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International Law in Fractured World: Great-Power Impunity and The Erosion of Collective Security

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ABSTRACT

Article 51 of the United Nations Charter recognises the inherent right of a state to defend itself, or another state, when force is used against it and retaliation becomes inevitable. It is at that point that the Security Council's role becomes central: a state must report its exercise of self-defence to the Council, which the Charter intends to be the final arbiter of collective security. Contemporary developments present a tapestry of events that exposes a flaw in the structure of international law itself: the US raids on Iranian nuclear facilities, the 2026 Iran war and the closure of the Strait of Hormuz, the arrest of Venezuelan President Nicolás Maduro, the continuing impasse over Gaza and Ukraine, and the emergence of a potential rival "Board of Peace" mechanism. The law might be thought to have become invisible, but it has not. The International Court of Justice's unanimous advisory opinion on climate obligations and the near-global Pandemic Agreement show that the fracture in compliance with international law appears where matters of great-power consent or veto are involved. Normative, trade and institutional activity remains largely, though not always, resilient to this. Relying on Security Council records, the Article 51 correspondence on Iran, commentary on the Venezuela operation and recent developments in the ICJ, the WHO and energy security, the paper argues that international law survives by selectivity, and that its coercive authority has become a matter of great-power discretion precisely where the Charter intended it to be least discretionary.

Keywords: fragmentation, UN Charter, Security Council reform, use of force, Article 51, Board of Peace

I. INTRODUCTION

The United Nations Charter was founded on a gamble: that states would surrender their freedom to use force alone in return for the promise of safety managed by a Security Council that truly had power. Article 2(4) bars any threat or use of force against a state's integrity or political independence. Article 51 preserves the right of self-defence only until the Council takes action. Chapter VII places enforcement power in the hands of the Council alone.¹ This design assumed

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¹ Charter of the United Nations arts. 2(4), 51, ch. VII.

that cooperation among the great powers would be the exception that actually set the rule, not the main obstacle. If that assumption fails, the stakes are not only doctrinal: a Council that could not resolve a single use-of-force dispute in June 2025, as Part III shows, saw that same dispute reopened eight months later at greater human and economic cost.

There have been three developments since mid-2025 that suggest the wager is failing in a distinct way. Powerful states have not begun openly repudiating international law; most of them do not. Instead, they use its vocabulary while building alternatives that render its enforcement machinery optional. In June 2025 the United States struck Iranian nuclear facilities, and justified the action through the Article 51 correspondence procedure the Charter prescribes. The procedure produced no consequence.² In January 2026, the US seized Venezuelan President Nicolás Maduro in an operation labelled as law enforcement rather than force, again bypassing the Council.³ By early 2026, the Board of Peace, formally Council-authorised but rapidly outgrowing that mandate, had begun talks on both Gaza and Venezuela.⁴

This paper argues that these are not isolated breaches but examples of a single structural pattern: institutional displacement. This is framed within the broader fragmentation debate in Part II, illustrating how veto paralysis has pushed fragmentation from the periphery of specialised regimes into the security core itself. Parts III and IV examine Iran and Venezuela as case studies in how force is now justified, or deliberately left unjustified, before a Council that cannot respond either way. In Part V, the Board of Peace is examined as a more subtle instance of the same pattern, displacement growing out of rather than around Charter legitimacy. Part VI looks at the tracks of international law that still function, and asks why.

II. FRAGMENTATION AS A STRUCTURAL CONDITION

A specific phenomenon has been identified by the 2006 fragmentation study of the International Law Commission: the proliferation of specialised, self-contained regimes, for example trade law, investment law and human rights law, each developing its own interpretive community and dispute-settlement forum, with no central body to resolve conflicts between them.⁵ Fragmentation in that scenario was primarily horizontal, with regimes talking past one another

² CONG. RESEARCH SERV., *U.S. Strikes on Nuclear Sites in Iran*, IN12571 (June 23, 2025), https://www.congress.gov/crs_external_products/IN/PDF/IN12571/IN12571.1.pdf.

³ CHATHAM HOUSE, *The US Capture of President Nicolás Maduro – and Attacks on Venezuela – Have No Justification in International Law* (Jan. 6, 2026), <https://www.chathamhouse.org/2026/01/us-capture-president-nicolas-maduro-and-attacks-venezuela-have-no-justification>.

⁴ *Lula, Trump Discuss ‘Board of Peace’, Agree to Meet in Washington: Brazil*, AL JAZEERA (Jan. 26, 2026), <https://www.aljazeera.com/news/2026/1/26/lula-trump-discuss-board-of-peace-agree-to-meet-in-washington-brazil>.

⁵ INT’L LAW COMM’N, *Fragmentation of International Law: Difficulties Arising from the Diversification and Expansion of International Law*, UN Doc. A/CN.4/L.682 (2006).

while the security architecture of the Charter retained a hierarchically superior position through Article 103.

