



THE CRISIS OF INTERNATIONAL LAW AND THE FAILURE OF COLLECTIVE SECURITY IN THE MIDDLE EAST

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Abstract

The aim of this study is to trace both the historical and legal dimensions of the Middle East conflict in order to understand why the region remains in persistent turmoil. Among the multiple underlying causes, the inefficiency of international law and the weaknesses of international institutionalism stand out as the most significant factors. While the international state system is theoretically founded on the principle of sovereign equality, its practical application often contradicts this ideal, both de facto and de jure. This systemic inequality not only results in material disparities among states but also reflects an inherent imbalance within the legal framework upon which the system is built. During the League of Nations (LoN) era, these inefficiencies were inadequately addressed, contributing to the emergence of the Palestinian question. This institutional failure has continued into the United Nations (UN) era, where efforts to implement binding resolutions on the Palestinian issue have been consistently obstructed. In sum, this article examines whether sustainable peace in the Middle East is achievable within such an unequal global order. More specifically, it questions whether strengthening international solidarity could serve as a viable mechanism for overcoming these structural inefficiencies and fostering a more just international system.

Keywords: *International law, Arab-Israeli conflict, International Court of Justice, League of Nations, United Nations.*

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Uluslararası Hukukun Krizi ve Orta Doğu'da Kolektif Güvenlik Sisteminin Başarısızlığı

Özet

Bu çalışmanın amacı, bölgenin neden sürekli bir kargaşa içinde kaldığını anlamak için Orta Doğu çatışmasının hem tarihsel hem de hukuki boyutlarının izini sürmektir. Altta yatan çok sayıda neden arasında, uluslararası hukukun yetersizliği ve uluslararası kurumsallığın zayıflığı en önemli faktörler olarak öne çıkmaktadır. Uluslararası devlet sistemi teorik olarak egemen eşitlik ilkesi üzerine kurulmuş olsa da, pratikteki uygulaması hem de facto hem de de jure olarak bu ideale sık sık çelişmektedir. Bu sistemik eşitsizlik sadece devletler arasında maddi farklılıklara yol açmakla kalmaz, aynı zamanda sistemin üzerine inşa edildiği yasal çerçevenin doğasında var olan bir dengesizliği de yansıtır. Milletler Cemiyeti döneminde bu yetersizlikler yeterince ele alınmamış ve Filistin sorununun ortaya çıkmasına katkıda bulunmuştur. Bu kurumsal başarısızlık, Filistin meselesine ilişkin bağlayıcı kararların uygulanmasına yönelik çabaların sürekli olarak engellendiği Birleşmiş Milletler döneminde de devam etmiştir. Özetle bu makale, böylesine eşitsiz bir küresel düzen içerisinde Orta Doğu'da sürdürülebilir bir barışın sağlanıp sağlanamayacağını incelemektedir. Daha spesifik olarak, uluslararası dayanışmanın güçlendirilmesinin bu yapısal yetersizliklerin üstesinden gelmek ve daha adil bir uluslararası sistemi teşvik etmek için uygun bir mekanizma olarak hizmet edip edemeyeceği sorgulanmaktadır.

Anahtar Kelimeler: Uluslararası hukuk, Arap-İsrail çatışması, Uluslararası Adalet Divanı, Milletler Cemiyeti, Birleşmiş Milletler.

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1. INTRODUCTION

Throughout history, the notion of *otherness* has shaped the dynamics between the powerful and the weak in inter-state relations. In this context, legitimacy within the international system has often been interpreted through the lens of the dominant power or the *othering* processes it has constructed. One of the most notable manifestations of this can be seen in the Western perception of the Middle East, which has been significantly shaped by the construction of the "other." The Orientalist perspective frames non-Western regions—particularly the Middle East—within a binary opposition of East and West, positioning the West as the subject and the East as the object. This viewpoint reinforces Western superiority while portraying the East as passive and subordinate.³

³ There is a significant literature on this topic, see selective ones: (Clarke, 1997; Said, 1985; Wani, 2015; Xie, 1997; Ning, 1997; Abdel-Malek, 1981).

