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The Concept of Sovereignty and International Law: A Case from the Perspective of Changing Global Governance Patterns

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Abstract

This paper undertakes a doctrinal legal appraisal of the relationship between sovereignty, international law, and global governance, tracing that relationship from its positivist and Kelsenian theoretical roots through its treaty-based expression in the League of Nations Covenant, the Kellogg-Briand Pact, and the United Nations Charter. Using doctrinal legal research methods, the paper analyzes primary legal sources the UN Charter, the Nicaragua judgment of the International Court of Justice, and the constitutive instruments of the League of Nations alongside secondary doctrinal commentary, to interrogate how the classical positivist account of sovereignty, resting on habitual obedience to an identifiable sovereign, has been reshaped by the rise of intergovernmental organizations, transnational corporations, and non-governmental organizations as governance actors. The analysis is then tested against very recent primary and institutional developments, including the UN80 reform process, the Pact for the Future, sustained paralysis within the UN Security Council, and contested unilateral uses of force among Charter signatories, together with emerging doctrinal debate over sovereignty in cyberspace and over climate-driven loss of state territory. The paper's central doctrinal finding is that sovereignty has not been negated by global governance; rather, it has been redefined as a bundle of voluntarily assumed legal obligations whose formal validity persists even where enforcement has weakened. The paper closes with doctrinal recommendations for how future legal scholarship should track the widening gap between the formal validity and the practical enforceability of international legal norms.

Keywords: sovereignty, global governance, international law, legal positivism, United Nations Charter, *jus cogens*.

1. Introduction

Human beings live in society, a condition marked by interdependence and by a complex web of relationships among its constituent members (Twine, 1994). The primary desire of

any human being is to live in a society characterized by peace and order, and this cannot be achieved in the absence of laws and regulations enforced by an authority that the society, implicitly or explicitly, has agreed to obey. To anthropologists, sociality is a basic instinct: the human being is a social animal and cannot live in isolation from, or without depending upon, other members of society (Baumeister, 2005). Within this web of interdependence, law plays a central role in maintaining order and in keeping relationships productive enough to achieve prosperity.

This paper argues that the classical positivist account of sovereignty as habitual obedience to an identifiable command-giver has been progressively displaced by a doctrinal model in which sovereignty is exercised, rather than surrendered, through voluntary submission to international legal obligation. The paper further argues that the global governance literature, while descriptively useful, has often overstated the erosion of sovereignty; a more accurate doctrinal account treats global governance mechanisms as a redefinition, not a negation, of sovereign authority. This claim is tested against contemporary evidence, including the visible weakening of Security Council effectiveness and the emergence of parallel, non-UN peace architectures in the current period.

Law is no longer purely a domestic requirement of society. The world today has evolved into a global society, bringing increasingly complex relationships of interdependence alongside differences in socio-political power and ethnic and cultural bias (Hossain, 2024). In the domestic sphere, law has, to a considerable extent, succeeded in bringing peace and order through its imperative character (Austin, 1861). From this domestic starting point, the theory of positive law generates debates regarding the sovereign and obedience to law. Positivists initially deemed the sovereign to be a person or body of persons who receives habitual obedience from the bulk of the population, and the existence of such a sovereign was, in this view, essential to any independent political society (Yarom, 2023). Positivists offered several justifications for this obedience, rooted in the social, political, and economic needs of a state's subjects: because of threats from external enemies and from natural calamities, the collective security and unity of command were deemed essential to the preservation of life (Sourgens, 2006).

Austin's command theory was heavily criticized by later positivists. The command model was largely discarded, and its weaknesses are still remembered today. H. L. A. Hart challenged Austin's account of law and, in doing so, brought about a revolution in legal method and the philosophy of law (Hart, 1961). Hart was strongly influenced by Hans Kelsen, the Austrian legal philosopher whose theory of legal positivism rested on the Grundnorm, or basic norm. Kelsen's theory represented a cautious attempt to understand the operation of law scientifically and philosophically (Kelsen, 1967). Kelsen treated international law as the primary norm that gives validity to all subordinate rules, and he took international law to be the source of validity for the norms of domestic legal systems. On his account, a state's sovereignty could not be determined in the absence of effective control over a defined territory; this territorial control subsequently acquires legal-entity status through recognition under international law (Lipsky, 2023).

