

# Modern Challenges to International Law

In recent times, the effectiveness and legitimacy of international law has been called into question. International armed conflicts in Ukraine and Gaza amplified criticisms of international law's failures in ensuring global peace and security. Increasing tensions between East and West, and the Global North and South, undermine international cooperation, which is the bedrock of international law.

One must understand how these modern developments challenge international law's effectiveness, and how the international rules-based order can overcome these challenges. For this, one must understand the root causes of the erosion of foundational principles of international law, failing international cooperation, multilateral gridlock, fragmentation and regionalism, and the increasing use of 'lawfare'.



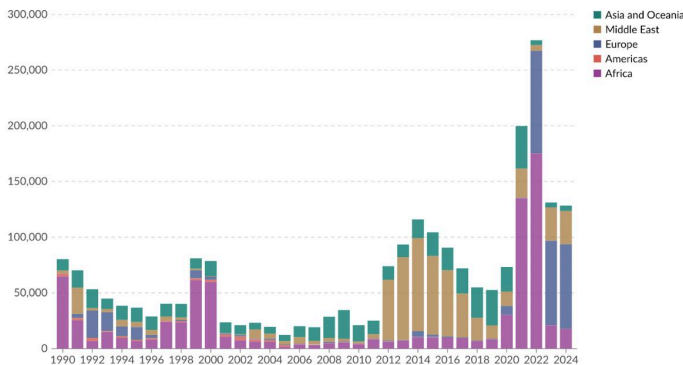
# EROSION OF FOUNDATIONAL PRINCIPLES



At its very core, the UN was set up to maintain international peace and security, peacefully settle international disputes, and promote the respect for universal rights and self-determination of all nations.

However, in the past decade alone, the world has witnessed several international armed conflicts which the UN has been unable to stop. The most significant examples in the past few years are Russia's invasion of Ukraine and Israel's onslaught in Gaza – within the larger context of its prolonged military occupation of the Palestinian territories. Other examples of armed conflict include spillover conflicts between Israel and other States in the Middle East (including Lebanon, Syria, Iran, and Yemen), and the conflict in Sudan. It is estimated that since 2020 alone, more than 450,000 combatants have died in conflict.

Included are deaths of combatants and civilians due to fighting in interstate<sup>1</sup>, intrastate<sup>2</sup>, and extrasystemic<sup>3</sup> conflicts that were ongoing that year.



Data source: Uppsala Conflict Data Program (2025); geoBoundaries (2023); Peace Research Institute Oslo (2017)  
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Furthermore, the manipulation of the right to self-defence to allow for preventive self-defence' raises questions about its acceptable limits. A handful of predominantly Western States deem it acceptable to conduct airstrikes in the territory of other States if they consider them 'unable or unwilling' to quash non-State actor groups perceived to pose a threat to international peace and security, without any recourse to diplomatic measures or collective security mechanisms prior thereto.

## Major conflicts since the formation of the United Nations in 1945

### 1950s

- Korean War (1950-53)
- First Taiwan Strait Crisis (1954-55)
- Suez Crisis (1956)
- Algerian War (1954-62)

### 1960s

- Congo Crisis (1960-65)
- Sino-Indian War (1962)
- Six-Day War (1967)
- Nigerian Civil War/Biafra (1967-70)
- Vietnam War escalation (1964-75)

### 1970s

- Bangladesh Liberation War (1971)
- Yom Kippur War (1973)
- Lebanese Civil War (1975-90)

### 1980s

- Soviet-Afghan War (1979-89)
- Iran-Iraq War
- Sri Lankan Civil War (1983-2009)
- Sino-Vietnamese War (1979)

### 1990s

- Gulf War (1990-91)
- Bosnian War (1992-95)
- Rwandan Genocide & Civil War (1994)
- 1st & 2nd Chechen Wars begin (1994-96; 1999-2009)
- Kosovo War (1998-99)

### 2000s

- Recurring Israel-Palestine wars (2000s-)
- US-led War in Afghanistan (2001-2021)
- US-led Iraq War (2003-11)
- Darfur/Sudan conflict (2003-)
- 2006 Israel-Hezbollah War (Lebanon)

### 2010s

- Arab Spring wars (2011-):
- Ukraine (2014- )
- South Sudan Civil War (2013-18)
- Nagorno-Karabakh wars (2016; 2020)

### 2020s

- Tigray/Ethiopia conflict (2020-22, broader unrest)
- Russia's full-scale invasion of Ukraine (2022- )
- Sudan civil war (2023- )
- Israel-Hamas/Gaza war (2023- )

# MULTILATERAL GRIDLOCK

As mentioned before, multilateral institutions provide a platform for international cooperation. However, increasingly these platforms are equally prone to deadlock due to structural problems.