However, while serving as a lens for historical and systematic analysis, the concept of otherness can also obscure historical realities and expose discrepancies in the application of international law across different regions and societies. A crucial example of this is the Israeli offensive in Gaza, which escalated on October 7, 2023. In reality, these attacks are not unique to 2023; instead, they must be contextualized within a broader historical framework, dating back to the late 19th-century rise of Zionism and its quest for legitimacy in claiming Palestinian territories.

At the end of World War I, the Versailles system sought to establish a precarious peace that tenuously connected the fates of the Middle East and Europe. However, this system, which was inherently flawed from its inception, collapsed when Germany invaded Poland on September 1, 1939, plunging the world into another war. The League of Nations (herein after the LoN), the first experiment in international organization following World War I, introduced a new paradigm that challenged the imperial order. While the League aimed to uphold the Versailles system, empires sought to maintain their influence through an overarching authority that could enforce international regulations. The principle of sovereign equality of states within the LoN directly contradicted the foundational ideologies of empires, which had long functioned on hierarchical and expansionist principles. However, within the evolving global power structure, the LoN laid the groundwork for what would later become the United Nations (hereinafter the UN). This institution would integrate and shape the new order of major powers.

Within this framework, the Aqsa Flood Operation, launched by the Izz ad-Din al-Qassam Brigades in October 2023, and Israel's subsequent Iron Swords Operation must be understood as part of a much deeper historical trajectory. Analysing Israel's theological and geopolitical approaches within the context of broader historical developments not only sheds light on contemporary conflicts but also reveals how, since

1948, Israel has systematically disregarded international law, exploiting power vacuums to expand its influence.

This study examines how the quest for global peace, symbolised with the establishments of LoN and UN, began to erode taking into account the establishment of Israel and how this deterioration has intensified in recent decades. Focusing mainly on the events following October 7, 2023, this analysis explores the fractures within the United Nations' nearly 80-year-old diplomatic and political framework, assessing how the contemporary international system has struggled to maintain stability in the face of shifting power dynamics. Although this article is mostly pessimistic, it still holds some hope that equity in the international system can be achieved, provided that the voice of the 'others' is amplified.

2. THE LEAGUE OF NATIONS AND ITS INABILITY TO PREVENT GLOBAL WAR

Assessing the effectiveness of Woodrow Wilson's approach to maintaining the international system, as outlined in his Fourteen Points, is crucial. It is well-documented that while the vision for 1918 included a powerful organization capable of using military force to uphold peace, the model ultimately adopted at the Peace Conference favoured the Anglo-American proposal, which promoted a looser association of sovereign states. The architects of this new system faced the challenge of reconciling the preservation of state sovereignty with the distinctions between victors and the defeated and between great and small states. As a result, the Covenant was characterized by unresolved contradictions and open-ended solutions. Even Wilson himself referred to it as a "very promising experiment." Although the new institution gained traction within liberal internationalist circles, it elicited significant scepticism among ruling elites. (Steiner, 1993: 36)

The LoN was established in 1920 following the Treaty of Versailles in the aftermath of World War I. Its primary objective was to ensure long-term peace and eliminate war within an anarchic international system. However, not all member states assumed equal responsibility for maintaining peace, significantly weakening the League's effectiveness. Also, The

LoN was established on January 10, 1920. On November 15 of that year, delegates from 41 member countries met in Geneva for the first Assembly session. This meeting included many existing countries, which represented over 70% of the world's population at that time (UN, nd.)