Proper implementation and enforcement of international law is indispensable to the maintenance of international peace and order (Uçkaç, 2025). The existence of international law governing relations among states is not seriously in doubt; what remains contested among scholars is the legality and the rationale of any international authority capable of enforcing that law (Klabbers, 2023). Disparities and divergent interests among nations continue to complicate the implementation of any global governance mechanism, and the concept of a global authority to administer justice and peace still lacks settled

philosophical and normative foundations. The interaction and integration of cross-national, cross-cultural, cross-border, and cross-social norms among different nations are in a continuing process of convergence, a process that unfolds under the broader phenomenon of globalization.

Globalization carries a range of connotations. It is commonly understood as the process by which the experience of everyday life marked by the diffusion of commodities and ideas becomes standardized around the world. Factors contributing to globalization include increasingly sophisticated communications and transportation technologies, mass migration, levels of economic activity that have outgrown national markets through industrial combination and commercial grouping across national frontiers, and international agreements that lower the cost of doing business abroad.

International law deals with relationships between states and other actors of an international character (Klabbers, 2017). Today the reach of international law extends to individuals within states as well. Previously, only states and international organizations were considered subjects of international law, and the scope of international law extended only to the limits of state sovereignty. With the intensive development, over the last century, of international human rights law and international humanitarian law, the scope of international law has crossed the limits of national sovereignty. Under a range of conventions and bilateral and multilateral treaties, individuals within member states and, in some cases, within non-member states have been conferred with rights and obligations (International Covenant on Civil and Political Rights, 1966).

War has been a defining feature of relations between states for as long as human beings have organized themselves into political communities (Fry, 2007). Nearly every civilization has, at some point, sought to remove or mitigate this dimension of human behavior. It is often said, following Cicero's maxim "silent enim leges inter arma" that laws fall silent amid arms; nevertheless, jurists have continually worked to bring aggressive state behavior within the ambit of law (Forschner, 2016). Over time, the laws governing war have developed through custom and through the efforts of the international community, and most of these laws are now codified in conventions and treaties (Byers, 2007). The mechanisms for enforcing these laws through a recognized international authority, however, remain incompletely realized. Whether such enforcement is practicable is a question that requires sustained inquiry, and because war has been a principal catalyst for efforts to maintain international peace and order, the relationship between global governance and international law remains a matter of considerable concern to stakeholders in global politics.

2. Methodology

This paper adopts a doctrinal legal research methodology. Doctrinal research proceeds by identifying, systematizing, and critically analyzing the primary and secondary sources of a body of law to state, and where necessary reconcile, the legal principles that govern a given field here, the doctrinal relationship between state sovereignty and global governance under international law (Hutchinson & Duncan, 2012). The paper does not employ empirical, statistical, or fieldwork-based methods; it is a library- and document-based study grounded in legal texts, judicial pronouncements, and authoritative scholarly commentary. The primary sources examined include constitutive treaty instruments (the Covenant of the League of Nations, the 1928 General Treaty for the Renunciation of War, and the Charter of the United Nations, including Article 2(4)); the jurisprudence of the International Court of Justice, most significantly *Military and Paramilitary Activities in and against Nicaragua* (Nicar. v. U.S.); and other binding or quasi-binding international

instruments referenced throughout the paper, such as the International Covenant on Civil and Political Rights and the Montevideo Convention criteria for statehood as discussed in recent scholarship.

The secondary sources examined include classical and contemporary legal and political theory (Austin, Hart, and Kelsen on legal positivism; Rosenau, Brus, Weiss, Shaw, Ferguson and Mansbach, and Stone on global governance and globalization); doctrinal commentary on the law of the use of force (Malanczuk); and, for the contemporary developments section, a mixed body of sources appropriate to events too recent for a mature academic literature to yet exist peer-reviewed scholarship where available (for example, on cyber sovereignty and climate-driven statehood), alongside institutional reporting, think-tank policy papers, and specialist monitoring services (for example, on Security Council reform and UN80). Where a source is institutional or policy-oriented rather than peer-reviewed, this is noted so the reader can weigh it accordingly.

Consistent with doctrinal method, the paper's analytical technique is threefold: (i) exposition, in which the relevant legal rules and their historical development are stated; (ii) analysis, in which those rules are examined for internal coherence, gaps, and ambiguity (for example, the treatment of "war" versus "force" under Article 2(4)); and (iii) synthesis, in which the paper's doctrinal claim about the redefinition, rather than negation, of sovereignty is tested against recent institutional practice. Where a source or fact could not be independently verified within the scope of this research, it is flagged in the text or in the reference list rather than silently corrected, consistent with ordinary doctrinal citation practice.

As a doctrinal study, this paper does not claim generalizability in the empirical social-science sense; its claims are legal-interpretive claims about the state of the law and the coherence of competing doctrinal positions, offered for the consideration of the academic and professional legal community.