The period from 2025 to 2026 suggests that fragmentation has moved vertically into that previously insulated core. The clearest evidence is quantitative: in 2024, the permanent members cast eight vetoes, the highest number since 1986, and the Council adopted merely forty-four resolutions in 2025, making it the lowest total since 1991.⁶ Deep divisions among the five permanent members prevented the Council from meaningful responses not only to the episodes examined below, but to conflicts in Gaza, Myanmar, Sudan and Ukraine at the same time.⁷ The 2022 resolution of the General Assembly on the veto initiative, which opened up an Assembly debate whenever a permanent member cast a veto, has led to seventeen such debates since 2022. However, in spite of the close scrutiny, there has been no change in Council outcomes.⁸

Three other, more familiar conflicts confirm that this is a general pattern rather than an anomaly peculiar to the two episodes chosen here. The International Court of Justice has been seized of Gaza since January 2024 owing to proceedings brought by South Africa against Israel under the Genocide Convention, repeatedly finding a plausible risk of genocidal acts, even as the Council has been unable to translate that finding into enforcement; by one recent count the United States alone has cast fifty-one vetoes shielding Israel from Council censure since 1972, the highest total directed at protecting any single state.⁹ The starkest instance of the problem identified here is Russia's invasion of Ukraine: a permanent member that is both a party to an ongoing act of aggression and the holder of a veto over any Council response to it.¹⁰ The Taiwan Strait offers a partial counterpoint: sustained Chinese pressure has not, as of mid-2026, crossed into open conflict, and daily sorties around Taiwan fell sharply during the mid-May 2026 Xi-Trump summit before resuming once it closed, indicating that bilateral diplomacy and the traditional non-use-of-force norm can still limit great-power behaviour in the absence of a binding instrument.¹¹ The three cases differ in outcome, but each confirms that the paralysis of the

⁶ SECURITY COUNCIL REPORT, *Living with the Veto*, Research Report (Mar. 24, 2026), <https://www.securitycouncilreport.org/research-reports/living-with-the-veto.php>; Samuel King, *UN Security Council: Reform or Irrelevance*, INTER PRESS SERVICE (Feb. 6, 2026), <https://www.ipsnews.net/2026/02/un-security-council-reform-or-irrelevance/>.

⁷ INTER PRESS SERVICE, *supra* note 6.

⁸ *General Assembly Delegates Demand Overhaul of Security Council Veto amid Alarm over Its Use to Enable Impunity*, UN Doc. GA/12733 (Nov. 20, 2025), <https://press.un.org/en/2025/ga12733.doc.htm>.

⁹ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*, Provisional Measures, 2024 I.C.J. Rep. (Jan. 26, 2024).

¹⁰ U.N. Charter art. 27(3); *cf.* SECURITY COUNCIL REPORT, *supra* note 6.

¹¹ Di Lu, *China Moves to Lock in a New Edge on Taiwan Before the Next Trump-Xi Summit*, THE DIPLOMAT (July 29, 2026), <https://thediplomat.com/2026/07/china-moves-to-lock-in-a-new-edge-on-taiwan-before-the-next-trump-xi-summit/>.

Council is general, and that the avoidance of open conflict, where it is found, is currently due to diplomacy rather than to law.

Here, Martti Koskenniemi's later intervention is more directly useful than the Commission's institutional framing. Koskenniemi argues that the structural indeterminacy of international law means that any actor with sufficient power can present the outcome it wants as the legally correct outcome. Law becomes not a constraint on hegemony, but a vocabulary in which hegemony speaks.¹² The Iran and Venezuela episodes are best read in this register: not a great power ignoring international law, but a great power telling a story of its own conduct in categories of international law, self-defence in one case, law enforcement in the other, while ensuring that there is no institution that can authoritatively reject that story. This distinguishes the current moment from more familiar varieties of great-power defection, such as outright withdrawal from a treaty regime. Withdrawal at least acknowledges that the regime's rules no longer bind the withdrawing state, whereas the pattern examined here leaves the regime's vocabulary on the table while quietly disabling the institution able to enforce it.

This is a fragmentation of a different character from the one described by the Commission. It is not that a specialised legal system is out of step with the security-law project; it is that within the single system that is meant to be authoritative, permanent members are increasingly treating the Council's authority as optional rather than as the exclusive gateway to lawful force that Articles 2(4) and 51 were designed to require. Behaviour is already shaped by the expected deadlock before any vote takes place, encouraging states to bypass the Council rather than make a formal, losing attempt to use it.¹³

III. CASE STUDY A: THE US STRIKES ON IRAN, JUNE 2025

On the evening of 21 June 2025, the United States launched air and sea strikes against three Iranian nuclear sites, Fordow, Natanz and Isfahan, following more than a week of prior strikes by Israel against the same programme.¹⁴ American officials described the operation as narrowly tailored to disable Iran's nuclear capacity and not aimed at regime change, although the President's own subsequent remarks muddled that characterisation.¹⁵

The United States then followed the Charter's own procedure for justifying the use of force: a formal letter to the Security Council dated 27 June 2025, invoking the right of collective self-

¹² Cf. MARTTI KOSKENNIEMI, FROM APOLOGY TO UTOPIA: THE STRUCTURE OF INTERNATIONAL LEGAL ARGUMENT (2005 reissue); MARTTI KOSKENNIEMI, THE POLITICS OF INTERNATIONAL LAW (2011).

¹³ *UN Security Council Reform: Veto Power*, DIPLOMACY & LAW (Feb. 13, 2026), <https://www.diplomacyandlaw.com/post/un-security-council-reform-veto-power>.