Japan rapidly integrated into the imperialist world order during this period through modernization and industrialization efforts. Germany suffered severe economic and political crises due to the heavy war reparations imposed by the Treaty of Versailles and the French occupation of its key industrial regions. Notably, Germany, which had forced France to sign a peace treaty in the Hall of Mirrors at the Palace of Versailles nearly 50 years earlier, now found itself in the humiliating position of signing its defeat in the exact location. Additionally, Italy, dissatisfied with the outcomes of World War I, began to pursue its aspirations of becoming a new imperial power. The LoN's fundamental aim was to resolve international disputes through diplomacy, prevent war, and establish a system of collective security. However, several structural deficiencies undermined its success. One of the most critical shortcomings was the absence of the United States as a member and the ineffectiveness of the League's enforcement mechanisms. This period also witnessed the increasing influence of ideology on foreign policy. The rise of nationalist ideologies in the 19th century reinforced racial hierarchies established during the colonial era, often serving as a justification for imperial expansion. In particular, Germany employed this rationale to support its Lebensraum doctrine (or 'living space')⁴ which sought territorial expansion. Similarly, Italy, under fascist rule, pursued irredentist policies aimed at reclaiming the lost territories of the former Roman Empire (Kallis, 2003).

Germany played a pivotal role in both World Wars. In the interwar period, as Germany, Italy, and Japan adopted

⁴ Hitler's promotion of Lebensraum traces back to the nineteenth century, with his racist Social Darwinism gaining traction in early twentieth-century Germany. His intense hatred of Jews, calling them subhumans in *Mein Kampf*, reflected a broader belief among many Germans—both on the hard and soft right—that Jews were responsible for the nation's problems, a sentiment rooted in the rise of racial anti-Semitism during late Imperial Germany (Bourke, 2001: 10).

increasingly revisionist and expansionist policies, the League of Nations failed to implement practical solutions. Some of the most significant events that demonstrated the League's inability to enforce international order included: I) Japan's Invasion of Manchuria (1931), ii) Italy's Invasion of Ethiopia (1935) and iii) Germany's Invasion of Czechoslovakia (1938-1939) (Table I).

Table I : Events that Led to the Failure of the LoN

Country	Events	LoN	Outcomes
Japan	Invasion of Manchuria (1931)	The LoN condemned but imposed no sanctions	Japan withdrew from the LoN in 1933
Italy	Invasion of Ethiopia (1935–1936)	Economic sanctions (but key resources like oil & Coal were excluded)	Rome-Berlin Axis formed (1936); Italy withdrew from the LoN in 1937
Germany	Rearmament & Versailles Violation (1933–1936)	No sanctions imposed	Germany intensified aggression. Withdrew from the LoN in 1933.
Annexation of the Sudetenland (1938)	Not addressed by LoN (Munich Agreement instead)	Czechoslovakia was fully occupied in 1939	

Source: The table is created by the Authors. For detailed information, see (Viotti & Kauppi, 2013).

The inadequacy of the LoN's collective security mechanism must not be overlooked. Its consequences were particularly evident in the realm of ineffective international sanctions. The weaknesses inherent in these security mechanisms, especially when directed at actors pursuing irredentist policies within the global system, ultimately undermined the principle of sovereign equality among states (Eloranta, 2011). As a result, the system evolved into an environment where influence and power determined the ability of actors to attain their objectives, further eroding the stability and integrity of the international order.

On the other hand, the failure of the LoN also serves as evidence of the inability to implement Wilson's principles, highlighting their ineffectiveness in practice. In this context, three key issues deserve the most attention:

- Open diplomacy and the absence of secret treaties ensure transparency. However, the League of Nations struggled to uphold this principle, particularly among the Axis powers.
- Reduction of armaments among all nations—The League failed to take significant measures against Germany, which ultimately undermined the Treaty of Versailles and reignited militarization.
- The failure to achieve the LoN's fundamental objectives was the most critical issue, as the League, originally established to maintain international peace, proved ineffective and failed to provide credible security guarantees.