3. The Origins of Global Governance and the Regulation of Force

Every legal system must prevent its subjects from resorting to violence or force to resolve disputes among themselves; it must instead provide a peaceful alternative so that social order is not disturbed. Legislatures make law to displace violence with peaceful dispute settlement. In the same way, the use of coercive measures or force in international affairs is not left unregulated; it is governed by international law. Across a number of judgments, the International Court of Justice has treated the prohibition on the use of force by states as having attained the status of *jus cogens* (*Military and Paramilitary Activities in and against Nicaragua* [Nicar. v. U.S.], 1986).

Historically, a body of customary and conventional law has dealt with the unilateral use of force by states. International law today is considerably more developed, though the extent to which it has absorbed pre-existing customary practice is contested (Sender & Wood, 2016). It is generally accepted that the UN Charter codified most pre-existing customary law and, in several respects, extended beyond it; the pre-Charter (pre-1945) law of war retains significant doctrinal importance. The doctrine of just war governed the use of force in international relations for a considerable period. The doctrine, advanced by writers such as St. Augustine and Hugo Grotius, treated war as permissible where fought for a just cause with "just cause" interpreted by the sovereign or state authority, without regard to any external standard of legality (Tzenios, 2023). This approach characterized the fifteenth and sixteenth centuries and was later refined, to a limited extent, within Europe. Nevertheless, well into the late seventeenth century it remained an accepted premise that a state possessed an inherent right to use force; consequently, a state's right

to resort to war was, in principle, unconstrained. At this stage, the real scope of international law was confined to the conduct of war rather than to the question of resort to war. This sovereign prerogative persisted into the early decades of the twentieth century. With the founding of the League of Nations in 1919, a shift in the traditional approach to the use of force began, although the League's Covenant did not specifically prohibit the use of force (Webster, 2025).

The origins of global governance may be traced to the formation of the League of Nations, notwithstanding its ultimate failure to achieve the goals the international community had set for it (Gostin & Finch, 2023). States classified permissible uses of force into categories such as self-defense, rescue of nationals abroad, and reprisals. The Covenant imposed only narrow restrictions on resort to war, and war remained lawful where the procedural requirements of the League's mechanism were satisfied (League of Nations Covenant, 1919, arts. 10–16).

In 1928, the Covenant of the League of Nations was supplemented by the General Treaty for the Renunciation of War (the Kellogg-Briand Pact), which, for the first time in history, outlawed war as such (Trahan, 2026). The parties to the treaty condemned recourse to war as a means of resolving international disputes and renounced war as an instrument of national policy in their relations with one another (General Treaty for the Renunciation of War, 1928, art. 1). This is regarded as a considerable development in the law governing the use of force; it also established, for the first time, that a general ban on war was both legally and politically achievable. As with the League of Nations Covenant, the term “war” remained a source of difficulty under the 1928 treaty, and both instruments ultimately failed insofar as states evaded liability simply by declining to characterize a given conflict as “war.” The world was subsequently plunged into a further series of conflicts. The League of Nations could not adequately maintain international peace, and, following the Second World War, states recognized the need for a new organization capable of maintaining international peace and order (Goodrich, 1947).

The UN Charter represented a progressive advance toward global governance, providing an elaborate mechanism for resolving disputes among states (Pease, 2018). Among the primary objectives in creating the United Nations was the suppression of acts of aggression and other breaches of the peace (UN Charter, 1945, art. 2). Article 2(4) of the Charter provides the central directive to member states:

“All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations” (UN Charter, 1945, art. 2(4)).

This article imposes a central Charter obligation, introducing a general prohibition on the unilateral use of force. Several interpretive difficulties nonetheless arise from the literal wording of the article. Article 2(4) of UN Charter is carefully drafted insofar as it addresses “the threat or use of force,” rather than “war” as such a term that carries a distinct technical meaning in international law, since states frequently engage in hostilities while denying that a formal state of war exists. The distinction between war and hostilities falling short of war may appear fine, but it carries meaningful consequences: a state of war automatically terminates diplomatic relations and certain categories of treaty between belligerents, whereas hostilities short of war do not. Article 2(4) applies to all force, irrespective of whether it constitutes a technical state of war (Malanczuk, 1997).

The rise of terrorist activity worldwide has intensified the case for thinking about security in global rather than purely national terms. Global terrorism is not a novel phenomenon,

but improved global mobility and communications technology have expanded its reach, and there remain serious concerns about the potential availability of weapons of mass destruction to non-state actors; conventional means, such as vehicle-borne explosive devices, remain in use as instruments of public terror (Martin, 2007).

