
A CRITICAL ANALYSIS OF THE INTERNATIONAL LEGAL FRAMEWORK GOVERNING WAR AND DIPLOMACY: SYSTEMIC FAILURES, STATE NON-COMPLIANCE, AND THE CRISIS OF MULTILATERALISM

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ABSTRACT

The modern international legal order devised in the aftermath of World War II to prevent the evil of armed conflict now suffers from a catastrophic crisis of legitimacy, enforcement and existential relevance. In particular, Article 2(4) of the United Nations Charter established a clear prohibition of the threat or use of force, theoretically concentrating the right use of military force in the UN Security Council or the limited parameters of self-defence under Article 51. But a close doctrinal analysis of state behaviour over the past few decades shows that the world's great powers have systematically and regularly evaded these fundamental principles, rendering the traditional rules of war and diplomacy operationally obsolete. This comprehensive study examines the structural disintegration of the international law of armed conflict.

Keywords: International Law, United Nations Charter, Use of Force, Collective Security, Sovereignty, Security Council, Veto, Self Defence, International Court of Justice, Indus Water Treaty, Crisis of Multilateralism.

Introduction and Research Problem

Modern international law is based on the principle that sovereign states should settle their differences peacefully and that military force should be used only as a last resort, and only within the narrow, codified confines of existing international law¹. As the dominant geopolitical hegemon of the post-1945 period, the US helped to embed these ideas into the United Nations Charter and the wider rules-based global order², in an effort to replace a history of imperial conquest with a system of collective security. But the geo-political reality of the 21st century is a departure from those promises, a fast and far departure. No. The superpowers tasked with maintaining and enforcing international law are systematically dismantling the underpinnings of international law. Not outsiders, not rogue actors. The central research problem of this paper concerns the rising phenomena of superpower impunity and total breakdown of multilateral systems of conflict resolution. This institutional failure manifests in international relations in three main ways: the unilateral use of military force, economic strangulation, and the weaponization of natural resources. The United States has frequently taken unauthorised military actions without the endorsement of the UN Security Council. Past examples of this pattern include the 2003 invasion of Iraq, which lacked a clear mandate from the Security Council and was declared unlawful publicly by former UN Secretary-General Kofi Annan³, and the extensive use of unmanned aerial vehicles over sovereign territory such as Syria and Somalia without the consent of the host state, supported by hotly contested legal doctrines⁴. Early 2026 marked a critical and historic inflection point in the move towards unilateralism. In January 2026, the United States directly intervened militarily in Venezuela, bombing Caracas and kidnapping Nicolás Maduro⁵. US launched illegal military strikes against Iran in February 2026. These undertakings were without UN authorisation or domestic congressional consent, and are in gross violation of head of state immunity, customary international law and the basic principles of the UN Charter⁶. Likewise, the Russian Federation's unprovoked invasion of Ukraine in 2022 violated the European principle of

¹ Nicaragua v. United States, Wikipedia (2026),

² *The United Nations at Eighty: Reform for a New Geopolitical Era* | Council on Foreign Relations, (Sept. 4, 2025),

³ David L. Phillips, *Kofi Annan's Path to Humanitarian Intervention - PassBlue*, (Aug. 22, 2018),; *Iraq War Was Illegal and Breached*, (last visited June 3, 2026).

⁴ Max Byrne, *Consent and the Use of Force: An Examination of 'Intervention by Invitation' as a Basis for US Drone Strikes in Pakistan, Somalia and Yemen*, 3 J. Use Force Int. Law 97 (2016), *Conflict Law Centre (RSIL)*. (2022). *Unable or Unwilling Doctrine and the View from Pakistan*.

⁵ Leone, *supra* note 3.

⁶ *UN Experts Condemn US Aggression against Venezuela*, OHCHR,.

territorial integrity and demonstrated the extreme failure of international legal institutions to prevent an aggressive war by a member of the Permanent Five⁷. International treaties have been broken and this has had a significant impact on the environmental and transboundary resource areas as well as kinetic warfare. Now the Indus River system is being weaponised in the long-running war between India and Pakistan. India's construction of the Shahpur Kandi barrage has totally blocked the flow of the Ravi river to Pakistan⁸. The move is hurting Pakistan's agrarian economy and testing the 1960 Indus Waters Treaty after years of diplomatic deadlock. Moreover, India's unilateral declaration to put the treaty in "abeyance" in April 2025 is an unprecedented and legally fraught move to suspend legally binding bilateral obligations outside the bounds of the Vienna Convention on the Law of Treaties, which led to the intervention of the Permanent Court of Arbitration⁹. And what all these various global problems add up to is the one big systemic failure of the total paralysis of the United Nations. It has turned the Security Council, the body that was supposed to be the final arbiter of peace and security in the world, into a weapon with the veto of its permanent members. The veto has transformed the Council from an instrument of collective security into a chamber of self-exoneration and geopolitical obstructionism¹⁰. The United Nations is thus viewed as an anachronism, incapable of fulfilling its original purpose. This report analyses in detail this decline in the institutional and jurisprudential domains, including the legal rationalisations used by states to justify their breaches, the specific rulings of international courts to curb such excesses, and the eventual breakdown of the international security apparatus.

Research Objectives

The complex breakdown of international law is to be analysed within this broad doctrinal study project, which has clear and measurable objectives. The goals are well defined, to counter kinetic warfare, resource disputes, judicial interpretations and institutional failings.