¹⁴ CONG. RESEARCH SERV., *supra* note 2.

¹⁵ *Id.*

defence on behalf of Israel.¹⁶ The problem is that international lawyers who have reviewed the letter, including one with first-hand experience of drafting similar submissions, found its main legal argument unpersuasive and its supporting citations largely irrelevant.¹⁷ Self-defence requires either an armed attack that has occurred or, on one reading, one that is imminent. The gap between Iran's last direct strikes on Israel in 2024 and the scale of the June 2025 operation raised serious doubts about necessity and proportionality under any recognised legal test.¹⁸

The Council's response depicts the pattern that this paper seeks to establish. At an emergency session, Secretary-General Guterres said that the strikes marked a perilous turn of events and warned the world of the risks of retaliation and counter-retaliation; at the same time, a senior political affairs official cautioned that the strikes aggravated the existing conflict.¹⁹ Russia, China and Pakistan jointly circulated a draft resolution demanding an immediate and unconditional ceasefire, which was never brought to a vote.²⁰ No resolution condemning or disapproving of the strikes emerged at all. Additionally, UN human rights experts condemned the attack as a violation of the prohibition on the aggressive use of force and of the duties to respect sovereignty and not to intervene coercively, and warned that responsible US political and military leaders might be liable for the crime of aggression; it follows that a permanent Council member normalising such conduct undermines the framework that it was authorised to uphold. Moreover, the timing of the strikes was profoundly misaligned with diplomatic efforts to revive the nuclear agreement with Iran.²¹

A comparison with the historical record makes the point even more prominent. In 1981, Israel struck Iraq's Osirak reactor on the same broad rationale, and the Security Council unanimously condemned the action as a clear violation of the UN Charter.²² In 2025, the Council was once

¹⁶ Brian Finucane, *Assessing the U.S. Article 51 Letter for the Attack on Iran: Legal Lipstick on the Use of Force Pig*, JUST SECURITY (July 3, 2025), <https://www.justsecurity.org/116153/article-51-united-states-letter-iran-nuclear/> (discussing the letter of 27 June 2025, UN Doc. S/2025/426); *see also* Marko Milanovic, *Is Israel's Use of Force Against Iran Justified by Self-Defence?*, EJIL: TALK! (June 13, 2025), <https://www.ejiltalk.org/is-israels-use-of-force-against-iran-justified-by-self-defence/>.

¹⁷ Finucane, *supra* note 16.

¹⁸ Jean Galbraith, *United States Bombs Iran's Nuclear Facilities*, 119 AM. J. INT'L L. 798 (2025), <https://www.cambridge.org/core/journals/american-journal-of-international-law/article/united-states-bombs-irans-nuclear-facilities/18FAEC265405EB43009AA24C51F6AA72>.

¹⁹ *United States Bombing of Iran's Nuclear Facilities Marks 'Perilous Turn' in Volatile Middle East, Secretary-General Warns Security Council during Emergency Meeting*, UN Doc. SC/16095 (9941st mtg., June 22, 2025), <https://press.un.org/en/2025/sc16095.doc.htm>; *US Strikes on Iran's Nuclear Sites 'Marks Perilous Turn'*, UN NEWS (June 23, 2025), <https://news.un.org/en/story/2025/06/1164756>, reprinted at <https://www.globalissues.org/news/2025/06/22/40222>.

²⁰ *UN Chief Guterres Urges Immediate Action to De-Escalate West Asia Crisis*, NEWS ON AIR (June 23, 2025).

²¹ OHCHR, *UN Experts Condemn United States Attack on Iran and Demand Permanent End to Hostilities* (June 26, 2025), <https://www.ohchr.org/en/press-releases/2025/06/un-experts-condemn-united-states-attack-iran-and-demand-permanent-end>.

²² Galbraith, *supra* note 18 (discussing Israel's 1981 strike on the Osirak reactor and the Security Council's unanimous condemnation).

again met with a structurally similar act done by a permanent member itself. But the Council failed to reach even a minimal institutional position because its members were too divided amongst themselves; it produced zero binding text. The procedural steps of Charter compliance, the correspondence, the emergency meeting and the invocation of Article 51, were all observed, but the Charter's key limitation was not.

The Council's standstill in June 2025 was not the end of the story, nor were its implications confined to jurisprudential discourse. On 28 February 2026, the United States and Israel conducted a synchronised operation of a much larger magnitude, in which the Supreme Leader of Iran was killed. Things did not end there, as they further targeted Iranian nuclear and military facilities. Iran responded by closing the Strait of Hormuz, a passage that carries about one-fifth of the world's maritime oil and LNG trade and which the head of the International Energy Agency described as the biggest energy security threat in history.²³ India imports most of its LPG through the strait, and for many of the roughly 330 million active domestic LPG connections in the country there was a long period of shortage of cooking gas until a Pakistan-mediated ceasefire on 7-8 April 2026 eased this crisis.²⁴ In February 2026, the Council was as incapacitated as it had been eight months prior, but this time the toll was not just in regional fatalities but in long lines for cooking gas thousands of kilometres away from the Gulf, where its impact was not only seen but felt.