The most evident example of this is the UN Security Council, where the Permanent Five members hold the power to single-handedly veto proposed resolutions. The veto power has been heavily criticised in the past three years in light of the Russia-Ukraine conflict and Israel's war on Gaza. Russia has vetoed all resolutions pertaining to its aggression on Ukraine since its 2014 annexation of Crimea. Similarly, the USA, a close ally of Israel, has vetoed almost all tabled resolutions requiring Israel to cease all hostilities in the Palestinian territories. Many have criticised the use of these vetoes as harmful and counterproductive to the UN's overarching mission of protecting international peace and security through collective measures, leading to the UNSC's paralysis in critical junctures.

|   | Member  | Vetoes |
|---|---|--------|
|  | <br>Russia                     | 129    |
|   | <br>United States of America | 89     |
|   | <br>United Kingdom           | 29     |
|   | <br>China                    | 19     |
|   | <br>France                   | 16     |

Permanent 5 members vetoes at UN Security Council

Another example is the paralysis of the World Trade Organisation's (WTO) Appellate Body due to the US' blocking the appointment of new members, claiming it had overreached its mandate. Since the last member's term expired in 2019, and appointments require the consensus of all members, the appellate body remains suspended and therefore dysfunctional. This also highlights the problems of providing certain States greater power than others in multilateral institutions, as it erodes the notion of sovereign equality and paralyses decision-making capabilities.

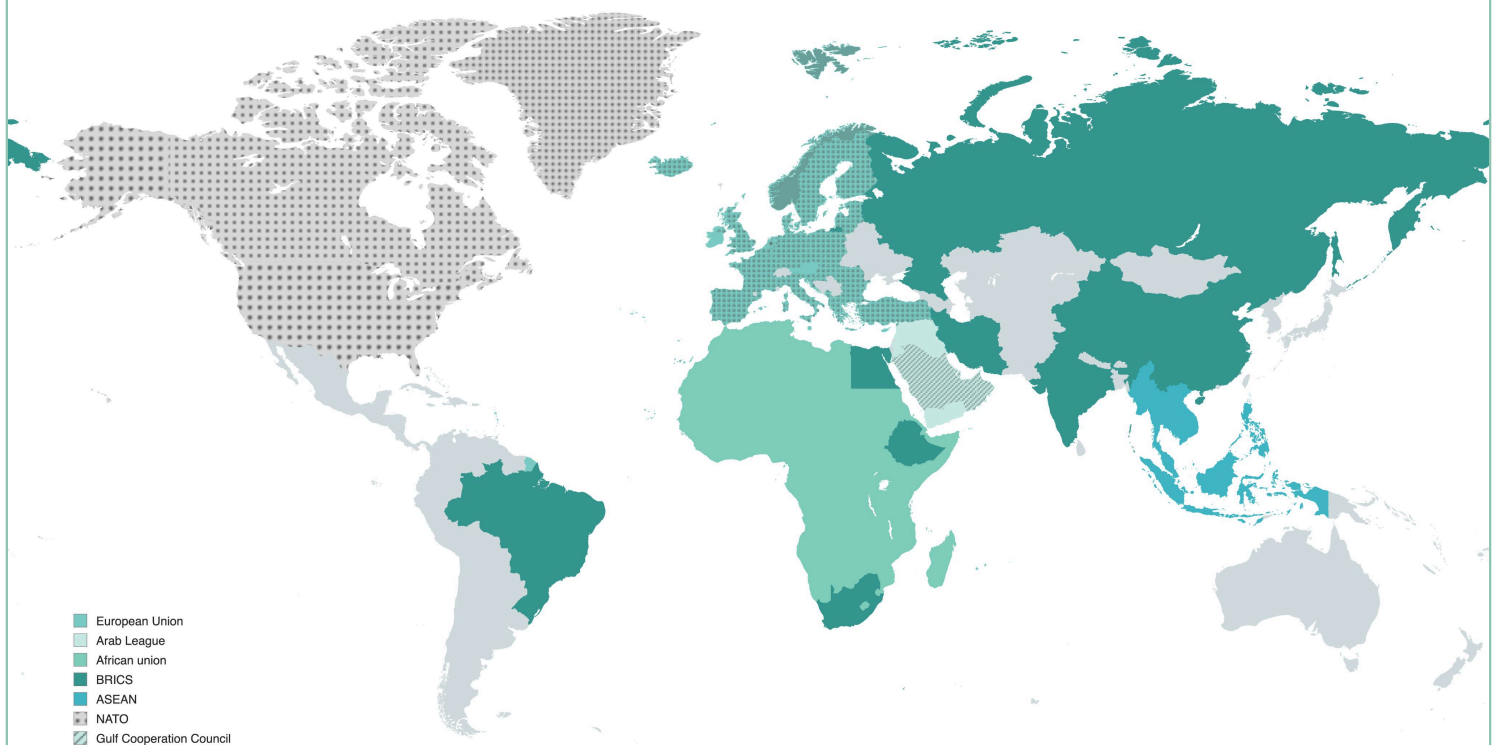


## FRAGMENTATION AND INCREASING REGIONALISM

Multilateral gridlock is both a cause and an effect of increasing fragmentation in the international legal system. Where multilateral systems fail to deliver on their promises, they lose the confidence of their Member States. As a result, international law is becoming increasingly fragmented across two fronts: regions and issue-area.