The first objective of the study is the critical analysis of the legal basis of the further violation of Article 2 (4) of the UN Charter by major international powers. This entails a deep dive into the economic and military activities of the US in various geopolitical contexts such as the

⁷ Order of 16 March 2022 | *INTERNATIONAL COURT OF JUSTICE*.

⁸ Republic World, *India Set To Block Excess Water Flowing To Pakistan From Ravi River, To Be Diverted To J&K & Punjab*, (2026).

⁹ *Id.*

¹⁰ Daryl Swanepoel, *Regulating the Veto: A Pragmatic Path to United Nations Security Council Reform*, ISI (Nov. 5, 2025).

historical invasion of Iraq, the drone strikes in Syria and Somalia, and the intense military actions in Venezuela and Iran during the first few months of 2026¹¹. The idea is to challenge these actions on the grounds of established ideas of non-intervention and state sovereignty.

Secondly, the study aims at evaluating the legitimacy, under international law, of the new defences of the unilateral use of force elaborated by States. This also covers the use of economic sanctions and unilateral coercive measures, and a critical theoretical examination of the "unwilling or unable" ideology often used in counterterrorism operations¹². It is to see if these ideas are still illegal deviations from the UN Charter or if they are now customary international law.

Thirdly, the study aims to critically analyse the response of the International Court of Justice and legal grounds for the Russian Federation's invasion of Ukraine. This is a review of the effectiveness of the interim measures ordered by international justice in the face of a belligerent superpower and the weaponization of the Genocide Convention as a pretext for military aggression¹³.

Fourthly, the study intends to evaluate the convoluted legality of weaponising resources in the context of the hydro-diplomatic conflict between India and Pakistan. It is proposed to study in some detail the physical diversion of the waters of the Ravi River by the Shahpur Kandi barrage and the consequent legal process under the Indus Waters Treaty¹⁴. This includes a thorough legal analysis of recent decisions by the Permanent Court of Arbitration on the concept of treaty "abeyance" and tribunal competence.

Fifth, the study aims at a critical analysis of relevant international jurisprudence, in order to understand how international courts interpret state responsibility, non-intervention and self-defence. The objective is to provide a clear explanation of the meaning of these international courts' decisions and the way these legal precedents demonstrate the ongoing non-compliance of powerful states through a close analysis of the rulings in *Nicaragua v. United States* and the

¹¹ Phillips, *supra* note 6; Steven Groves, *Drone Strikes: The Legality of U.S. Targeting Terrorists Abroad*; UN experts condemn US aggression against Venezuela, *supra* note 9; David M. Crane | Founding Chief Prosecutor of the UN Special Court for Sierra Leone, *The US Helped Build the Rules-Based Order. Now It's Breaking It.*, (Mar. 2, 2026),.

¹² Conflict Law Centre (RSIL). (2022). Unable or Unwilling Doctrine and the View from Pakistan. - , *supra* note 7; *US Sanctions Violate Human Rights and International Code of Conduct*, *UN Expert Says*, OHCHR,

¹³ *Ukraine v. Russian Federation (2022)*, Wikipedia (2025).

¹⁴ Republic World, *supra* note 11; Mundi, *supra* note 12.

Oil Platforms case¹⁵. The paper also deals, finally, with the structural paralysis of the UN Security Council. The objective is to assess the extent to which the ‘absolute veto’ power of the Permanent Five has undermined the structure of collective security, revealing the incapacity of the UN to fulfil its mandate to prevent ongoing conflicts, and to evaluate the feasibility of proposed institutional reforms to overcome this structural impasse.

Research Questions

In order to achieve the stated objectives, this doctrinal work systematically addresses the following basic research issues, which inform the subsequent legal and geopolitical analysis:

Specifically how has the United States historically and presently circumvented the UN Security Council to pursue military operations and coercive diplomacy vis-à-vis the wars in Iraq, Syria, Somalia, Iran, and Venezuela? How do independent mandate holders and international legal authorities, moreover, classify these unilateral activities under the UN Charter and customary international law?

To what extent does the ‘unwilling or unable’ doctrine, a doctrine frequently invoked by intervening states in defence of extraterritorial drone warfare, conflict with established, codified notions of territorial sovereignty and the inherent right of self-defence under Article 51 of the UN Charter?

State practice and *opinio juris* in support of the development of this theory as a legitimate legal exception? What was the final interpretation of the bounds of legitimate self-defence, the principle of attribution and the liberty of commerce reached by the International Court of Justice in the landmark Oil Platforms and Nicaragua decisions? What do these specific decisions mean for the threshold for lawful use of force and the phenomenon of states disobeying legally binding court orders?

Does international law permit the unilateral suspension or “abeyance” of a legally binding bilateral treaty in the context of transboundary water management and the Indus Waters Treaty on account of claims of cross-border terrorism or a failure of diplomacy? What does this new legal theory and the implications for the weaponization of natural resources between India and

¹⁵ *Oil Platforms (Islamic Republic of Iran v. United States of America) - Judgment on Preliminary Objection* | INTERNATIONAL COURT OF JUSTICE.

Pakistan look like as decided by the Permanent Court of Arbitration?

The UN's primary aim of maintaining international peace and collective security has become functionally obsolete because of its institutional architecture, especially the unregulable veto power of the Permanent Five members of the Security Council? Does the basic purpose of the United Nations still make sense, given all the failures to prevent or stop conflicts where powerful states are involved?