The ceasefire was short-lived. A memorandum of understanding between Washington and Tehran was signed on 17 June 2026, which provided for safe passage for commercial shipping for sixty days in return for the United States ending its naval blockade. But Iranian forces resumed their attacks on ships judged to be non-compliant with Tehran's orders well before the sixty-day period was up, which in turn prompted the United States to reimpose the blockade by early August 2026, again without any action by the Council.²⁵ More than a year after the strikes of June 2025, the pattern identified in this paper had not been resolved, nor had it ended in either

²³ HOUSE OF COMMONS LIBR., *Israel/US-Iran Conflict 2026: Background and UK Response*, Briefing Paper No. CBP-10521, <https://commonslibrary.parliament.uk/research-briefings/cbp-10521/>; HOUSE OF COMMONS LIBR., *Israel/US-Iran Conflict 2026: Reopening the Strait of Hormuz*, Briefing Paper No. CBP-10636, <https://commonslibrary.parliament.uk/research-briefings/cbp-10636/>; BRITANNICA, *2026 Iran War* (2026); *see also* 'We Are Facing the Biggest Energy Security Threat in History,' *IEA Chief Tells CNBC*, CNBC (Apr. 23, 2026), <https://www.cnbc.com/2026/04/23/oil-markets-prices-fuel-shortages-iran-war-iea-chief.html>.

²⁴ *India Faces Energy Risks as Hormuz Closure Disrupts Global Oil Flows*, AMERICAN BAZAAR (Mar. 16, 2026); *Is India in an Oil & Gas Crisis? Iran War & Strait of Hormuz Disruption*, WRIGHT RESEARCH BLOG (Apr. 11, 2026); HOUSE OF COMMONS LIBR., *US-Iran Ceasefire and Nuclear Talks in 2026*, Briefing Paper No. CBP-10637, <https://commonslibrary.parliament.uk/research-briefings/cbp-10637/>.

²⁵ CONG. RESEARCH SERV., *The Strait of Hormuz: Security Developments and Impacts on Oil, Gas, and Other Commodities*, R45281 (Aug. 2026), <https://www.everycrsreport.com/reports/R45281.html>; *Islamabad Memorandum of Understanding between the United States of America and the Islamic Republic of Iran* (June 17, 2026), <https://www.presidency.ucsb.edu/documents/islamabad-memorandum-understanding-between-the-united-states-america-and-the-islamic>.

conflict or resolution; it had simply repeated itself. The Council was no more capable of producing an effective response to the second crisis than it had been to the first.

IV. CASE STUDY B: THE CAPTURE OF NICOLÁS MADURO, JANUARY 2026

On 3 January 2026, US military forces launched an operation in and around Caracas, where they forcibly captured the Venezuelan President Nicolás Maduro and his wife, Cilia Flores, which ultimately culminated in their transfer to the United States for prosecution.²⁶ The operation involved strikes on military targets at Venezuela's largest military complex. It was carried out by special-operations, intelligence and law-enforcement units all combined.²⁷ The Secretary of State, Marco Rubio, called Maduro a "fugitive" from American justice, framing the operation as the apprehension of a person wanted for prosecution rather than the actual lawful exercise of interstate force. Administration officials too insisted repeatedly that this was a law-enforcement extraction and not within the ambit of the act of force described in Article 2(4).²⁸

This characterisation is of analytical significance and, arguably, even more revealing of the fragmentation thesis advanced in this paper than the previous case study of the US strikes on Iran. The Iran strikes were justified through the Charter's own self-defence vocabulary, no matter the twisting of words and how unpersuasively it resonated, but the Venezuela operation was able to avoid that vocabulary altogether. An international law scholar has observed that, because the identity of Venezuela's lawful government is itself disputed, consent could have supplied a legal basis for the operation only if it had been backed by a Security Council resolution, which was not present at all in the circumstances of this case. If it is properly construed as a use of force within the meaning of Article 2(4), the operation leaves the United States without any of the recognised justifications available under the Charter.²⁹ Winning that legal argument was of little concern to the administration, as its main concern was to avoid having to engage with the legal argument altogether. Some domestic officials even made that

²⁶ *Trump Administration's Capture of Maduro Raises Unease About the International Legal Framework*, AP NEWS (Jan. 6, 2026), <https://apnews.com/article/trump-maduro-venezuela-law-un-2e400f5753570b70487fd3d3fa50261e>.

²⁷ Michael N. Schmitt, Ryan Goodman & Tess Bridgeman, *International Law and the U.S. Military and Law Enforcement Operations in Venezuela*, JUST SECURITY (Jan. 5, 2026), <https://www.justsecurity.org/127981/international-law-venezuela-maduro/>.

²⁸ AP NEWS, *supra* note 26.

