

LEGITIMACY AND SOVEREIGNTY OF INTERNATIONAL INSTITUTIONS: CASES OF IN PALESTINE AND VENEZUELA

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ABSTRAK

Artikel ini mengkaji secara mendalam legitimasi dan kedaulatan lembaga internasional, khususnya Perserikatan Bangsa-Bangsa (PBB), dalam kerangka Teori Negara, Hak Asasi Manusia (HAM), dan Hukum Internasional, dengan fokus pada dua kasus kontemporer yang menjadi sorotan global, yaitu dugaan genosida terhadap rakyat Palestina oleh Israel dan tindakan penyerangan serta intervensi Amerika Serikat terhadap Venezuela. Kajian ini berangkat dari pertanyaan mendasar mengenai sejauh mana lembaga internasional memiliki legitimasi normatif dan kedaulatan fungsional untuk menegakkan hukum internasional secara adil dan efektif di tengah ketimpangan kekuatan politik global. Menggunakan pendekatan kualitatif melalui studi pustaka dan analisis normatif-yuridis, artikel ini memadukan teori negara klasik dan modern, doktrin kedaulatan, perkembangan rezim HAM internasional, serta praktik kelembagaan PBB. Hasil kajian menunjukkan bahwa meskipun PBB secara normatif memiliki otoritas hukum dan moral, dalam praktiknya legitimasi tersebut sering tereduksi oleh dominasi kepentingan negara-negara besar, khususnya melalui mekanisme hak veto Dewan Keamanan. Kondisi ini berdampak pada lemahnya penegakan hukum internasional dalam kasus Palestina dan Venezuela, sehingga menimbulkan krisis kepercayaan terhadap tatanan hukum internasional. Artikel ini menegaskan urgensi reformasi struktural lembaga internasional guna memperkuat legitimasi, kedaulatan fungsional, dan efektivitas perlindungan HAM di tingkat global.

Kata Kunci: Hukum Internasional, Perserikatan Bangsa-Bangsa, Kedaulatan Negara, Legitimasi, Genosida, Palestina, Venezuela.

ABSTRACT

This article critically examines the legitimacy and sovereignty of international institutions, particularly the United Nations (UN), through the lens of classical and contemporary theories of the state and the framework of international law. By focusing on two highly contested contemporary cases—namely the alleged genocide in Palestine and the interventionist policies of the United States toward Venezuela—this study analyzes how legal norms, institutional authority, and geopolitical power interact in the enforcement or neglect of international legal obligations. Employing a normative-juridical and critical legal methodology, the article integrates doctrines of sovereignty, legitimacy, jus cogens, and erga omnes obligations with empirical assessments of UN practice. The findings demonstrate that the UN's legitimacy is increasingly undermined by structural inequalities within its decision-making mechanisms, particularly the veto power of permanent members of the Security Council, resulting in selective enforcement of international law. This condition poses serious challenges to the future of international law, state sovereignty, and the global protection of human rights.

Keywords: International Law, United Nations, State Sovereignty, Legitimacy, Genocide, Palestine, Venezuela.

INTRODUCTION

The establishment of the United Nations after the Second World War represented a profound transformation in the international legal order, marking a shift from a purely Westphalian conception of absolute state sovereignty toward a system constrained by collective security mechanisms and universal human rights norms (United Nations, 1945). Classical theories of the state, as articulated by Jean Bodin and Thomas Hobbes,

conceptualized sovereignty as supreme, indivisible, and territorially bound authority (Bodin, 1576; Hobbes, 1651). However, the emergence of international organizations with normative and institutional authority has gradually redefined the limits of sovereign power.

Within this evolving framework, legitimacy has become a central concept in assessing the authority of international institutions. Thomas Franck (1990) argues that legitimacy derives from the perception that rules are made and applied in accordance with accepted principles of fairness, consistency, and participation. In the context of the United Nations, legitimacy is formally grounded in the UN Charter, which confers upon the organization the authority to maintain international peace and security while promoting human rights and self-determination (United Nations, 1945).

Despite this normative foundation, contemporary practice reveals deep tensions between legal ideals and political realities. The selective application of international law, particularly in situations involving powerful states or their allies, has raised serious questions regarding the UN's capacity to act as an impartial guardian of global justice (Krasner, 1999; Hurd, 2007). These tensions are especially evident in the cases of Palestine and Venezuela, where violations of international legal norms have been widely alleged but inadequately addressed through collective enforcement mechanisms.