Research Hypotheses

The comprehensive study of these intersecting legal frameworks and geopolitical events is guided by the following extensively formulated legal hypotheses:

HYPOTHESIS I: The repeated invocation of unilateral self-defense exceptions, particularly the highly contested "unwilling or unable" doctrine, alongside unauthorized armed interventions by superpowers such as the United States and the Russian Federation, have systematically degraded the customary international law prohibition on the use of force. Consequently, Article 2(4) of the United Nations Charter has been rendered functionally nominal, facilitating a return to pre-Charter paradigms where military might dictates legal right, as evidenced by the 2026 operations in Venezuela and Iran.

HYPOTHESIS II: International judicial bodies, specifically the International Court of Justice and the Permanent Court of Arbitration, maintain a high degree of interpretive supremacy and consistently rule against unilateral treaty suspensions and unjustified applications of military force. This is demonstrably visible in the restrictive interpretations of self-defense in the *Oil Platforms* case and the absolute rejection of treaty "abeyance" in the 2025 PCA Supplemental Award regarding the Indus Waters Treaty. However, their structural lack of direct enforcement mechanisms allows global superpowers and regional hegemons to operate with profound impunity, ignoring binding orders at will.

HYPOTHESIS III: The United Nations Security Council is irrevocably locked in a terminal state of systemic inertia due to the unregulable and frequently abused veto power of its permanent members. Because the Security Council is the sole organ authorized to mandate collective kinetic action, this paralysis means that the foundational UN mandate of "collective security" no longer exists in practice. The organization has consequently devolved from a

global security arbiter into a marginalized humanitarian and administrative entity, accelerating the international system's transition toward multipolar anarchy and unchecked resource weaponization.

Research Methodology

The project adopts a holistic doctrinal and qualitative research methodology, in line with the rigorous standards of advanced legal studies. The methodology is designed in view of the geopolitical reality of the ongoing conflicts, in order to allow a holistic analytical exegesis of core legal documents, international treaties, binding judicial decisions and state practice. Data and material collection The main sources of qualitative data for this study are the primary international legal instruments, jurisprudence and reputable secondary commentary. The research has the following types of materials as its evidentiary base:

1. Major Treaties and Charters Articles 2(4), 39, 42 and 51 of the Charter of the United Nations Vienna Convention on the Law of Treaties Indus Waters Treaty, 1960 Genocide Convention, 1948 Treaty of Amity, Economic Relations and Consular Rights, 1955.
2. Key judgements of the International Court of Justice including Oil Platforms (Islamic Republic of Iran v. United States of America) (2003), Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America) (1986) and the provisional measures ordered in Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation) (2022). The study also extensively relies on the procedural orders and the Permanent Court of Arbitration's Supplemental Award on Competence (June 2025) and Award on Issues of General Interpretation (August 2025) on the Indus Waters Treaty.
3. Secondary Literature and Policy Documents Policy briefs on Security Council reform, declarations of international legal commissions, reports of independent human rights mandate holders and United Nations Special Rapporteurs and scholarly publications in peer-reviewed journals on international law. Considering the Framework: Qualitative data are analysed systematically by using textual, contextual and comparative approaches. Textual analysis is used to break down the exact language of treaties and

judicial decisions to extract the ratio decidendi (the reasoning behind the judgement) of international courts. Contextual analysis is used to place these legal decisions in the larger geopolitical context, to analyse how states give legal explanations to their acts (e.g. describing a treaty as being in 'abeyance' or defending drone operations as preemptive self-defence). The framework measures the dissonance between the general failures of the United Nations system and blackletter law as interpreted by the judiciary on the one hand, and the customary practice undertaken by the military and diplomatic branches of global powers on the other.

Literature Review

There is a strong and expanding consensus that the post-1945 multilateral order is rapidly deteriorating, according to a careful assessment of recent legal literature and scholarly commentary. Many academics describe the current state of affairs as a severe "crisis of multilateralism," which is defined by the deterioration of rules that had previously restrained state aggressiveness¹⁶. According to the literature, state practice over the past thirty years has continuously attempted to chisel out wide unilateral exceptions, despite the UN Charter's goal of rigidly centralising the use of force inside the Security Council.

This body of work forms the basis of the scholarly literature on the US invasion in Iraq in 2003. The general agreement is that the invasion is a clear and indisputable breach of the UN Charter, which strongly echoes the sentiments of former UN Secretary-General Kofi Annan. Furthermore, because the US and the UK were unable to pass a second Security Council resolution that specifically authorised the use of armed action, experts highlight that the invasion was unlawful under international law. The literature frequently attributes the current deterioration of international legal restrictions on hegemonic activity to this specific historical occurrence. It created a risky precedent that allowed strong governments to get around the UN system with no real repercussions¹⁷.

The asymmetric warfare strategies used in the worldwide "War on Terror" gained significant attention in the international law literature following the Iraq War. The use of armed drone

¹⁶ Peter, *supra* note 1; Reforming Multilateralism in Post-Covid Times: For a More Regionalised, Binding and Legitimate United Nations (Mario Telò, Hedwig Giusto, & Foundation for European Progressive Studies eds., 2020).