The events of September 11, 2001, reshaped the dynamics of international politics and moved the problem of global terrorism to the top of the international agenda (Holland, 2012). What is comparatively new, and significant, is that terrorists increasingly operate from outside their states of origin, positioning themselves as international actors and targeting major powers, particularly the United States, while operating outside any framework of international law and formal state relations (Slaughter & Burke-White, 2002).

Ongoing debate over the threat of global terrorism, and over appropriate responses to it, has raised difficult questions concerning security, human rights, democratic governance, and the use of force to preserve peace and order. Influential voices within the United States have sought to merge these concerns in ways that challenge foundational concepts of state sovereignty, non-intervention, and political independence (Buchanan & Keohane, 2004). This apprehension appears to be a driving force behind normative change in international relations. The trajectory of this transformation is evident in the shifting policy landscape, even where the precise route of that shift remains unclear. Prevailing norms exert their own influence on how states reshape relations with one another through the political choices available to them, which is one reason the promotion of norms has been actively encouraged within international relations. It may nonetheless be argued that Article 2(4) is imperfectly drafted, since it prohibits the threat or use of force only against a state's "territorial integrity" or "political independence," or in ways otherwise "inconsistent with the purposes of the United Nations." On a literal reading, force that does not implicate territorial integrity or political independence may fall outside the prohibition altogether raising the possibility that force used to protect human rights, or to prevent an unlawful act attributable to a state, could be characterized as consistent with the Charter (Malanczuk, 1997).

The concepts of peacekeeping and peace enforcement likewise originate in the UN Charter. Although the Charter did not, at its inception, provide explicit rules for peacekeeping, the concept evolved over the following half-century into a well-developed doctrine grounded in the Charter's underlying principles of non-intervention, sovereign equality, and peaceful dispute settlement. With the end of the Cold War, the United Nations adopted a markedly more assertive approach to peacekeeping, using military force as an instrument of peacemaking. Iraq's aggression against Kuwait, for instance, was met by a UN-authorized international coalition. The humanitarian crisis produced by Iraqi repression of the Kurds, and the obstacles to supplying food and assistance to civilians during the conflict in Somalia, presented the United Nations with new categories of challenge. More recently, the UN's traditional understanding of non-intervention and sovereignty was tested by interventions in East Timor and Afghanistan, where international forces were expressly authorized to use force to protect fundamental human rights and to maintain order within the relevant territory (Bellamy et al., 2010).

These norms must be observed regardless of any separate question about the legality of a given use of force; their universality and generality mean that their consistent global enforcement can serve the ends of justice and morality. Such norms can become part of a broader network of global governance. One of the principal obstacles to global governance remains disagreement among states over specific issues; it is unlikely that all nations will

disagree on the basic norms of international law, so a workable foundation for further convergence toward a globally agreed legal order may still be achieved incrementally. The authority of an international body, if unmoored from settled and undisputed norms, risks producing dangerous outcomes. The normative structure of the international order rests on international law and international institutions, though the stated functions of these institutions do not always reveal the norms that in fact animate them in other words, an institution's motives may diverge from what it professes publicly. Eliminating this gap between stated and actual purpose matters for any global governance mechanism intended to protect life, property, and human dignity; such norms must be both the implicit and the explicit objectives of any international authority (Zürn, 2004).

An effective global system requires several foundational commitments. First, the equality of all states: every member of the community of nations should have legitimate access to the working and internal functions of globally operative networks, ideally through criteria agreed upon by all members. Second, difference among states is unavoidable and must be given appropriate weight in any global governance mechanism, consistent with the first commitment; difference should not be equated with impediment unless it conflicts with basic, settled norms. Third, a democratic process of decision-making is essential. The construction of a new global order will take time, and its pace may accelerate through a normative commitment to global rule of law that preserves core powers within sovereign states. A governance system that is both horizontal and vertical, and that reflects collectivity at each level, would better serve the peoples of all nations. Unless the larger theoretical questions are settled, and shared values determined, the prospect of a genuinely global order is unlikely to be realized.