²⁹ Sarah Heathcote, *Were the US Actions in Venezuela Legal under International Law? An Expert Explains*, THE CONVERSATION (Jan. 4, 2026), <https://theconversation.com/were-the-us-actions-in-venezuela-legal-under-international-law-an-expert-explains-272684>.

explicit, one senator saying that the United States would not “subject our sovereignty to international bodies” and describing international law as “more of a convention”.³⁰

That was not a brand-new technique deployed by the US; in fact, it leads us to a paper trail in the form of documented history. In the Rwandan genocide of 1994, a US State Department spokesperson was asked if the killings constituted genocide, and she answered in a way that carefully avoided that word. This was because a formal determination under the 1948 Convention would have required a duty to act.³¹ It is the same mechanism at work in Caracas three decades later. So, instead of arguing that a particular legal category is wrong, a state merely avoids using that legal category in the first place, as acknowledging it would trigger legal obligations which the state does not want to assume. What changed is the direction: in 1994 a great power avoided a label to justify inaction; in 2026 it avoided a label to justify action. Both are continuous in the technique of definitional evasion as a substitute for legal argumentation.

The Maduro operation also has a much more immediate and less remarked precedent than Rwanda: the forcible removal of a head of state for prosecution in a US court. In December 1989 the United States invaded Panama; its *de facto* leader, Manuel Noriega, surrendered in January 1990 and disputed the proceedings on the basis that his seizure was a breach of international law, and that the invasion itself was of an illegal nature. He also contended that he enjoyed the immunity given to a head of state and that due process precluded prosecution after a forcible extraterritorial capture. He lost on all counts, though, and was convicted and sentenced to prison for forty years.³² The parallel is imperfect: Panama in 1989 at least prompted a Council vote on a draft resolution condemning the invasion that was vetoed by the United States and two allies, whereas in 2026 Venezuela did not even see any resolution brought to a vote. But the underlying proposition is the same in each case: once a defendant is physically in the custody of the domestic courts of a great power, international law objections raised *post hoc* have proved remarkably useless at changing the outcome. If the Maduro precedent becomes as entrenched as Noriega’s, forcible capture may be hardening into a lawful-in-practice substitute

³⁰ *GOP Lawmakers Rally Behind Trump’s Venezuela Strikes as Critics Question Legality*, FOX NEWS (2025) (statement of Sen. John Cornyn), <https://www.foxnews.com/politics/gop-lawmakers-rally-behind-trumps-venezuela-strikes-critics-question-legality>.

³¹ Transcript, US State Department Daily Press Briefing (June 10, 1994) (statement of Christine Shelley, Deputy Spokesperson), discussed in AL JAZEERA ENGLISH, *Why International Law Can’t Stop Mass Atrocities – All Hail the Military* (2025).

³² John Curtis, *The US Capture of Nicolás Maduro*, HOUSE OF COMMONS LIBRARY, CBP-10452 (Jan. 2026) (discussing the December 1989 invasion of Panama, the January 1990 capture of Manuel Noriega and his unsuccessful legal challenge to U.S. jurisdiction), <https://commonslibrary.parliament.uk/research-briefings/cbp-10452/>.

for extradition or Council authorisation when a state powerful enough to control the outcome is in charge.

Reaction fell along familiar fault lines, but to no effect. China rebuked the operation as a blatant use of force, saying that no country could claim to be the judge of the world.³³ The European Union, usually Washington's closest ally on Charter compliance, said in a statement backed by twenty-six of its twenty-seven member states that international law and the Charter must be respected, but took no further action.³⁴ Brazil's President Lula also deplored the capture as an unacceptable line crossed in the guise of regional stability, and then a few weeks later held a call with Trump in which Venezuela and the Board of Peace were discussed in the same breath. This precisely shows how quickly condemnation succumbs to engagement with the framework that replaces the condemned norm.³⁵ Hungary alone among the member states withheld its support from that statement, its Prime Minister saying that Hungary was "not in the business of issuing global moral verdicts" and would not mourn the fall of a narco-state, a posture increasingly voiced by other allied governments.³⁶ The UN Under-Secretary-General for political affairs affirmed that maintenance of international peace would require the continued joint commitment to the Charter globally, a statement of pure aspiration and mere words on paper rather than a substantive legal consequence.³⁷

V. THE "BOARD OF PEACE" AND DISPLACEMENT FROM WITHIN

The discussion about the Board of Peace calls for greater circumspection than the episodes of Iran and Venezuela. In the former cases, the matter proceeded beyond the Council's inaction, whereas in the latter, the Council itself created the framework. On 17 November 2025, the Security Council adopted Resolution 2803 by 13 votes in favour and none against, with China and Russia abstaining, thus approving the Comprehensive Plan to resolve the Gaza conflict and recognising the Board of Peace as a provisional governing body for Gaza. It was chaired by President Trump and was authorised to establish an International Stabilisation Force.³⁸ The Board's legitimacy is therefore drawn from within the Charter framework itself, rather than from an institution operating outside the system created by the Charter.

³³ AP NEWS, *supra* note 26.

³⁴ *Id.*

³⁵ AL JAZEERA, *supra* note 4.

³⁶ AP NEWS, *supra* note 26.

³⁷ *Id.* (statement of Under-Secretary-General Rosemary A. DiCarlo); *see also United States Action in Venezuela Puts Sovereignty of States, International Law at Stake, Many Speakers Tell Security Council*, UN Doc. SC/16271 (Jan. 5, 2026), <https://press.un.org/en/2026/sc16271.doc.htm>.