The situation in Palestine has long been characterized by prolonged occupation, systemic violations of international humanitarian law, and, more recently, allegations of genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Schabas, 2009; ICJ, 2024). Numerous UN General Assembly resolutions and reports by UN Special Rapporteurs have documented extensive civilian suffering, yet decisive enforcement action has been repeatedly obstructed within the Security Council due to the veto power exercised by permanent members (Fassbender, 2011).

Similarly, United States policies toward Venezuela—including economic sanctions, recognition of alternative political leadership, and explicit threats of military intervention—raise complex legal questions regarding sovereignty, non-intervention, and the use of coercive measures outside the framework of the UN Charter (Brownlie, 2008; Cassese, 2008). While often justified through discourses of democracy and human rights, such actions frequently bypass collective authorization and undermine the principle of sovereign equality.

Against this backdrop, this article seeks to explore how the legitimacy and sovereignty of the United Nations are constructed, constrained, and contested within contemporary international law. By situating the Palestinian and Venezuelan cases within broader theoretical debates on statehood and global governance, the study aims to contribute to critical discussions on the future viability of international legal institutions in an increasingly multipolar and unequal world.

LITERATURE REVIEW

The question of legitimacy and authority of international institutions has long occupied a central place in international legal scholarship. Classical legal positivist traditions conceptualize international organizations as derivative entities whose authority originates exclusively from the consent of sovereign states. Hans Kelsen's normative theory viewed international organizations as part of a hierarchical legal order, in which validity and legitimacy are grounded in foundational legal norms established through treaties. Within this framework, the United Nations derives its authority from the UN Charter as a constitutional instrument of the international community, and its legitimacy is inseparable from formal legality and procedural compliance.

However, the limitations of formal legality as the sole basis of legitimacy became increasingly apparent in the post-Cold War era. Scholars began to observe that strict adherence to legal procedures did not necessarily generate compliance, moral authority, or perceived fairness. Thomas Franck's seminal work marked a turning point by introducing legitimacy as a sociological and normative quality of international rules and institutions. Franck argued that legitimacy arises when rules demonstrate determinacy, coherence, symbolic validation, and procedural fairness, thereby fostering voluntary compliance among states even in the absence of coercive enforcement. This conceptual shift opened space for evaluating the United Nations not merely as a legally constituted body, but as a normative authority whose decisions are accepted, resisted, or contested based on perceptions of justice.

Building on Franck's work, constructivist scholars in international relations further expanded the understanding of legitimacy by emphasizing the role of shared beliefs, socialization, and institutional practices. Ian Hurd advanced the argument that legitimacy constitutes a form of power distinct from coercion and material capability. According to Hurd, when states internalize the authority of international institutions as rightful, they comply because they believe they ought to, not because they are forced to do so. From this perspective, the legitimacy of the United Nations depends on whether its actions are perceived as impartial, lawful, and consistent with proclaimed principles such as sovereign equality, self-determination, and human rights protection.

Despite these advances, a substantial body of critical scholarship has challenged optimistic accounts of international institutional legitimacy. Martti Koskenniemi's influential critique highlights the inherent indeterminacy of international law and the persistent tension between normative aspiration and political reality. He argues that international law oscillates between "apology" for state power and "utopia" of moral universalism, rendering institutions vulnerable to instrumentalization by dominant actors. This insight is particularly relevant to the United Nations Security Council, whose structure explicitly embeds inequality through the veto power of its permanent members.

The veto system has been one of the most frequently criticized elements of the UN architecture. Legal scholars such as Bardo Fassbender and Edward Luck have examined how the institutionalization of veto power undermines the principle of sovereign equality enshrined in Article 2(1) of the UN Charter. While originally designed as a pragmatic mechanism to secure the participation of major powers, the veto has increasingly functioned as a tool for selective obstruction, shielding allies and advancing strategic interests at the expense of collective security and human rights protection. This institutional reality has fueled debates about whether the United Nations can still claim legitimacy as a universal guardian of international law.

Third World Approaches to International Law (TWAIL) represent one of the most significant critical interventions in legitimacy debates. TWAIL scholars argue that international law and its institutions are deeply shaped by colonial histories and continue to reproduce global hierarchies. Rather than viewing international law as a neutral or progressive force, TWAIL exposes how doctrines such as humanitarian intervention, sanctions, and recognition are unevenly applied, disproportionately affecting states in the Global South. From this perspective, the legitimacy crisis of the United Nations is not an aberration, but a structural condition rooted in an international order that privileges powerful states while marginalizing others.

