

TERRUM

United Nations, an Outdated Institution
for Modern Problems

By Manuel Basualdo

March 15, 2026
Year 20 No. 10



sierra
L A T A M

“DILIGITE JUSTITIAM QUI JUDICATIS TERRAM.” “Ye who judge the earth, give diligent love to justice”

United Nations, an Outdated Institution for Modern Problems.

By Manuel Basualdo

Introduction

At the end of World War II, the international community faced a fundamental dilemma: how to create an institutional framework capable of responding when a State's sovereignty and self-government were threatened by another State—whether for natural resources, territorial expansion, ideological imposition, or geopolitical dominance.

“What happens when the very power that has acted as guardian of international order becomes the one allegedly violating the sovereignty of another State or acting outside the international legal framework?”

In 1945, the international legal system was restructured around a new entity: the United Nations. Composed of 193 Member States represented in the General Assembly, the United Nations was conceived as a multilateral forum where nations could deliberate on global challenges and seek collective solutions aimed at maintaining international peace and security¹.

However, the system is far more complex than its foundational ideals suggest. The UN operates under the framework of the UN Charter, consisting of 19 Chapters and 110 Articles, which establish the legal guidelines governing its actions. Yet, in practice, the preservation of international order has not relied solely on normative principles, but also on material power.

Within this context, the United States of America has played a central role, often acting as a primary enforcer of international order. Its economic, military, and diplomatic influence has positioned it as one of the most powerful actors in the global arena.

This reality raises a critical question: What happens when the very power that has acted as guardian of international order becomes the one allegedly violating the sovereignty of another State or acting outside the international legal framework?

Structure of the International Legal System

Article 2(4) of the UN Charter establishes the prohibition of the use of force against the territorial integrity or political independence of any State². Today, this principle is widely regarded as a cornerstone of the contemporary international legal system. However, this remains primarily a normative commitment.

To operationalize this principle, the UN Charter created an organ responsible for determining threats to international peace and authorizing coercive measures: the United Nations Security Council.

1.- About Us, United Nations: <https://www.un.org/en/about-us>

2.- United Nations Charter, Chapter I: Purposes and Principles: <https://www.un.org/en/about-us/un-charter/chapter-1>

The Security Council is composed of five permanent members with veto power. This structure reflects a historical compromise intended to ensure the participation of the major global powers, prioritizing geopolitical stability over absolute sovereign equality.

The permanent members are China, Russia, France, the United Kingdom, and the United States of America³.

The Veto Power

The veto power implies that no permanent member can be subjected to coercive measures without its consent. In practical terms, while the Security Council may authorize the use of force against any State, such authorization cannot proceed against a permanent member if that State exercises its veto.

This design creates a structural limitation on the principle of sovereign equality. However, this was not an accidental flaw but rather a deliberate political decision aimed at ensuring that the victorious powers of World War II remain within the system, although this decision could cost accepting a contrary regime⁴.

The International Court of Justice (ICJ)

The International Court of Justice is the principal judicial organ of the United Nations. It has jurisdiction over disputes concerning violations of international law, including matters related to the UN Charter.

Nevertheless, the Court's jurisdiction is based on State consent, lacking independent enforcement mechanisms. Should a State fail to comply with a judgment, the matter may be referred to by the Security Council. However, if the State concerned is a permanent member, it may block enforcement through the exercise of its veto.

This reveals a structural weakness of the system: international law lacks an autonomous judicial authority with executive power capable of compelling compliance, particularly when a global power is involved.

The Role of the General Assembly

In situations where the Security Council is paralyzed, the United Nations General Assembly may act under the "Uniting for Peace" mechanism adopted in 1950. This procedure allows the General Assembly to recommend collective measures when the Security Council fails to act.

However, General Assembly resolutions are not legally binding. They lack direct coercive force and depend on the political will of Member States for implementation. While the Assembly may generate political legitimacy and moral pressure, it cannot replace the enforcement authority of the Security Council⁵.

3.- *United Nations Charter, Chapter V: The Security Council*: <https://www.un.org/en/about-us/un-charter/chapter-5>

4.- *The Veto, UN Security Council Working Methods, Security Council Report*: <https://www.securitycouncilreport.org/un-security-council-working-methods/the-veto.ph>

5.- *Uniting for Peace. Fifth Session of the General Assembly "Resolutions adopted on reports of the First Committee"*: [https://docs.un.org/en/A/res/377\(V\)](https://docs.un.org/en/A/res/377(V))

If Not the UN, Then Who?

In strict legal terms, the available options are limited:

- The Security Council may be blocked by veto,
- The International Court of Justice depends on State consent and Security Council enforcement, and
- The General Assembly possesses political relevance but lacks coercive authority over permanent members.

In practice, effective pressure does not derive from formal legal mechanisms but from political and strategic dynamics, such as:

- Multilateral coalitions
- Coordinated economic sanctions
- Reputational costs
- Strategic reconfigurations of the global balance of power

Thus, coercion operates less as a legal mechanism and more as a geopolitical instrument.

“However, this was not an accidental flaw but rather a deliberate political decision aimed at ensuring that the victorious powers of World War II remain within the system, although this decision could cost accepting a contrary regime⁴.”

Conclusion

After examining the institutional mechanisms available within the UN system, it becomes evident that no single institution or even coalition of institutions possesses the legal authority to compel a permanent member of the Security Council to comply with international law against its will.

The structure of the system reflects a conscious design choice embedded in the UN Charter itself. The global powers, particularly the United States, secured institutional safeguards that limit the possibility of coercive enforcement against them.

Sadly, there are no alternatives to make the United States comply within the international legal system, imposed and clearly thought by them when they sign the UN’s Charter, as they manage to “protect” themselves against every other nation, providing them with every single tool to dismissed their way out of every situation that may implicate international responsibilities.

“Justice is nothing other than the advantage of the stronger” - Thrasymachus

TERRUM

MANUEL BASUALDO ATTORNEY

Manuel is an associate in the Regulatory practice. Manuel has experience in the regulatory aspects of aviation law, representing international airlines in Mexico. Manuel oversees the obtention of permits and governmental authorizations for clients' operations before the Mexican authorities, specializing in Migration and SENEAM matters, ensuring their compliance with the regulations.

Education

- Attorney at law by Universidad Iberoamericana in Mexico City.

Languages

- English
- Spanish



Prol. Reforma No. 1190 25th Floor,
Santa Fe México D.F. 05349
t. (52.55) 52.92.78.14
www.asyv.com / www.asyv.aero

Find us in



www.linkedin.com/company/asyv

The articles appearing on this and on all other issues of Terrum reflect the views and knowledge only of the individuals that have written the same and do not constitute or should be construed to contain legal advice given by such writers, by this firm or by any of its members or employees. The articles and contents of this newsletter are not intended to be relied upon as legal opinions. The editors of this newsletter and the partners and members of Abogados Sierra SC shall not be liable for any comments made, errors incurred, insufficiencies or inaccuracies related to any of the contents of this free newsletter, which should be regarded only as an informational courtesy to all recipients of the same.