³⁸ S.C. Res. 2803, UN Doc. S/RES/2803 (Nov. 17, 2025); *Security Council Authorizes International Stabilization Force in Gaza, Adopting Resolution 2803 (2025)*, UN Doc. SC/16225 (Nov. 17, 2025), <https://www.un.org/unispal/document/security-council-meeting-coverage-17nov25/>.

What makes the Board hold significance are the events that followed it. Its ambitions were far beyond the Gaza mandate approved by the Council, which was publicly discussed at Davos in January 2026, and even included negotiations with Brazil over Venezuela. Recent analyses suggest that it is evolving into a parallel, competitive structure that is increasingly operating outside the traditional UN mechanisms, while still retaining its Council lineage.³⁹ This is more than a bypass. The apparatus was not designed to circumvent the Council, but it has become an entity that, with the Council's own legitimacy, now competes with the Council for the fundamental role that led to its own creation. The major distinction is in the possibility of the pattern being replicated. A Council resolution is ordinarily intended to define and constrain the mandate of the entity that it creates. Resolution 2803, however, imposes limited constraints on the Board of Peace's mandate, raising the possibility that such a model could be replicated when a permanent member seeks enduring authority without enduring oversight.

This distinction separates this paper's narrative from the larger discussions on international institutional circumvention. Most of them deal with states creating alternative institutions to work around a dysfunctional institution.⁴⁰ The original institution is bypassed, but remains separate and formally intact: thus, a largely horizontal bypass. The Board of Peace presents a different possibility; the Security Council itself can authorise an alternative mechanism within the Charter framework. The concern, therefore, is not merely that states may bypass a dysfunctional institution, but that the institution itself may authorise arrangements capable of displacing its own functions. If replicated, this could allow a permanent member to obtain enduring authority through a Charter-based mechanism without commensurate oversight. A pertinent study from 2026 on UN involvement in Ukraine, Georgia and the former Yugoslavia describes a similar progression from inaction because of vetoes to normative disintegration and regional replacement, but does not relate this to the pattern of legal invocation followed by evasion described here.⁴¹ This paper puts forward the concept of a connective chain and a Charter-sanctioned origin, presenting the Board as an instance of internal displacement, rather than external substitution.

³⁹ INDIAN COUNCIL OF WORLD AFFAIRS, *The Board of Peace: Towards a Parallel International Order?* (2026); INSTITUTE FOR NATIONAL SECURITY STUDIES, *Trump's Board of Peace: An Initiative for the Gaza Strip or an Alternative to the UN?*, INSS Insight No. 2093 (Feb. 2026), <https://www.inss.org.il/wp-content/uploads/2026/02/No.-2093.pdf>; EUROPEAN PARLIAMENT, *Briefing: The Board of Peace's Evolving Mandate* (2026).

⁴⁰ Mariana Mota Prado & Steven J. Hoffman, *The Concept of an International Institutional Bypass*, 111 AJIL UNBOUND 231 (2017), <https://www.cambridge.org/core/journals/american-journal-of-international-law/article/concept-of-an-international-institutional-bypass/D926E942B26FDBAA08FCF230473166B0>.

⁴¹ Vardan Atoyan & Nushik Petrosyan, *The United Nations in Multipolar Security Governance: Veto Politics, Norm Contestation, and Regional Substitution*, 4(1) NAT'L SEC.: J. NAT'L DEF. UNIV.-KENYA 161 (2026), <https://journal.ndu.ac.ke/index.php/nsj/article/view/105>.

That is where the motif of all three episodes comes together. The Iranian strikes invoked Charter language to justify an action that the Council could not review, while the Venezuelan operation avoided Charter language to avoid the same review; the Board of Peace was initially operating within Charter legitimacy but has since moved beyond it. Each instance makes the assumption of the Security Council being the sole, let alone primary, forum for legitimising great-power security action even weaker.

VI. THE OTHER TRACK: TREATY-MAKING AND ADJUDICATION AMID FRAGMENTATION

The preceding sections analyse the coercive nature of international law, the rules on the use of force, and show that nature under constant pressure. If the focus is placed on the normative, adjudicative and individual accountability aspects of law, however, a different picture emerges, within which significant multilateral progress was achieved during the same period.

On 23 July 2025, the International Court of Justice issued a unanimous advisory opinion on state responsibilities concerning climate change, the first such ruling and one of the most widely participated-in advisory processes in its history.⁴² The initiative did not come from a major power, but from a coalition led by Vanuatu and other Pacific Island countries, presented through the General Assembly after a campaign launched by law students and youth organisations.⁴³ All fifteen judges, including judges of the nationality of major emitting states, agreed on a broad-ranging opinion under treaty, customary and human rights law, largely rejecting the narrower duties advanced by major emitters.⁴⁴ The opinion is not binding, but it has already changed the landscape for future climate litigation; and because there was no vote in the Security Council, no veto stood between the request and the outcome.

Another, less dramatic but equally telling example is the pandemic agreement adopted by the World Health Assembly on 20 May 2025, by consensus in plenary after a committee vote of 124 in favour, none against and eleven abstentions, and after more than three years of negotiations prompted by inequities that had been exposed during COVID-19.⁴⁵ The Agreement was adopted despite the United States' withdrawal from the WHO earlier in the second term of

⁴² *Obligations of States in Respect of Climate Change*, Advisory Opinion, 2025 I.C.J. Rep. (July 23, 2025).