Within TWAIL scholarship, the Palestinian question has frequently been cited as emblematic of the failures of international law. Scholars emphasize that despite overwhelming legal consensus regarding occupation, self-determination, and humanitarian

obligations, enforcement remains obstructed by geopolitical interests. This pattern reinforces the perception that international law functions selectively, undermining its credibility among communities who experience it primarily as an unfulfilled promise. Similarly, Venezuela is often discussed in TWAIL literature as an example of how economic coercion and political intervention are normalized when directed against non-aligned or strategically inconvenient states.

The literature on international human rights law further complicates traditional understandings of sovereignty and legitimacy. Since the adoption of the Universal Declaration of Human Rights, scholars have debated whether human rights norms represent a genuine transformation of sovereignty or merely a rhetorical constraint subject to political manipulation. Mainstream liberal accounts portray human rights as universal limits on state power, while critical scholars warn that human rights discourse can be appropriated to justify intervention, sanctions, and regime change. This tension is especially pronounced in debates surrounding the Responsibility to Protect (R2P), which has been celebrated as a mechanism for preventing mass atrocities and criticized as a gateway to selective interventionism.

Legal analyses of genocide and *jus cogens* norms underscore the normative stakes of legitimacy. The prohibition of genocide is universally recognized as a peremptory norm, giving rise to *erga omnes* obligations that transcend bilateral consent. Scholarly work by William Schabas and others emphasizes that such obligations impose duties not only on territorial states but on the international community as a whole. However, the effectiveness of these norms depends on institutional willingness to act. When enforcement is obstructed by political vetoes, the credibility of *jus cogens* itself is called into question, raising concerns about normative erosion.

Another significant strand of literature addresses economic sanctions and unilateral coercive measures. While traditionally viewed as lawful alternatives to military force, recent scholarship and UN reports have documented their severe humanitarian consequences. Legal scholars increasingly argue that broad-based sanctions may violate economic and social rights and, in extreme cases, amount to collective punishment. This body of work is particularly relevant to Venezuela, where sanctions have been linked to systemic deprivation and deteriorating living conditions. Such findings challenge assumptions that non-military coercion is inherently compatible with international legality.

The jurisprudence of international courts and tribunals provides an important empirical backdrop to legitimacy debates. Advisory opinions and provisional measures issued by the International Court of Justice affirm the existence of binding obligations even in politically sensitive contexts. However, scholars consistently note that the lack of enforcement mechanisms limits judicial impact. Courts articulate the law, but institutions like the Security Council determine whether legal conclusions translate into concrete outcomes. This division between judicial authority and political power lies at the heart of the legitimacy dilemma.

Collectively, the literature reveals deep fragmentation in how legitimacy, sovereignty, and authority are conceptualized within international law. While there is broad agreement that international institutions play a central role in maintaining global order, there is no consensus on whether they have succeeded in transcending power politics. Instead, many scholars converge on the view that legitimacy today is conditional, contested, and increasingly fragile.

This article builds upon these scholarly debates by integrating state theory, critical legal analysis, and case-based examination. By situating Palestine and Venezuela within broader theoretical frameworks, the study seeks to demonstrate that legitimacy is not merely

a formal attribute of international institutions but a dynamic condition shaped by consistency, equity, and responsiveness to suffering. In doing so, the article contributes to ongoing efforts to rethink sovereignty, accountability, and justice in contemporary international law.

METHOD

This study employs a normative-juridical and critical legal methodology grounded in doctrinal analysis of international law instruments, jurisprudence of international courts, and authoritative scholarly writings. Primary legal sources include the United Nations Charter, the Genocide Convention, customary international law principles such as *jus cogens* and *erga omnes* obligations, and relevant advisory opinions and provisional measures of the International Court of Justice. Secondary sources consist of peer-reviewed books and journal articles from leading publishers. The analysis integrates state theory to assess how legitimacy and sovereignty are constructed and constrained within institutional practice. Comparative case analysis is used to examine Palestine and Venezuela, allowing for an assessment of selective enforcement and structural power asymmetries.

RESULT AND DISCUSSION

Case of Palestine

The situation in Palestine represents one of the most enduring and legally complex crises confronting the international legal order. Prolonged occupation, repeated cycles of armed conflict, and systematic restrictions on civilian life have generated sustained allegations of grave breaches of international humanitarian law. In recent years, these allegations have escalated into claims of genocide under the 1948 Genocide Convention, particularly following large-scale military operations resulting in extensive civilian casualties and destruction of essential infrastructure.