¹⁷ Phillips, *supra* note 6; *Long-Term Consequences of the Use of Veto Power by UNSC Permanent Members: Towards a Post-World War II Multipolar Global Order*, IRPJ = Intergovernmental Research and Policy Journal,

strikes in non-belligerent sovereign governments like Somalia, Pakistan, and Syria has received particular scholarly attention. There has been substantial discussion among jurists regarding the "unwilling or unable" theory. The thesis, which is debatable, contends that if the host state is unable or unwilling to put an end to a non-state armed group operating inside its boundaries, the victim state may employ extraterritorial military force. This philosophy, according to some Western security analysts, is an essential and practical understanding of Article 51 in the age of international terrorism. However, the approach is clearly rejected by the vast majority of international legal scholars and Global South groups. According to the literature, the application of such a doctrine directly violates the rights to territorial integrity protected by Article 2(4) of the UN Charter because it lacks the necessary *opinio juris* and consistent state practice to be regarded as customary international law¹⁸.

In the subject of economic warfare, there is a large body of critical literature that denounces the use of unilateral coercive measures (UCMs). Comprehensive US sanctions on nations like Venezuela and Iran violate fundamental human rights principles, notably the non-derogable right to life, as verified by UN Special Rapporteurs and independent human rights organisations. The literature views these UCMs as unlawful acts of extraterritorial coercion aimed at regime change and collective punishment, which violates the principle of non-intervention, rather than as legitimate diplomatic instruments¹⁹.

Lastly, there is the literature on the United Nations itself, which presents a rather dismal view of the organization's future. Analysts generally agree that the Security Council's framework has resulted in a fatal "collective security failure." Because those who create great power disputes are the ones with veto power, scholars point out that the UN is intrinsically unable to intervene in such crises. The Veto Use Integrity Framework (VUIF) and bolstering the General Assembly's "Uniting for Peace" mechanism are two examples of reforms that are frequently mentioned in academic literature. However, it is generally acknowledged that these reforms face insurmountable political obstacles, rendering the UN obsolete in concept and paralysed in practice.

¹⁸ 11. Conflict Law Centre (RSIL). (2022). Unable or Unwilling Doctrine and the View from Pakistan. *supra* note 7; Max Byrne, *Consent and the Use of Force: An Examination of 'Intervention by Invitation' as a Basis for US Drone Strikes in Pakistan, Somalia and Yemen*, 3 J. Use Force Int. Law 97 (2016).

¹⁹ UN experts condemn US aggression against Venezuela, *supra* note 9; Yifan Jia, *The Interplay between Unilateral Sanctions and the UN Human Rights Committee*, 30 Aust. J. Hum. Rights 323 (2024), Jose Atilas, *Law, Coercion, and State Crime*, *Verfassungsblog* (2025),

Research & Analysis

International law's collapse calls for a doctrinal and geopolitical analysis that requires a systematic deconstruction of specific conflicts, the legal justifications put forward by the acting states, and the subsequent judgements rendered by international courts. This section examines these dynamics in various theatres of conflict and avenues of diplomacy.

1. The United States and the Erosion of Article 2(4) via Kinetic and Economic Force

For decades, the United States has occupied a dual role as the world's foremost designer of international law and its most prominent, consequential violator. The basic idea of state sovereignty and the total ban on use of force in the Article 2(4) of the UN Charter has been violated many times by the US in a variety of military and economic ways.

1.1 The Invasion of Iraq and the Precedent of Impunity

The 2003 invasion of Iraq remains a seminal jurisprudential break in contemporary international law. Legally, the United States and the United Kingdom argued that the use of armed force was authorised by UN Security Council Resolution 1441, read with earlier resolutions (especially 678 and 687), which governed the ceasefire of the 1991 Gulf War. But this broad perspective was entirely rejected by independent legal commissions and the world community as a whole. Legal experts said that although Resolution 1441 warned of "serious consequences," it did not give any one member state a legal basis to act unilaterally to enforce compliance. Former UN Secretary General Kofi Annan had made the UN's position clear by stating that the invasion was "illegal" and "not in conformity with the UN charter" from a legal point of view²⁰. The failure of the United Nations to stop the invasion, which proved beyond any doubt that collective security mechanisms were incapable of restraining a superpower determined to carry out a regime-change operation, paved the way for decades of succeeding unilateralism.

1.2 The Weaponization of the "Unwilling or Unable" Doctrine in Syria and Somalia

The technological evolution of unmanned aerial vehicles, or drones, has significantly pushed the legal and spatial boundaries of warfare. The United States has used drone strikes repeatedly

²⁰ *Legality of the Iraq War*, Wikipedia (2026),; Iraq War was Illegal and Breached, *supra* note 6.

in sovereign nations like Pakistan, Somalia and Syria – places that are entirely outside the geographic scope of traditional military wars. The US has relied heavily on the legally dubious ‘unwilling or unable’ theory to get around Article 2(4)’s prohibition on breaching a state’s territorial integrity. Under this theory, extraterritorial self-defence by the victim state (the United States) can be undertaken without the consent of the host state (such as Syria) if the host state is unable or unwilling to suppress non-state actors (such as ISIS or Al Qaeda) operating within its borders. Doctrinal analysis however shows that this notion has completely failed to attain the status of customary international law²¹. The Non-Aligned Movement, which represents a large portion of the Global South, has rejected the reinterpretation of Article 51 to include this theory as a weapon of imperial interference. Drone strikes outside traditional armed conflict zones carry the risk of violating fundamental human rights and constitute arbitrary deprivation of life, as the UN Special Rapporteur on extrajudicial killings has often pointed out²². All leading legal experts agreed that the Security Council had not authorised the retaliatory airstrikes by the US, UK and France in 2018, even in the face of extreme human rights abuses, such as the use of chemical weapons in Syria. While there have been attempts to frame these strikes as legitimate humanitarian interventions, they violated blackletter international law, as they did not meet the rigorous requirements for self-defence (the acting governments were not attacked)²³.