⁴³ Leslie-Anne Duvic-Paoli, *Climate Change at the International Court of Justice*, HOUSE OF COMMONS LIBRARY, CBP-10354 (Oct. 8, 2025), <https://commonslibrary.parliament.uk/research-briefings/cbp-10354/>.

⁴⁴ Caroline E. Foster, *The 2025 International Court of Justice Advisory Opinion on Obligations of States in Respect of Climate Change*, 74 INT'L & COMP. L.Q. 775 (2025), <https://www.cambridge.org/core/journals/international-and-comparative-law-quarterly/article/2025-international-court-of-justice-advisory-opinion-on-obligations-of-states-in-respect-of-climate-change/DED109CE194CB420EA6C911F1005E620>.

⁴⁵ WORLD HEALTH ORGANIZATION, *World Health Assembly Adopts Historic Pandemic Agreement*, News Release (May 20, 2025), <https://www.who.int/news/item/20-05-2025-world-health-assembly-adopts-historic-pandemic-agreement-to-make-the-world-more-equitable-and-safer-from-future-pandemics>.

the Trump administration. This was a stark demonstration that treaty-based cooperation among the remaining membership did not require, and was not hindered by, the position of a single great power, once the forum was removed from the Council system.⁴⁶

This differentiated picture raises an obvious question about the normative and adjudicative mechanisms not being equally immune from great-power obstruction. The Appellate Body of the World Trade Organization, the WTO's own highest adjudicative body, has not been able to hear new appeals since December 2019, when the United States completed a multi-year campaign of blocking the reappointment of its members. A group of WTO members has since then improvised an interim appeal-arbitration arrangement under Article 25 of the Dispute Settlement Understanding, but participation remains voluntary and the United States has stayed outside it.⁴⁷ This makes things more complicated, but not impossible, for the paper's main claim. The paralysis of the Appellate Body is a reminder that a single dominant country can cripple a rules-based adjudicative body when its rulings are inconvenient; however, the WTO's dispute resolution panels have continued to produce reports, an interim arbitration system has mitigated the void somewhat, and the vast majority of the WTO's day-to-day work, including tariff schedules, customs classifications and technical standards, has continued without interruption. A more precise way to put it is that adjudicative and normative mechanisms are not entirely impervious to great-power interference, but rather that interference is partial and circumvented, while obstruction in the coercive core has been nearly total to date. In fact, the erosion of the Appellate Body actually reinforces the paper's main argument that the adjudicative role is the one that best fits the interests of a dominant state. The panel process and the whole treaty system still exist. But the adjudicative role most closely associated with the economic interest of a dominant country, such as trade remedies involving its own exports, has been disabled.

A third dimension of personal criminal responsibility shows the same division taking place at another level. The International Criminal Court was established by the Rome Statute of 1998, which entered into force in 2002, to prosecute genocide, war crimes, crimes against humanity and aggression; however, the United States, Russia and China have not ratified the Statute, leaving their citizens largely outside the Court's jurisdiction.⁴⁸ The limitations of that pact were exposed in September 2024, when Putin, subject to an ICC arrest warrant, visited Mongolia, a

⁴⁶ *Id.*; see also *Implementation of the WHO Pandemic Agreement*, PMC (NAT'L INST. OF HEALTH, 2025), <https://pmc.ncbi.nlm.nih.gov/articles/PMC12481221/>.

⁴⁷ EUROPEAN PARLIAMENT, *Resolution on the Crisis of the WTO Appellate Body*, 2019/2918(RSP) (Nov. 28, 2019); *US Refusal to Appoint Members Renders WTO Appellate Body Unable to Hear New Appeals*, AJIL UNBOUND (July 17, 2020), <https://www.cambridge.org/core/journals/american-journal-of-international-law/article/us-refusal-to-appoint-members-renders-wto-appellate-body-unable-to-hear-new-appeals/AEE87FF75E27F33F58A4CCC33D97A11>; David Bosco, *The Great World Trade Organization Workaround*, BOSCO NEWSLETTER (Substack), <https://davidbosco.substack.com/p/the-great-world-trade-organization>.

State Party to the Statute, and was welcomed in an official capacity rather than detained.⁴⁹ A former President of the ICJ, speaking of the same institutional family, offered an example of the multifaceted pattern described in this paper: he noted that more than ninety percent of the Court's judgments are voluntarily respected, stressing that the payment of more than three hundred million dollars by Uganda to the DRC is typical and not an exception, with anomalies such as the 1986 *Nicaragua* judgment being notable precisely because of their rarity.⁵⁰ The Maduro operation is in line with this paradigm: instead of seeking extradition or an ICC referral, the United States simply circumvented the legal issue by apprehending the person, in a similar fashion to the United States' approach to Noriega in 1989, when the ICC had not yet been established.