From the perspective of international law, the prohibition of genocide constitutes a peremptory norm (*jus cogens*) binding on all states irrespective of consent. Correspondingly, obligations to prevent and punish genocide are owed *erga omnes* to the international community as a whole. The provisional measures ordered by the International Court of Justice in the case brought by South Africa against Israel underscore the seriousness with which these obligations are regarded within the legal system. Nevertheless, the effectiveness of such judicial determinations is contingent upon political enforcement, principally through the United Nations Security Council.

The inability of the Security Council to adopt binding measures to halt hostilities or ensure humanitarian access has revealed a profound legitimacy deficit. Repeated use or threat of veto by permanent members has prevented collective action despite overwhelming evidence of civilian harm documented by United Nations agencies and independent experts. This paralysis illustrates the tension between the formal authority of the United Nations and the material power of dominant states, calling into question whether institutional sovereignty can meaningfully constrain state behavior in situations implicating core international crimes.

Moreover, the Palestinian case exposes the limits of liberal internationalist assumptions that legal norms naturally generate compliance. Instead, it reflects a realist-institutionalist hybrid order in which law functions selectively, often reinforcing existing power hierarchies. For affected populations, the discrepancy between normative proclamations and lived reality has eroded faith in international law as an emancipatory framework.

Case of Venezuela

The case of Venezuela presents a different but equally instructive challenge to the legitimacy of international institutions and the principle of state sovereignty. Since the mid-2010s, Venezuela has been subjected to extensive unilateral economic sanctions, diplomatic isolation, and explicit regime-change rhetoric, primarily advanced by the United States and supported by allied states. These measures were largely implemented outside the authorization framework of the United Nations Security Council.

Under the UN Charter, the use of coercive measures short of force, including economic sanctions, is in principle reserved to the Security Council when deemed necessary to maintain or restore international peace and security. Unilateral sanctions raise serious legal concerns, particularly when their humanitarian impact disproportionately affects civilian populations. Numerous reports by UN Special Rapporteurs have linked such sanctions to shortages of food, medicine, and essential services, implicating international human rights obligations.

Proponents of interventionist policies often invoke narratives of democratic restoration and human rights protection. However, from a legal standpoint, these justifications cannot override the fundamental principles of sovereign equality and non-intervention. The selective tolerance of unilateral coercive measures against weaker states, juxtaposed with the condemnation of similar practices by adversarial actors, reinforces perceptions of double standards within the international system.

The Venezuelan case thus illustrates how legitimacy is undermined not only by inaction, as in Palestine, but also by overreach beyond collective authorization. Both dynamics weaken the normative coherence of international law and diminish the credibility of global governance institutions.

Implications for State Sovereignty and the Future of International Law

Taken together, the cases of Palestine and Venezuela reveal a structural crisis in the contemporary international legal order. State sovereignty has neither disappeared nor remained intact; rather, it has been reconfigured in ways that disproportionately constrain weaker states while affording flexibility to powerful actors. This asymmetry is embedded within institutional design, particularly the veto system of the Security Council, which entrenches unequal decision-making authority.

From the standpoint of state theory, this condition reflects a departure from classical notions of sovereign equality toward a stratified global order. International institutions possess formal legitimacy grounded in treaty law, yet their sociological legitimacy is increasingly contested as enforcement outcomes diverge from proclaimed universal values. Without meaningful reform—such as limitations on veto use in mass atrocity situations—the gap between law and power is likely to widen.

The future viability of international law depends on restoring credibility through consistent application, enhanced accountability mechanisms, and greater inclusion of Global South perspectives. Critical approaches, including Third World Approaches to International Law, emphasize the need to confront historical and structural inequities that shape contemporary legal practice. Absent such efforts, international law risks being perceived not as a constraint on power but as an instrument of its unequal exercise.

CONCLUSION

This article has demonstrated that the legitimacy and sovereignty of the United Nations are deeply compromised by structural power imbalances and selective enforcement of international law. The cases of Palestine and Venezuela exemplify how both inaction and unilateral action undermine the foundational principles of the international legal order.

While international law retains significant normative force, its effectiveness is contingent upon political will and institutional reform. Strengthening the legitimacy of global governance requires reconciling the tension between sovereignty and accountability in a manner that is equitable, consistent, and responsive to the realities of contemporary international relations.

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