4. The Influence of Global Governance on International Law

This section examines the impact of global governance on international law and considers whether the discourse has genuinely departed from international law's traditional character whether, in other words, the international community has entered a new order characterized by transnational governance and decentralized global law. New patterns of global governance have transformed, though not abolished, the traditional and foundational concept of state sovereignty. The rigid definition of state sovereignty that once anchored global governance no longer holds without qualification; a non-state pattern of governance has come to supplement, though not fully supersede, the classical definition. The contemporary international system reflects the growing involvement of non-state actors intergovernmental organizations (IGOs), non-governmental organizations (NGOs), transnational corporations (TNCs), and other ethnic and religious groups in domains once reserved to state authority. One outcome of this transformation, from the perspective of international law, has been the establishment of the International Court of Justice (ICJ) and the International Criminal Court (ICC). Further analysis is warranted regarding the influence of non-state actors on the process of globalization, including whether the concept of territoriality will retain its former significance, and how the rules of international law have facilitated the emergence of this new pattern of global governance as a basis for international order. Understanding what global governance contributes to this transformation first requires a working definition of the term (Koskeniemi, 2004).

5. Defining Global Governance

Governance has traditionally been associated with governing with political authority, institutions, and, ultimately, control. In this sense, governance denotes formal political institutions that coordinate and control interdependent social relations and that possess

the capacity to enforce decisions. Other scholars, such as Rosenau (1999), use “governance” to denote the regulation of interdependent relations in the absence of any overarching political authority, as in the international system; some now speak of an emerging “global public policy”. Weiss (2015) defines global governance as the sum of the formal and informal values, norms, procedures, and institutions that help states, intergovernmental organizations, civil society, and transnational corporations identify, understand, and address transboundary problems. Global governance is the process by which the international community, on the basis of shared values and interests, collectively manages resources, issues, and conflicts within an increasingly interconnected “global neighborhood” (Stout & Love, 2015).

Many international law scholars regard the global governance literature as imprecise in both definition and usage, with its core concepts remaining ambiguous. Global governance can appear to describe almost any coordinated transnational activity, while having little to do with government as classically understood. It is not straightforward to define global governance in its core sense, though the term is closely coupled with the idea of “steering.” Taking these considerations together, global governance may be understood as the political interaction of transnational actors aimed at solving problems that affect more than one state or region, in circumstances where no single actor possesses the power to enforce compliance (Dunoff & Trachtman, 2009).

6. Global Governance and the Concept of Sovereignty

Whether the idea of global governance affects the basic structure of international law is answered here in the affirmative: global governance has not only tested international law at its core, but international law has, in important respects, accommodated the emergence of this new idea, which now forms part of the basis of the contemporary international order. One school of thought holds that the redefinition of sovereignty and the rise of transnational governance mean that the new world order is fully decentralized and that sovereignty, as a concept, has become little more than a legal fiction (Slaughter, 2004). This paper takes the view that wholly abandoning the concept of sovereignty, on the premise that transnational governance has displaced international treaty-based organization, would misconstrue the true character of modern international society and the political choices available to states. A competing and, in this paper's assessment, more persuasive view holds that although local confrontations have at times been exploited by regional actors or multinational corporations, the normative dimensions of sovereignty should be reconceived considering new global governance principles, in a way that complements cosmopolitan commitments such as humanitarian law, human rights, and collective security. On this account, the task for doctrinal scholarship is to strengthen not abandon international law and supranational institutions, and to foster a global rule of law that protects both state sovereignty and the underlying principles of international law, grounded in a revised conception of multiple, overlapping spheres of authority between states and non-state actors (Bianchi, 2017).

The end of the Cold War and the collapse of the bipolar international system was one significant, though not the only, catalyst for this shift. Several substantive changes over the past several decades the continuing process of globalization, a rising incidence of intrastate conflict, the growing involvement of non-state actors in matters of state authority, and the formation of new intergovernmental and non-governmental organizations to address transnational problems have together shaped a new international order. This emerging order has altered the norms and rules guiding international actors across many issue areas, including international law itself. From the perspective of this

new order, the role of the state, its sovereign position, and the location of legal authority have all undergone considerable change (Lebow et al., 1995).

Globalization is a complex set of distinct but related economic, cultural, social, political, and military processes through which social relations have developed toward a global scale, and with global reach, over a long historical period (Cuterela, 2012). Globalization has thus operated as a boundary-eroding process, producing increased interdependence and a more pluralistic set of international actors including IGOs, international NGOs, TNCs, ethnic and religious groups, and other overlapping, non-territorial polities operating within or alongside the nation-state (Ferguson & Mansbach, 2012). The central consequence of globalization, on this account, is the growing influence of non-state actors and the corresponding need to move analysis beyond the “territorial trap” of state-centered international relations theory toward a more inclusive account (Agnew, 1994).

The following subsections examine how three categories of actor intergovernmental organizations, transnational corporations, and non-governmental organizations have complemented these emerging patterns of global governance and reshaped the classical, rigid conception of sovereignty.