1.3 Unilateral Coercive Measures and the 2026 Military Operations in Venezuela and Iran

In recent years, the United States has extensively used Unilateral Coercive Measures (UCMs) to wage destructive economic warfare. For Venezuela, aggressive presidential orders imposed widespread secondary sanctions on international organisations doing business with Caracas and froze state assets. Such sanctions have been strongly condemned by leading economists and UN experts as violations of the international code of conduct and fundamental human rights, especially the non-derogable right to life, and as being aimed at regime change. They have also caused serious injuries to civilians.

This long-term economic strangulation catastrophically turned into kinetic combat in early

²¹ 11. Conflict Law Centre (RSIL). (2022). Unable or Unwilling Doctrine and the View from Pakistan., *supra* note 7.

²² Byrne, *supra* note 21.

²³ *Does It Matter That Strikes against Syria Violate International Law?*, Pursuit., Partlett, W. (2018). “Does It Matter That Strikes against Syria Violate International Law?” *University of Melbourne Pursuit*. -

2026. In January 2026, the US launched a large-scale military campaign that included direct bombardment of Caracas and other Venezuelan cities, followed by the forced kidnapping of Nicolás Maduro and his spouse. Independent UN human rights experts immediately and unequivocally condemned this operation as a “serious, overt and intentional breach” of international law, observing it was a flagrant violation of the UN Charter Article 2(4)²⁴²⁵. The kidnapping was a clear breach of head of state immunity under well established customary international law. This principle was reaffirmed in the 2002 decision of the International Court of Justice in the Arrest Warrant case, which held that sitting heads of state are immune from the criminal jurisdiction of foreign domestic courts in all circumstances, irrespective of whether or not they are politically recognised²⁶.

In addition, the UN mandate-holders condemned the public statements of the US leadership, that they planned to rule the country through a “transition” and seize the Venezuelan oil riches, as serious violations of the right to self-determination and a state’s sovereign right over its natural resources. Then in February 2026, the US carried out more illegal military operations against Iran, killing national leaders. Neither move was approved by local Congress or the United Nations. These incidents represent a frightening return to “gunboat diplomacy,” in which international legal constraints and diplomatic negotiations are entirely subordinate to unilateral military power, demonstrating the complete breakdown of the post-World War II rules-based order.

Intervention Target	Military / Coercive Action Executed	Justification Claimed by Acting State	Legal Reality under International Law
Iraq (2003)	Full-scale military invasion and prolonged occupation.	UNSC Res. 1441 and pre-emptive self-defense against WMDs.	Deemed illegal by UN Sec-Gen; lacked explicit UNSC mandate for the use of force.
Syria / Somalia	Extraterritorial drone strikes and targeted killings.	"Unwilling or unable" doctrine; self-defense against non-state actors.	Violates Article 2(4); doctrine lacks sufficient <i>opinio juris</i> and state practice.
Venezuela (2026)	Economic sanctions, bombardment of	Law enforcement, counter-narcotics,	Crime of aggression, blatant breach of Article

²⁴ UN experts condemn US aggression against Venezuela, *supra* note 9.

²⁵ Leone, *supra* note 3.

²⁶ Arrest Warrant Case, 2002

Intervention Target	Military / Coercive Action Executed	Justification Claimed by Acting State	Legal Reality under International Law
	Caracas, abduction of Head of State.	forced democratic transition.	2(4), severe violation of head-of-state immunity.
Iran (2026)	Unilateral military strikes and targeted killings.	National security, preemptive action.	Violation of Article 2(4) and international norms, lacking UN or congressional authorization.

2. The Russian Federation and the Crisis in Ukraine: Contravening the Genocide Convention

The constant erosion of the prohibition on the use of force in the UN Charter is not confined to the United States. In February 2022, the Russian Federation launched a full-scale armed invasion of Ukraine, one of the most serious and significant breaches of Europe’s territorial integrity since the Second World War. Russia sought to give legal justification for its aggression, citing the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, and claiming it was acting militarily to prevent an alleged genocide by Ukrainian forces against Russian-speaking minorities in eastern Ukraine. Ukraine moved swiftly in utilising the international legal system and filed a case against Russia before the International Court of Justice. In a landmark decision on provisional measures rendered in March 2022, the International Court of Justice (ICJ) found that it had prima facie jurisdiction under Article IX of the Genocide Convention, which grants the Court the authority to settle disputes relating to the interpretation and application of the treaty.

Both sides were unanimously asked by the court to defuse the situation. Most crucially, the Court ordered the Russian Federation expressly “to suspend the military operations that it commenced on 24 February 2022”²⁷, a clear rebuff of the Russian legal claim. ICJ decisions are legally binding. Russia defied the mandate with impunity, exposing the enforcement gap in the absence of an independent international mechanism. The traditional and the only legitimate way of implementing ICJ verdicts (by a Chapter VII UNSC resolution) was completely blocked by Russia’s absolute veto in the UN Security Council. This is a glaring example of the structural

²⁷ *Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide Ukrain.,.*

impotence of international legal institutions in the face of a hostile permanent member of the five. The court can see the law, but it has not got the sword to enforce it.

