits outweigh its costs. When the institutional cost of a

violation falls from a General Assembly resolution to a single debate, the calculation shifts accordingly. The analysis of grey-zone sabotage in the Baltic Sea published in this journal makes a related observation: where international law struggles to attribute responsibility and to sanction conduct, the gap itself becomes a strategic resource (Khumalo, 2026). Hybrid justification turns this logic from the grey zone to open force.

Historical research on regime change adds a final caution. O'Rourke (2020) found that the United States overwhelmingly preferred covert over overt regime change during the Cold War, precisely because overt action carried reputational and legal costs. Villa et al. (2022) showed that economic expropriation was a strong predictor of US regime change attempts, and the oil-related statements that accompanied the 2026 raid suggest that this mechanism has not disappeared (Mazza, 2026). Downes (2021) and Willard-Foster (2019) document how often foreign-imposed regime change produces instability rather than order, and Brownlee (2024) treats Panama as an exception rather than a model. The 2026 operation was overt, acknowledged and openly linked to resource control. If such an operation passes with an Institutional Response Level of 2, the deterrent function that institutional condemnation once performed has been seriously diminished.

CONCLUSION

The capture of Nicolás Maduro on 3 January 2026 was unlawful under the *jus ad bellum*, and on this point the doctrinal analysis offered here agrees with the emerging literature (Longobardo, 2026; Bultrini, 2026; Sluiter, 2025; Cogan, 2026). The contribution of this article lies elsewhere: in reconstructing the form of the justification that accompanied the operation and in measuring, for the first time, how the states that defend the prohibition of force actually reacted to it.

The first hypothesis, that the US justification was structurally hybrid, is confirmed.

Five strands were advanced through four channels between 3 and 5 January 2026: law enforcement, implicit self-defence, non-recognition, the Noriega analogy and narco-terrorism. Only one of them belonged to the *jus ad bellum*, and it was never developed into the reasoned claim of an armed attack that Article 51 presupposes. The remaining strands rested on premises that contradict one another, which explains why none of them could be tested as a single legal argument. Measured against the criterion set by the International Court of Justice in 1986, the justification neither confirmed the prohibition of force by appealing to its exceptions nor openly rejected it; it denied the applicability of the rule by redefining a military raid as an arrest. This form of applicatory contestation is the most consequential legal novelty of the case.

The second hypothesis, that the reaction of states fell below the threshold of unambiguous legal rejection, is confirmed. The Normative Response Index for the 27 states that addressed the Security Council on 5 January 2026 stands at -1.00, with an Explicit Illegality Share of 40.7%. Under all four alternative specifications the mean stays between -0.89 and -1.11, and only the most expansive re-coding raises the share of explicit legal condemnation marginally above one half. The reaction was predominantly critical, which rules out any claim of acquiescence sufficient to create a new exception. It was not, however, the clear rejection that would neutralise the precedent. Three further findings qualify this result: no WEOG speaker described the operation as unlawful; Council members used markedly softer language than invited states (21.4% against 61.5% explicit illegality); and the Latin American and Caribbean group was the most polarised of all, with a standard deviation of 1.70.

The third hypothesis, that the institutional response was markedly weaker than in Panama in 1989, is confirmed with a qualification. The Institutional Response Level fell from 4, in both the Eichmann and Panama

cases, to 2 in 2026: an emergency debate without a draft resolution and without action by the General Assembly. The cross-temporal voting data show, however, that the erosion is not a uniform decline of commitment. Several Western states that voted against condemning the United States in 1989 expressed concern in 2026, while Argentina moved from condemnation to endorsement. The norm's discursive validity is preserved; what has thinned is its institutional enforcement layer and the willingness of states to translate criticism into legal characterisation.

The principal original contribution of this article is the Normative Response Index, a transparent and replicable instrument that converts state reactions to a specific use of force into ordinal codes and aggregate indicators of norm robustness. Its value lies in three properties. It measures the audience rather than the violator, which is where customary law is decided. It distinguishes legal condemnation from political concern, a distinction that matters for *opinio juris* but is lost in descriptive accounts of “widespread criticism”. And it allows systematic comparison across cases, regional groups and venues, as the identification of the chamber effect between Council members and invited states demonstrates. Paired with the Institutional Response Level, the index operationalises the validity and facticity dimensions of norm robustness for single uses of force, which existing frameworks define conceptually but do not measure.

The limitations of the study are fourfold. First, the coding relies on official summary records and on UN News rather than on verbatim transcripts, which creates a risk of condensation bias; the sensitivity analysis controls for this risk but cannot eliminate it. Second, the core dataset consists of a single meeting, which captures the first and most spontaneous reactions but not their later evolution through bilateral diplomacy or regional organisations. Third, the NRI codes what states said, not why they said it, and therefore

cannot by itself separate legal conviction from fear of retaliation or from political sympathy with the outcome. Fourth, the banding thresholds that translate the index into categories of rejection are an analytical convention and should be validated against a larger set of cases.