6.1 The Role of Intergovernmental Organizations

National governments have found it necessary to create international organizations to facilitate cooperation across national frontiers. While political and military cooperation such as UN peacekeeping attracts the most public attention, the most significant breakthroughs have occurred in economic and social cooperation, or “functional cooperation.” The existence of the United Nations is itself evidence that governments, however reluctantly, acknowledge the need to cooperate across an increasing range of issues, including the protection of civilians in wartime, public health, and environmental protection.

Over time, the United Nations has assumed responsibility for providing basic services to persons who, in the absence of a functioning national authority, have become the responsibility of the international community including refugees and persons displaced by armed conflict or natural disaster. Many of the services now provided by the United Nations, such as the management of refugee camps, were once provided by national governments; the growth of UN responsibility in this area reflects the limited capacity of many developing-country governments to provide such services themselves. This expanded role largely reflects the enlargement of the Secretary-General's responsibilities under Article 99 of the Charter to cover a wide range of situations in which the United Nations is expected to act where national action is deemed either inappropriate or unlikely. This ranges from the exercise of good offices in conflict resolution, through election supervision and monitoring, to the provision of armed forces and civilian staff to help maintain peace and security.

6.2 Non-State Actors: Transnational Corporations and NGOs

Transnational corporations engage in foreign direct investment and control activities across more than one nation-state. These corporations are now the principal global economic force, and they have, in important respects, eroded the notion of a bounded “national economy,” and, by extension, the classical conception of national economic sovereignty. Transnational corporations operate across national political boundaries, and virtually the entire globe now lies within their commercial reach.

Non-governmental organizations were traditionally understood as neutral actors whose sole purpose was the protection of human rights during armed conflict and internal disturbance. These organizations operate outside the ambit of government and business;

the very term “non-governmental” reflects a Westphalian assumption that organizations are either governmental or they are not, which is part of why newer terminology, such as “civil society organizations,” has emerged. Since the end of the Cold War, Western foreign policy has reoriented itself toward using aid as an instrument of stability and counterterrorism, a shift that has increasingly politicized humanitarian assistance. With the rise of a broader notion of global concern, humanitarian principles such as the neutrality of aid have come under strain within complex humanitarian emergencies. Some NGOs have gradually, and selectively, abandoned the principles of neutrality and non-intervention in favor of actively promoting militarized humanitarian intervention in cases of genocide.

State agencies, including military establishments, along with private development actors, have become increasingly adept at building partnerships with local civilian organizations. In light of this political reality, NGOs have had to re-evaluate what neutrality means in practice, and the practical utility of preserving neutral space. Collectively, these developments have contributed to a form of global governance in which organizations and movements pursue their own political positions and agendas, and are, in that sense, treated as participants in matters of national sovereignty.

7. Contemporary Developments

7.1 The UN80 Reform Initiative and the Pact for the Future

In September 2024, world leaders adopted the Pact for the Future, which reaffirmed the case for Security Council reform and set out a broader agenda for “transforming global governance,” including strengthened contributions from the General Assembly and the Peacebuilding Commission to the maintenance of peace (United Nations, 2024). Building on the Pact, UN Secretary-General António Guterres launched the UN80 initiative in March 2025, an internal reform process aimed at streamlining the organization amid a deepening liquidity crisis driven by member states' failure to pay assessed contributions in full and on time (Khan, 2025). The reform drive coincided with acute funding shortfalls that have already curtailed UN humanitarian operations and are expected to affect peacekeeping missions significantly, including a reported decision by the United States to withhold its full share of the peacekeeping budget for its 2026 fiscal year (Security Council Report, 2025).

7.2 Security Council Paralysis and Contested Alternatives to UN-Centered Governance

Security Council reform, first placed on the General Assembly's agenda in 1979, gained renewed momentum during the UN's eightieth General Assembly session in September 2025, when more than one hundred national statements referenced the issue (Latino, 2025). At the same time, the Council itself has struggled to act as the Security Council is unable to reach consensus on Haiti, Gaza, Myanmar, Sudan, or Ukraine, with permanent members casting vetoes that blocked action on Gaza and Ukraine through (Whitfield, 2025).