3. Resource Weaponization and the Indus Waters Treaty: The India-Pakistan Hydro-Diplomacy Dispute

Hydro-diplomacy and environmental resource management are two areas where the international legal rules are severely violated. A powerful example is the increasing hostilities between India and Pakistan over the 1960 Indus Waters Treaty (IWT). The IWT, painstakingly mediated by the World Bank, gives Pakistan unlimited use of the Western Rivers (Indus, Jhelum, Chenab) and the Eastern Rivers (Ravi, Beas, Sutlej), while giving India limited rights to construct run-of-the-river hydroelectric projects on the Western rivers. India has recently taken proactive steps to optimise its use of water, completing the Shahpur Kandi barrage after decades of bureaucratic delays. This major infrastructure project effectively stops the previously unused flow of over 2 million acre-feet (1150 cusecs) of Ravi river water to Pakistan, rerouting it for irrigation and power generation in Punjab, Jammu and Kashmir²⁸. These hydrological changes have major socioeconomic and national security implications, as agriculture represents 25% of Pakistan's GDP and almost 80% of its agricultural area is heavily reliant on the Indus system. Inside the corridors of The Hague's Permanent Court of Arbitration (PCA), the legal tussle reached a tipping point. In 2016, Pakistan filed a request for arbitration over the technical design of India's hydroelectric dams on the Western rivers, the Kishenganga and Ratle. Following a terror attack in April 2025, the Indian government unilaterally declared that the Indus Waters Treaty would be put in "abeyance with immediate effect" unless Pakistan properly ceased aiding cross-border terrorism. This was a radical and unprecedented legal action. Reacting to this unusual statement, the PCA Court of Arbitration rendered a Supplemental Award on Competence on 27 June 2025. In a unanimous and legally binding ruling that cannot be appealed, the Court effectively dismissed India's attempt to suspend the treaty framework²⁹. The PCA articulated a number of important principles of customary international law and treaty interpretation:

²⁸ India Today News Desk, *India to Turn off Ravi Water Tap for Pakistan Ahead of Summer*, India Today (Feb. 17, 2026); *India Completely Stops Ravi River Water Flow to Pakistan. Historical Context and Significance*, The Economic Times, Feb. 26, 2024,

²⁹ Mundi, *supra* note 12; Aceris Law LLC, *Indus Waters Treaty Arbitration: Can India Put the Treaty in Abeyance?* • Aceris Law, Aceris Law (May 24, 2026),

1. **Invalidity of unilateral suspension** The Court observed that the term “abeyance” is not known in international law as far as the application of treaties is concerned. Moreover, the IWT is in force strictly until it is cancelled by a newly signed treaty agreed upon by both governments; it has no provisions for unilateral suspension.
2. **Protection of Jurisdiction for Dispute Resolution:** The Court decided that after the arbitration has started, a party cannot unilaterally destroy the jurisdiction of the constituted tribunal. This removes the possibility of political interference in the dispute resolution process of the third party.
3. **Legitimacy and Fairness in Procedure:** Although India has strongly declined to participate in the hearings, the PCA reiterated its ongoing obligation to move the proceedings forward properly. In doing so, the Court preserved the sanctity of the arbitral process by considering India’s concerns as expressed in publicly available remarks. This stopped India’s absence from being interpreted as an automatic win for Pakistan.

The PCA’s 2025 rulings provide a significant defence of the integrity of bilateral treaties against unilateral political abrogation. The Court was unequivocal: strategic geopolitical complaints, even grave allegations of cross-border terrorism, do not bestow upon governments the legal authority to unilaterally suspend legally binding third-party dispute settlement processes built into international treaties.

4. International Jurisprudence: The Interpretive Supremacy of the International Court of Justice

The International Court of Justice has provided unequivocal interpretations of the UN Charter and customary international law, and has often issued judgements that have curtailed the sweeping justifications asserted by superpowers for the use of force. Two seminal instances are critical to determining what the rules of war were and whether the United States’ military activities were unlawful.

4.1 Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States, 1986)

In 1984 the Republic of Nicaragua brought an application against the United States relating to

military and paramilitary activities, including the mining of Nicaraguan ports and the CIA's covert support of the contra fighters. The United States strongly contested the Court's jurisdiction, arguing that the matter should be referred to the Security Council. It therefore refused to participate in the merits trial. The United States had been decisively rejected by the International Court of Justice. The Court relied on customary international law because the US had made a reservation to a multilateral treaty. The Court found that the United States had seriously violated its obligations under customary international law not to use force against another State, not to interfere in domestic affairs and not to violate territorial sovereignty³⁰. The Court held that the US was obliged to pay reparations and specifically directed it to "cease and to refrain" from using unlawful force.

Significantly, the Court also defined state responsibility in relation to non-state actors. The organization said the Geneva Conventions must be "respected" and "ensured respect" by nations "at all times" in accordance with general principles of humanitarian law that prohibit state-sponsored covert warfare and paramilitarism. Not surprisingly, the United States simply ignored the decision, and then used its veto power in the Security Council to block the passage of many resolutions calling for enforcement, providing early and undeniable evidence of the systemic impunity enjoyed by P5 members.