The correlation between these cases and the Taiwan Strait de-escalation discussed in Part II is instructive. In each case, a forum immune by its nature from the Council's veto system is involved: an advisory opinion delivered at the General Assembly's behest, a treaty negotiated in a specialised agency, or a bilateral relationship governed by direct diplomacy. Beneath all three tracks lies a fourth, vastly larger and almost invisible stratum: the normal treaty rules on tariffs, customs classifications, aviation rights and technology-transfer agreements that enable imported coffee or licensed software to cross borders, a layer so far removed from great-power security issues that it rarely generates sufficient controversy to make the news. If we situate this observation in a more specific and contemporary context, it resonates with observations long recognised in the compliance literature: most rules are complied with by most countries most of the time, and only the rare high-profile violations attract public attention, whereas everyday compliance is taken for granted.⁵¹ This suggests a more complex interpretation of the paper's core claim: international law is not in uniform decline but is rather fragmenting along a fault line between mechanisms that depend on great-power consent and those that do not. The closer a mechanism is to sovereignty and coercion, the more fragile that consent becomes. The erosion examined in Parts III and IV centres on the coercive core established in 1945, especially the requirement of consent. Smaller and medium-sized nations have repeatedly delivered binding or authoritative outcomes in this period, in the normative and adjudicative periphery,

⁴⁸ Rome Statute of the International Criminal Court art. 5, July 17, 1998, 2187 U.N.T.S. 90; AL JAZEERA ENGLISH, *What's the Point of International Law?* (Start Here, Sept. 17, 2024), <https://www.aljazeera.com/video/start-here/2024/9/17/whats-the-point-of-international-law-start-here>.

⁴⁹ AL JAZEERA ENGLISH, *supra* note 48 (discussing Putin's September 2024 visit to Mongolia).

⁵⁰ AL JAZEERA ENGLISH, *supra* note 48 (statement of Judge Abdulqawi Ahmed Yusuf); *Military and Paramilitary Activities in and against Nicaragua (Nicar. v. U.S.)*, Merits, 1986 I.C.J. Rep. 14 (June 27); *Armed Activities on the Territory of the Congo (Dem. Rep. Congo v. Uganda)*, Reparations, 2022 I.C.J. Rep. (Feb. 9, 2022) (ordering Uganda to pay the Democratic Republic of the Congo US\$325 million).

⁵¹ Cf. LOUIS HENKIN, *HOW NATIONS BEHAVE: LAW AND FOREIGN POLICY* (2d ed. 1979).

consciously insulated from vetoes but not completely immune to other forms of obstruction, as the WTO shows.

VII. CONCLUSION

Four propositions follow. First, the traditional horizontal story of the fragmentation literature, which tells of specialised regimes expanding around a stable Charter core, no longer captures the state of the world, as this paper has shown; fragmentation has entered the security core itself, as evidenced by the lowest annual resolution count since 1991 and the highest annual veto count since 1986, as seen in Iran, Venezuela, Gaza and Ukraine. Second, great powers have not forsaken the language of international law; rather, they use it opportunistically, citing Article 51 when it is convenient, sidestepping the use-of-force regime when it is not, and creating rival institutions when neither option is acceptable. Third, the outcome is better described as a form of institutional displacement, of the internal kind of the Board of Peace, rather than simple non-compliance or a standard circumvention: the enforcement framework of the Charter remains intact but its exclusivity has been quietly abandoned by the states whose cooperation is needed. Fourth, and against any temptation to read this as breakdown, the 2025 climate advisory opinion and the Pandemic Agreement suggest that fragmentation is nuanced rather than absolute: it more consistently reflects the existence of a veto point than any overarching crisis of legal authority. Another observation, coming from Third World approaches to international law, is that the Charter's promise of collective security was always unevenly distributed: the veto gave permanent members a *de facto* exemption from binding Council action against themselves from 1945 on, so that what is now unravelling is, for states outside the permanent five, a more visible instance of an asymmetry that predates 2025.⁵² The present moment's asymmetry risks being read only as decline, and an earlier, quieter form of the same asymmetry treated in the process as a golden age that never existed for most members.

None of this renders international law meaningless, and a paper about a fractured world should not itself flatten the picture into a single story of decline. Every actor examined here continued to justify or contest conduct in legal terms rather than abandoning legality altogether. Even the Board of Peace, with all its burgeoning ambitions, retains its Council lineage and continues to report to it, and the same window that brought us the Iran and Venezuela episodes also brought us a unanimous ICJ opinion and a near-universal pandemic treaty. Reform proposals discussed since 2022 offer incremental correctives to the coercive core, without

⁵² See generally B.S. CHIMNI, INTERNATIONAL LAW AND WORLD ORDER: A CRITIQUE OF CONTEMPORARY APPROACHES (2d ed. 2017) (Third World approaches to international law).

addressing the incentive for powerful states to build alternatives whenever the Council is inconvenient.⁵³ The Assembly's veto-initiative mechanism and the long-standing calls for permanent members to refrain from using the veto in mass-atrocity situations are examples of proposals that aim to make paralysis visible, rather than to address its cause. They make it harder to ignore deadlock, not harder to cause it. Institutional displacement, as defined in this paper, is a resort available to a permanent member, whether or not it formally exercises its veto, and this explains why reforms focused on the vote itself are unlikely to address the fundamental conduct. The more accurate question, therefore, is not whether international law endures, as Part VI and the Taiwan analogy clearly show that a significant part of it does, but where the boundary between its robust and compromised realms will be drawn.

⁵³ SECURITY COUNCIL REPORT, *supra* note 6.