These limitations point directly to an agenda for future research. Applying the NRI to earlier uses of force, such as the Panama intervention of 1989, the strikes on Syria in 2017 and 2018, the killing of Qassem Soleimani in 2020 and the operations against Iran in February 2026, would allow the construction of a time series of reaction strength and test whether contested rejection is becoming the default response to violations by powerful states. Inter-coder reliability testing with multilingual teams working from verbatim records would strengthen the instrument. The chamber effect identified here deserves separate study across Council compositions. Finally, the forthcoming ruling of the court in New York on Maduro's immunity motion will add a domestic judicial layer whose interaction with the international characterisation of the raid merits analysis in its own right.

The implications for practice are equally clear. States that wish to preserve the prohibition of force cannot rely on its formal status as a peremptory norm alone (International Law Commission, 2022); they must name violations as violations. A reaction phrased as concern about a dangerous precedent protects diplomatic relations but surrenders evidentiary ground in the formation of custom. The General Assembly retains the capacity it used in 1989 to characterise a use of force authoritatively, and the 2022 veto initiative shows that procedural innovation is possible when political will exists (UN General Assembly, 2022; Pan, 2026). For the European Union in particular, whose security now depends visibly on the integrity of Article 2(4), the gap between the defence of that article against Russia and its silence about the United States carries a cost in credibility (Bultrini, 2026; Dugard, 2023). Hybrid justification succeeds when the language of law enforcement is allowed to stand unchallenged. The task of international lawyers, and of the states that rely on them, is to keep calling force by its name.

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SILA PRERUŠENA U SPROVOĐENJE ZAKONA U VENECUELI: HVATANJE MADURA 2026. GODINE, HIBRIDNO OPRAVDANJE I EROZIJA ČLANA 2(4) POVELJE UN

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Sažetak: Snage Sjedinjenih Američkih Država su 3. januara 2026. godine izvele udare na ciljeve u Karakasu i oko njega, zarobile venecuelanskog predsjednika Nikolasa Madura i njegovu suprugu Siliju Flores i prebacile ih u Njujork radi suđenja za narko-terorizam. Vašington je operaciju predstavio kao akciju sprovođenja zakona uz podršku vojske, a ne kao upotrebu sile protiv Venecuele. Članak ispituje dva povezana pitanja: ima li takvo uokvirenje ikakvo uporište u jus ad bellum i da li je reakcija drugih država bila dovoljno snažna da zaštiti zabranu upotrebe sile iz člana 2(4) Povelje UN. Doktrinarna analiza pet niti opravdanja (sprovođenje zakona, implicitna samoodbrana, nepriznavanje Madura, analogija sa slučajem Noriega i označavanje narko-terorizmom) pokazuje da nijedna ne ispunjava priznati izuzetak, a da njihova kombinacija služi izbjegavanju jedinstvene, provjerljive pravne tvrdnje. Originalni doprinos članka je Indeks normativne reakcije (NRI), petostepena skala kodiranja (od -2, eksplicitna pravna osuda, do +2, eksplicitna podrška), primijenjena na sve 27 država koje su se obratile Savjetu bezbjednosti na 10085. sjednici 5. januara 2026. Prosječna vrijednost NRI iznosi -1,00 (SD = 1,18); samo 11 od 27 država (40,7%) operaciju je okarakterisalo kao protivpravnu, 13 (48,1%) izrazilo je zabrinutost ili se izjasnilo dvosmisleno, a 3 (11,1%) su je pozdravile. Nijedan govornik iz Grupe zapadnoevropskih i drugih država nije operaciju nazvao nezakonitom. Analiza osjetljivosti zadržava prosjek između -0,89 i -1,11 u svim alternativnim kodiranjima, što slučaj svrstava u kategoriju osporenog, a ne jasnog odbacivanja. U poređenju sa Panamom 1989. godine, kada je Generalna skupština osudila intervenciju sa 75 glasova prema 20, institucionalni odgovor 2026. godine zaustavio se na raspravi. Nalazi pokazuju da diskurzivna valjanost člana 2(4) opstaje, ali da je njegov institucionalni sloj sprovođenja istanjen, i da hibridno opravdanje koristi upravo taj jaz.

Ključne riječi: *upotreba sile, član 2(4) Povelje UN, jus ad bellum, ekstrateritorijalno sprovođenje zakona, Venecuela, Maduro, državna praksa i opinio juris, robusnost normi.*