4.2 The Oil Platforms Case (Islamic Republic of Iran v. United States, 2003)

The US military said the destructive operations were legitimate acts of self-defence in response to missile strikes and mine damage to US-flagged vessels during the long Iran-Iraq war which led to the destruction of several Iranian offshore oil facilities in the Persian Gulf. Iran filed the complaint with the International Court of Justice (ICJ), claiming the 1955 bilateral Treaty of Amity, Economic Relations and Consular Rights that guaranteed freedom of commerce had been breached. In its extremely complex 2003 ruling, the International Court of Justice (ICJ) essentially rejected the United States' claim of self-defence³¹. The Court scrutinised carefully the rigorous requirements of self-defence under Article 51 of the UN Charter, insisting on strict adherence to the proportionality and necessity standards. The International Court of Justice (ICJ) has defined the legal concept of self-defence that necessitates clear attribution of a first

³⁰ *Nicaragua v. United States*, *supra* note 4; ICJ, *Nicaragua v. United States* | How does law protect in war? - Online casebook, *supra* note 2.

³¹ *Oil Platforms (Islamic Republic of Iran v. United States of America)* - Judgment on preliminary objection | INTERNATIONAL COURT OF JUSTICE, *supra* note 18.

“armed attack.” The Court concluded that the United States had not proven beyond reasonable doubt that Iran was responsible for the specific attacks on their ships, and that they were not a “armed attack” of sufficient magnitude to justify a massive, devastating military response against civilian economic infrastructure. As a result, the attacks on the oil platforms were found to be in manifest violation of Article 2(4) of the UN Charter and could not be justified as necessary to protect the “essential security interests” of the United States under Article XX of the Treaty. By expressly barring retaliatory punitive military strikes under the guise of defensive operations, this historic ruling has set a precedent that significantly limited the permissible scope of self-defence. The legal clarification by the Court however did not change the geopolitical situation. The US did not face any concrete consequences.

ICJ / PCA Case	Year	Parties Involved	Core Legal Principle Established by the Judgment
Nicaragua v. US	1986	Nicaragua, USA	Covert funding of paramilitaries and mining of ports violates customary international law prohibitions on the use of force and non-intervention. Established state responsibility for sponsored proxies.
Oil Platforms	2003	Iran, USA	Military retaliation against economic assets (oil platforms) without definitive proof of an explicit "armed attack" fails the strict legal test of self-defense (necessity and proportionality) under Article 51.
Ukraine v. Russia	2022	Ukraine, Russia	Provisional measures ordered the immediate suspension of military operations; rejected the unilateral manipulation

ICJ / PCA Case	Year	Parties Involved	Core Legal Principle Established by the Judgment
			and weaponization of the Genocide Convention to justify wars of aggression.
Indus Waters (PCA)	2025	Pakistan, India	A state cannot unilaterally place a binding bilateral treaty in "abeyance" following the initiation of arbitral proceedings to defeat tribunal jurisdiction. Treaties remain binding regardless of diplomatic tension.

5. The Systemic Failure of the United Nations Security Council: The Demise of Collective Security

The common thread between the Russian aggression in Ukraine, the US impunity in Venezuela in the past, Iraq and the Middle East today, and the systematic disdain for ICJ rulings, is the total failure of the United Nations as an organization. The basic motivation behind the UN Charter was the concept of “collective security.” That is, the idea that threats to the international community are universal and that governments must share the burden of defending against them. The design was to prevent any single state being judge, jury and executioner in international politics. But this laudable procedure is of no avail due to a fundamental flaw in the design of the veto power given to the five permanent members of the Security Council (P5: China, France, Russia, UK and US). At first the veto was a workable political compromise that prevented direct conflict between the main nations and kept them within the UN framework. Instead, it has become a policy stalemate of irreconcilable differences and a cynical instrument of geopolitical obstruction. Between 2014 and 2024, the analysis of the use of vetoes shows that the strategic use of the veto has quickly taken the global order to an unregulated multipolar anarchy, where international law is taken as a suggestion and not a legally binding framework, expanded the geopolitical gaps, and significantly undermined international trust in the Security

Council³². Legal scholars have pointed out the near impossibility of collective security against a superpower under the present UN system. If UN soldiers were deployed or a Chapter VII military strike against a significant country approved, the world would face a catastrophic world war. This means the UN is literally powerless when a P5 member or its immediate geopolitical ally violates international law. The paralysis showed in the US vetoing enforcement of the Nicaragua ruling, Russia's serial vetoes of resolutions condemning its invasion of Ukraine, and deadlocked Security Council debates over US military interventions, vessel interdictions and sanctions in Venezuela. Now totally underfunded, totally cut out of the major conflicts of the moment, and powerless to prevent the catastrophic fall of the laws against the use of force, the UN has a huge \$2.4 billion funding shortfall in 2025. So it is difficult not to arrive at the conclusion that the UN has not solved these problems. The UN's main goals of maintaining peace and collective security are not working anymore or functional. It is a marginal humanitarian and administrative organisation, able to identify crimes but not fundamentally able to stop crimes.

Suggestions and Recommendations

The following structural and legal changes are proposed to address the grave systemic deficiencies exposed by this extensive doctrinal analysis – institutional paralysis, unilateral use of kinetic force, and weaponization of transboundary resources. These policies are designed to defend what is left of the rules-based global order.