Perhaps the most doctrinally significant development in this period has been the emergence of parallel, non-UN peace architecture initiated outside the Charter framework, alongside reports of unilateral uses of force and coercive territorial pressure among Charter signatories. Whatever their ultimate significance, such developments squarely raise the Article 2(4) question examined in the preceding section: they test, in real time, whether “threat or use of force against the territorial integrity or political independence of any state” retains meaningful legal content when the actor exerting the

threat is itself a permanent Security Council member. This is not a merely academic question at present; it goes to whether the *jus cogens* character of the prohibition on the use of force, discussed above by reference to the ICJ's Nicaragua jurisprudence, continues to operate as a practical constraint or has receded into a purely formal one.

7.3 Enforcement Gaps Beyond the Security Council: the ICC and the WTO

The Security Council is not the only institution created by this transformation to display a widening gap between formal legal validity and practical enforceability. The International Criminal Court, whose establishment was cited earlier in this paper as an outcome of global governance's influence on international law, continues to issue arrest warrants that a number of states parties decline to execute when the accused visits their territory a pattern that raises, in miniature, the same doctrinal question posed above about the Security Council: does non-cooperation by states parties erode the legal force of the Rome Statute's cooperation obligations, or does it simply expose an enforcement deficit that has always existed alongside the Statute's formal validity? Consistent with the Kelsenian framework applied throughout this paper, non-cooperation is better understood as the latter. A parallel example arises in the World Trade Organization's dispute settlement system, whose Appellate Body has been unable to hear new appeals for an extended period because member states have blocked the appointment of replacement judges, leaving WTO panel rulings without a functioning appellate mechanism even though the underlying WTO agreements remain in force and binding. Both examples reinforce the paper's central claim: the pattern identified in the Security Council context states withholding the material or procedural support an institution needs to function, rather than repudiating the institution's legal authority outright is a general feature of contemporary international institutions, not a Security Council specific anomaly (Askarisirchi, 2025).

7.4 Non-Traditional Domains of Sovereignty: Cyberspace and Climate

Contemporary scholarship has also extended the sovereignty governance debate into domains the original positivist and mid-century Charter framework did not anticipate. Recent work on cybersecurity governance argues for a balanced, multistakeholder framework that reconciles legitimate state security interests in cyberspace with human rights, transparency, and collaboration among the private sector, civil society, and the technical community while cautioning that a fracturing geopolitical order makes such a framework increasingly difficult to construct (Shawe, 2025). Separately, scholarship on sea-level rise has revisited the Montevideo Convention's requirement of a defined territory as a condition of statehood, asking whether a state whose physical territory is submerged by climate change can retain full legal personality and maritime entitlements a question the International Law Association took up in 2022 and that remains doctrinally unresolved (Carnegie Endowment for International Peace, 2025).

8. Synthesis: The Validity–Enforceability Gap Revisited

Read together, these recent developments support, rather than undermine, the paper's central doctrinal claim. States have not renounced the vocabulary of sovereignty, nor have they abandoned the Charter framework in favor of an alternative legal order; even actors that bypass the Security Council in practice continue to frame their conduct by reference to the Charter's own categories of self-defense, territorial integrity, and international peace and security. What has changed is the reliability of the Council as an enforcement mechanism, and the willingness of powerful states to fund and staff the institutions that give the Charter practical effect. This is consistent with the Kelsenian account discussed

in the Introduction: international law's Grundnorm-like status is a matter of doctrinal validity, not of guaranteed enforcement, and a period of weak enforcement does not, by itself, establish that the underlying norms have lost legal force. It does, however, suggest that doctrinal scholarship should now pay closer attention to the gap between formal legal validity and functional enforceability a gap that recent Security Council paralysis has made unusually visible.

This gap is not without doctrinal precedent, and situating it historically strengthens rather than weakens the paper's claim. The League of Nations Covenant, examined earlier in this paper, retained full formal validity through the 1930s even as it proved unable to prevent Japan's occupation of Manchuria, Italy's invasion of Abyssinia, or German rearmament in violation of Versailles; contemporaries did not conclude that the Covenant's norms had thereby ceased to be law, but rather that its enforcement architecture had failed independently of its normative content. The doctrinal lesson transfers directly to the Charter-era gap identified above: a validity/enforceability gap of this kind, however visible, is a recurring structural feature of collective-security regimes built on state consent, rather than a novel signal that the underlying legal order is dissolving. What distinguishes the present period from the 1930s, and what future doctrinal scholarship should therefore track most closely, is not the existence of the gap but its cause a shift from outright treaty violation toward the subtler mechanism of underfunding, veto deadlock, and selective non-participation by the very states whose material and political support the enforcement architecture depends upon.