Regional groupings are becoming increasingly institutionalised in the form of counter-mechanisms. Existing regional systems, such as the European Union, the African Union and ASEAN are becoming epicentres for developing consensus for norm creation - the EU Artificial Intelligence Act is a key example of how such platforms are more conducive to the creation of international law. New emerging regional and international organisations, such as the Shanghai Cooperation Organisation and BRICS, are further indication of the reduced trust in traditional systems, such as the UN.

### Examples of existing regional systems



Fragmentation also follows on from the increasing specialisation of international law. Areas such as the law of the sea, environmental law, and human rights have their own dedicated treaties, secretariats, adjudicative bodies, reporting procedures, and compliance mechanisms. While some argue that this was expected, given the proliferation of international law in both theory and practice, others argue that this should be addressed through a 'constitutional' approach with a greater degree of centralisation. However, where such control will be centralised, or how this will take place, remains unanswered.

## INCREASING USE OF 'LAWFARE'

The term 'lawfare' refers to "the strategic use of law with the purpose of delegitimizing, harming, or annihilating an enemy". In international law, States are increasingly using lawfare in both lawmaking and its implementation to establish their legitimacy and often shape public opinion in the midst of ongoing global tensions or conflicts.

Lawfare includes the strategic use of international courts and tribunals, with States aiming to gain legal advantages over opposing States.

### Use of international courts and tribunals to gain legal advantages over opposing States.

South Africa's case against Israel under the Genocide Convention for its ongoing hostilities in the Gaza Strip, and the ICJ's pronouncement of a 'plausible' genocide.



Israel continuously invokes principles of international humanitarian law to defend its actions in the Gaza Strip, framing its hostilities as 'proportionate' and 'necessary'; however, the overwhelming majority of States and international institutions, including the UN General Assembly, have disagreed with these interpretations.

### Lawfare as rejection of certain decisions

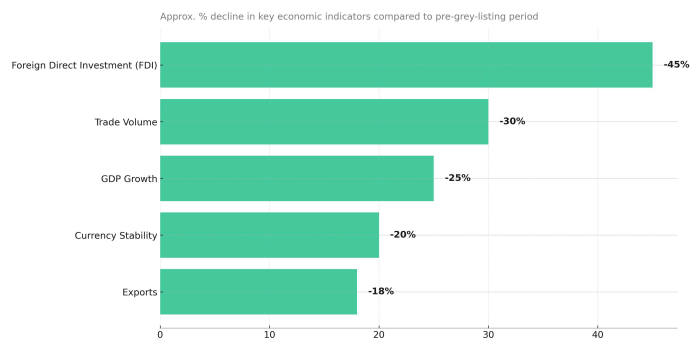
South China Sea Dispute between China and the Philippines. China did not accept the Permanent Court of Arbitration's ruling that it had violated the Philippines' rights in its exclusive economic zone (EEZ).



They claimed 'historic rights' over those waters, a legal concept that is not backed by modern international law. However, the PCA disregarded the historic rights argument on the basis of the UN Convention on the Law of the Sea awarding EEZs to all coastal States.

### Lawfare used through multilateral institutions

The Financial Action Task Force (FATF)'s grey listing of Pakistan caused significant economic losses, with one study by Tabadlab estimating a loss of USD \$38 billion. These costs include declines in investment and loss of trade.



Pakistan was required to improve its anti-money laundering and counter-terrorism financing frameworks to get off the grey list, which it successfully did by October 2022. The grey-listing process is criticised as being politicised and non-transparent, and acting as a form of coercive power that is not truly multilateral in nature.

## CONCLUSION

These are a few of the main challenges that international law seems to be facing in modern times. The fracturing of the international legal order, paralysis of long-standing and celebrated institutions, and reduced cooperation challenge international law's continued relevance.

However, in light of these challenges, one can argue that international law is becoming increasingly relevant and central in the global discourse. Moving forward, we must renew our commitment to strengthening multilateral institutions, promoting accountability and transparent decision-making processes, and preventing international law's misuse in global power politics in an increasingly polarised world.