1. Veto Use Integrity Framework (VUIF) to Manage the Security Council Veto: The P5 veto cannot be removed politically or legally. The bar for change to the Charter is high and requires P5 agreement. Multilateral reform should rather be on strict control of its use. Under a Veto Use Integrity Framework (VUIF), the P5 members would have to explain their use of veto to the General Assembly with well-researched, legally sound reasons. Under stringent standards of abstention based on conflict of interest (COI) as accepted in legal terminology, a P5 member cannot vote against resolutions on wars in which it is a direct belligerent (e.g., Russia in Ukraine, the US in Venezuela or Iraq).
2. Strengthening the legal effect of “Uniting for Peace” Resolutions: “In cases where a

³² Long-Term Consequences of the Use of Veto Power by UNSC Permanent Members, *supra* note 20; Daryl Swanepoel, *Regulating the Veto: A Pragmatic Path to United Nations Security Council Reform*, ISI (Nov. 5, 2025), reform.

veto paralyses the Security Council, the UN General Assembly should be able to unblock the situation.” The General Assembly’s “Uniting for Peace” (UFP) resolutions are neither binding nor have legal force. But for adoption of UFP resolutions to be legally binding, it would require significant changes to international law to make adoption by a two-thirds supermajority of the General Assembly and at least a simple majority of the P5. This would mean that the Security Council’s exclusive prerogative of ensuring collective security would effectively be delegated to the larger and more representative international community.

3. **Setting Clear Limits on the “Unwilling or Unable” Principle:** To put an end to the unchecked proliferation of drone warfare and extraterritorial targeted killings, the UN General Assembly must call a special session to start drafting an internationally legally binding treaty that explicitly rejects the “unwilling or unable” doctrine as a legitimate basis for self-defence under Article 51. Article 2(4) of the treaty states that the use of force in foreign territory, unless authorised by the Security Council, is an act of aggression against non-state actors.
4. **Assessment of the Institutionalisation of Injunctive Relief and Economic Sanctions:** Unilateral coercive measures resulting in generalised deprivation of civilians should be classified as kinetic siege warfare in international humanitarian law. There should be a dispassionate United Nations economic tribunal to examine naval blockades, freezing of state assets and secondary sanctions (like those on Iran and Venezuela). The tribunal shall have the authority to order states to provide reparations and injunctive relief immediately when the Court finds that a measure is a violation of the non-derogable right to life or a form of collective punishment.
5. **Improved enforcement of the decisions of the ICJ and PCA:** The US in Nicaragua and Russia in provisional measures for Ukraine are indicative of the chronic unwillingness of states to comply with international tribunals. What is needed is a strong institutional solution outside the Security Council to address this. States should have the power to use their domestic courts to confiscate and redistribute public assets located in foreign jurisdictions, in order to directly implement the final decisions of the PCA or the ICJ. If one party attempts to enforce an illegal “abeyance” or refuses to abide by the PCA’s orders on water diversion, the aggrieved party must have clear legal authority to impose

retaliatory trade tariffs authorised by the World Trade Organization (WTO) in order to directly offset the economic damages. For instance, in the Indus Waters dispute.

Conclusion

The structure of international law was painstakingly built in the middle of the 20th century to avoid a return to the disastrous international military conflicts of the past. But it is now falling apart rapidly, systemically and possibly irreversibly. The very superpowers that initially advocated for the establishment of the basic prohibition on the threat or use of force in Article 2(4) of the United Nations Charter have, as this exhaustive doctrinal analysis has shown, consistently undermined, corrupted, and disregarded it. The United States has normalised its contempt for the UN Security Council by citing dubious legal rationales for its disastrous invasion of Iraq, continuing drone operations in Syria and Somalia under the highly controversial “unwilling or unable” principle, and most alarmingly, conducting a direct military bombardment and presidential kidnapping in Venezuela in early 2026, an act that independent UN mandate holders unanimously condemned as a blatant act of aggression and a violation of head-of-state immunity. The Russian Federation’s invocation of the Genocide Convention to fabricate a spurious legal justification for their unprovoked invasion of Ukraine is another case of the pernicious and cynical abuse of international human rights norms for imperial purposes. Moreover, as the escalating India-Pakistan confrontation over the Indus Waters Treaty illustrates, this brazen defiance of international standards has extended from kinetic warfare to the perilous realm of hydro-diplomacy. The strategic damming of the Ravi River by India and their attempt to put the legally binding treaty in ‘abeyance’ are examples of a rapidly growing trend of states trying to renege on bilateral obligations unilaterally, when it is politically expedient, using natural resources as a weapon to gain strategic dominance. International courts, including the Permanent Court of Arbitration and the International Court of Justice, have boldly ruled against such overreaches, in cases decided against the United States in Nicaragua and Oil Platforms, against Russia on interim measures in Ukraine, and against India’s unilateral suspension of treaties, repeatedly asserting their interpretive supremacy. But these landmark decisions have not yet been enforced. The courts have interpreted the law clearly: reprisal without evidence of an armed attack is not considered self-defence and treaties cannot be suspended to avoid tribunal jurisdiction. But there is a vacuum in the enforcement of this legal clarity. The P5 veto has brought the UN Security Council, the only international organization that can aggressively apply the law, to a complete standstill. The veto has

completely killed the idea of collective security and the UN is now just a meaningless forum for diplomatic posturing with no ability to stop the aggression of powerful countries. The UN's main role of peacekeeping is now irrelevant, as it has failed to end these conflicts. If the institutions are not radically overhauled, for example by giving more power to the General Assembly, and the veto power is restrained through a Veto Use Integrity Framework and rigid restrictions on extraterritorial self-defence are codified, the international legal system will ultimately deteriorate into a multipolar anarchy. In this degraded atmosphere where the rule of law is absolutely subservient to the rule of force, the promises of the UN Charter are an unfulfilled illusion.

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