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DAILY EDITORIAL ANALYSIS

TOPIC

LEGALITY OF USA'S VENEZUELAN ACTIONS

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Context

- Recent US military and economic intervention and capture of Venezuelan President Nicolás Maduro represent a profound breach of international law, undermining fundamental principles that underpin the international legal order.

US Justification and Legal Rationale

- Constitutional and Congressional Authority: Under US law, Congress holds the power to declare war, while the President serves as commander-in-chief.
 - Historically, Presidents have used limited military force without congressional approval when citing national interest.
 - Historical Precedents:
 - 1989: Arrest of Panama's General Manuel Noriega
 - 2022: Extradition of former Honduran President Juan Orlando Hernández
- Revival of the Monroe Doctrine: Monroe Doctrine, historically used to justify US intervention across Latin America.
 - Recent US actions in Venezuela, Cuba, and Nicaragua represent a return to 'hemispheric exceptionalism' i.e. a belief that the Western Hemisphere operates outside the universal legal norms of the UN system.
- Illegitimacy and Recognition Do Not Negate Immunity: The USA claimed that Maduro was no longer Venezuela's legitimate leader due to alleged election fraud.
 - USA claims its actions were part of a 'law enforcement initiative' against transnational crime and narcotics trafficking.

Do You Know?

- The Monroe Doctrine (1823) established the Western Hemisphere as a US sphere of influence, warning external powers against interference.
- In contrast, Trump's worldview emphasizes assertive primacy, coercive intervention, and direct management of foreign political transitions.
 - Together, Monroe Doctrine and Trump's worldview form the 'Donroe Doctrine'.

Core Elements of the Donroe Doctrine

- Reassertion of a Sphere of Influence: The Western Hemisphere is no longer simply a region of concern but a privileged security space.
 - Extra-regional actors are treated as intruders, and external engagement is framed as trespass.
- Securitisation of Regional Issues: Social and economic issues like migration, narcotics, energy, and organized crime are now reframed as national security threats.
 - It enables the US to justify coercive measures.
- From Democracy to Control: The Donroe Doctrine reflects the logic of the National Security Strategy, emphasizing control of strategic resources, competition with rival powers, and management of regional instability.

International Law: Sovereignty & Prohibition on Use of Force

- UN Charter: It states may not use military force against the territorial integrity or political independence of another state, except in very limited circumstances like self-defense under Article 51 or with UNSC authorization.
 - A peremptory norm of international law (Jus Cogens), binding all states regardless of circumstance.
 - The two recognized exceptions as self-defense (Article 51) and Security Council authorization were absent in the US-Venezuelan case.
- Lack of Justification under Self-Defense or UN Mandate: The US justification of 'transnational criminal threat' does not qualify as an armed attack within the meaning of Article 51.
 - Extending self-defense to include narcotics or corruption offenses undermines the textual and customary limits of the UN Charter, amounting to 'an unlawful expansion of sovereign prerogative'.

- Violation of Sovereign Immunity and International Order: The US operation amounts to a breach of Venezuela's territorial sovereignty and the immunity of its officials, triggering potential counterclaims under both the ICJ Statute and regional human rights mechanisms.
- Head-of-State Immunity: The International Court of Justice (ICJ) in 2002 recognized that sitting heads of state enjoy immunity ratione personae i.e. absolute protection from foreign criminal jurisdiction.
 - It derives from sovereign equality and ensures the uninterrupted functioning of diplomatic relations.
 - The US violated a well-settled principle of personal inviolability by forcibly detaining the Venezuelan President.
- State Responsibility for Unlawful Use of Force: According to the Articles on Responsibility of States for Internationally Wrongful Acts (ARSIWA), a state that uses force unlawfully incurs international responsibility and must provide reparation.
- Imperial Continuities and Legitimacy Deficits: USA's intervention is a form of 'intervention cloaked in legality' that erodes both the legitimacy of international institutions and Latin American sovereignty.
 - It undermines the foundational principle of non-intervention enshrined in both the Charter of the Organization of American States (OAS) and customary law.

Broader Erosion of International Legal Order

- Selective Legality and Power Asymmetry: The US intervention in Venezuela is part of a broader pattern of selective legality, where international law is invoked to restrain others but ignored when inconvenient.
- Consequences for International Stability: Such unilateral actions 'risk transforming the prohibition on the use of force from a rule of law into a privilege of might'.
 - If major powers claim exclusive rights in their neighborhoods, the global norm of sovereign equality erodes.
 - If left unchecked, they could embolden other major powers such as China or Russia to undertake similar interventions under fabricated pretexts.

India's Strategic Dilemma

- Principle and Precedent: India's foreign policy has long rested on sovereignty and non-intervention. A world tolerant of external supervision could endanger these safeguards.
- Partnership with the United States: India's deepening ties with the US in technology, defence, and the Indo-Pacific are crucial.
 - But, as the Monroe Doctrine demonstrates, American foreign policy is volatile, influenced heavily by domestic politics. Strategic autonomy remains indispensable.
- Balancing Global South Identity and Great Power Aspirations: India needs to navigate its dual role as an Asian great power and Global South leader.
 - It needs to defend sovereign equality while pursuing pragmatic national interests, avoiding both moral grandstanding and strategic silence.

Conclusion

- The US intervention in Venezuela represents a clear breach of international law under Articles 2(4) and 51 of the UN Charter and the principles of sovereign equality and head-of-state immunity.
- No legal justification whether self-defense, humanitarian intervention, or transnational law enforcement can legitimize this act under existing legal frameworks.
- There is an urgent need for renewed multilateralism and legal accountability mechanisms and strengthening the ICJ, regional courts, and UN oversight bodies is essential if international law is to survive as a genuine constraint.

Daily Mains Practice Question

[Q] To what extent can the United States' military intervention in Venezuela be justified under international law, and does it represent a violation of Venezuelan sovereignty?

Source: TH