Taken together, the three strands examined in this section UN80's funding-driven functional erosion, the Security Council's veto-driven paralysis (mirrored in the ICC's and the WTO's own cooperation and appointment deficits), and the doctrinally unresolved extension of sovereignty into cyberspace and climate-driven territorial loss point to a single underlying pattern rather than three unrelated crises. In each case, states continue to accept the formal validity of the relevant legal regime while withholding the discretionary support, whether financial, procedural, or interpretive, that the regime needs to operate at full effect. This paper's doctrinal contribution is to name that pattern precisely: not the negation of sovereignty by global governance, and not the negation of global governance by sovereignty, but a widening and increasingly general validity/enforceability gap that future doctrinal scholarship should treat as a distinct object of study.

9. Conclusion and Recommendations

Global governance is a phenomenon that touches on several dimensions of international law and on the multilateral relations of different states. In economics and finance, institutions such as the International Monetary Fund, the World Bank, and the World Trade Organization contribute to a global management of trade and equity. The United Nations, NATO, and other international organizations operating under its auspices likewise contribute to a loose form of governance with the potential to evolve into a stronger regime, though the recent period examined above shows that this evolution is neither linear nor guaranteed.

Every civilization, religion, and culture has recognized certain values as sacrosanct, and this shared recognition provides a foundation on which an effective international governance system might be built. The extension of universal jurisdiction to certain violations of humanitarian law reflects a meaningful doctrinal advance: the punishment of such violations was once treated as the exclusive domain of the sovereign state, with outside interference regarded as a threat to sovereignty and independence; that perception is gradually changing.

State sovereignty is no longer the unquestioned organizing rule of international relations; the underlying norms and principles of global politics are themselves in transition. It has become accepted, in a growing number of contexts, that departing from norms that appear to infringe on state sovereignty may be not merely permissible but necessary. The world, and the ideas and norms shared among states, are not static, and the transformation in the underlying rules of international law identified by scholars in the late twentieth century has continued into the present decade, with states showing increasing openness to non-state actors and influences that qualify their sovereign prerogatives.

The shifting pattern of governance in world politics is evident in the movement of authority from the territorial boundaries of the nation-state toward the sphere of international organizations. This shift has produced at least a partial international consensus on the shape a global governance pattern should take, even as the classical, state-centered pattern continues to coexist with an emerging non-state pattern of global civil society, rather than being fully superseded by it.

A genuinely new global order remains, at present, a largely aspirational idea, and it is unlikely to be realized in the absence of sovereign equality among states, a genuinely democratic international culture, and universal principles of justice and fair dealing. In distinguishing between international and non-international armed conflict, the applicable law should be applied without regard to the interests of any single powerful state; the same principle of fair treatment should apply to cases of territorial occupation.

Building a global order of this kind is an optimistic, and to a degree utopian, aspiration, but it can be advanced through a deliberate shift in how states and institutions approach international law. The international community must identify and commit to agreed principles and norms common to all states to enforce them globally. International humanitarian law offers a live example in which agreement on certain key principles has not proven especially difficult to secure. A sustained, incremental effort by the international community across all fields of common interest is essential to this project, and may, over time, produce a broader harmonization across international law.

Based on the foregoing analysis, this paper offers the following doctrinal recommendations for future scholarship and policy:

1. Doctrinal scholarship on sovereignty should track the growing gap between formal legal validity and functional enforceability exposed by the current Security Council paralysis, rather than treating enforcement failure as evidence that the underlying norms have lost legal force.
2. Comparative and international legal scholarship should give sustained attention to non-traditional domains cyberspace and climate-driven territorial loss in particular where the classical Montevideo criteria for statehood are being tested in ways the mid-twentieth-century Charter framework did not anticipate.
3. Reform proposals such as the Pact for the Future's Security Council provisions and the Article 109 Coalition's call for a General Conference merit closer doctrinal, and not merely political, evaluation, since their legal mechanics (for example, treaty amendment thresholds under Articles 108–109) will determine their viability independently of political will.
4. Scholarship addressing the use of force should treat recent instances of unilateral coercion among Charter signatories as doctrinally significant test cases for the continued *jus cogens* status of the Article 2(4) prohibition, rather than as purely political events outside the scope of legal analysis.

5. Given the funding-driven character of much of the UN80 reform process, future doctrinal work should examine the relationship between financial contribution and legal obligation under the Charter more directly, since withholding of assessed contributions currently operates as a de facto, extra-legal lever over UN capacity.
6. Doctrinal work on institutional enforcement should be conducted comparatively across institutions the Security Council, the ICC, and the WTO Appellate Body alike rather than institution by institution, since the evidence in this paper suggests a single, generalizable validity/enforceability gap rather than three separate crises.

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