3. A NEW BALANCE OF POWER AND A NEW INTERNATIONAL ORGANIZATION: THE UNITED NATIONS

The failure of the LoN's necessitated the establishment of a new and comprehensive international organisation that would protect international peace and security by establishing a collective security umbrella. To this end, the use of force in its various forms should have been prohibited, and a new

mechanism should have been established to protect, restore and maintain peace and security with alacrity and diligence. The following two reasons were given for the founding of the United Nations (UN): According to Sander, the UN's initial objectives were twofold: firstly, to explore ways in which the UN could become a complete world organisation, involving as many states as possible and not only the great powers; and secondly, to try to create within the UN a small group of 'great powers' so strong that they would not hesitate to oppose threats to world peace and security (Sander, 2019: 227).⁵

Indeed, the UN was on the verge of a balanced system that enabled it to sustain peace between great powers, but not between great powers and the rest of the world community. There are multiple reasons why the UN has an unfair structure. First and foremost, the victorious states of World War II were the leading figures in architecting the UN system, in which they hold higher positions not only de facto but also de jure. According to Malone et al. (2016: 3), the superior position of the victorious states within the UN system was a natural consequence of the drafting of the UN Charter in a time of ongoing warfare. The physical conditions of the post-war era, as outlined by Malone et al. (2016: 3), led to the conception of a new organ, the Security Council, with the aim of maintaining international peace and security. The prevailing general rules and customs of international law were deemed insufficient for this purpose. The legitimising arguments that underpinned the system ultimately resulted in an unequal system that favoured the will of the great powers and institutionalised de jure unevenness. Erdem Denk, Professor of International Law, depicted this inequality with the Latin phrase "primus inter pares". Denk's analysis of the UN reveals its remarkable capacity to illustrate the inherent inequality among states within the global system. Initially, it is evident that states

⁵ However, not so much later than the establishment of the UN, the new organization faced with its one of the longest challenges ever; the Arab-Israeli conflict. As Halliday states that "the Jewish community in Palestine, and then, from 1948, the state of Israel involved the great powers in the escalating conflict over Palestine" (Halliday, 2005: 110).

wielding the 'veto' power occupy a more 'equal' standing compared to other states, but subsequent events, notably the Suez Crisis, demonstrate that the United States of America (hereinafter the USA) and The Union of Soviet Socialist Republics (hereinafter the USSR), as leaders of the bloc, ascended to a more 'equal' position compared to other states. In the latter years of the Cold War, the Helsinki Final Act of 1975 evidenced the USA as 'more equal' than the USSR, thereby adopting the role of 'primus inter pares'. Subsequent to the Cold War and the 9/11 attacks, the US positioned itself above the international system with the UN at its centre, effectively declaring itself as the 'most equal'. However, as of 2008, there has been a shift in the US's attitude, with multilateralism once again becoming a prominent feature on the agenda (Denk, 2015: 178-179).

Multilateralism has been demonstrated to be ineffective in terms of achieving equilibrium within the system, with the predominant powers, notably those wielding veto power, engaging in negotiations with one another in order to preserve their privileged positions. Consequently, a persistent disparity has been observed between the powerful and the less powerful, leading to a reluctance to offend each other, as both parties are inclined to maintain their privileged status within the system. It is evident that claims for reforming the UN's structure have been consistently overlooked by the dominant states in order to preserve their position of primus inter pares within the system. In periods of significant turmoil and attempts to disrupt the established balance of power among the major nations, the de jure inequality may have been surmounted by replacing the UN General Assembly with the UN Security Council, as evidenced by the "Uniting for Peace" resolution. A recent illustration of this phenomenon can be seen in the Ukrainian crisis.

The UN General Assembly's resolution on the promotion of peace is seldom invoked in instances of significant discord among global powers that exceed the threshold of tolerance. This tendency was exemplified by the adoption of numerous resolutions during the 11th Emergency Special Session, following the Russian invasion of Ukraine. These resolutions explicitly denounced Russia's violations of the UN Charter's

Article 2/4, which prohibits the use of force.⁶ For instance, in its Resolution A/RES/ES-11/5 (15 November 2022), the General Assembly

(r)ecognizes that the Russian Federation must be held to account for any violations of international law in or against Ukraine, including its aggression in violation of the Charter of the United Nations, as well as any violations of international humanitarian law and international human rights law, and that it must bear the legal consequences of all of its internationally wrongful acts, including making reparation for the injury, including any damage, caused by such acts.

As demonstrated in this case study, the international community is capable of taking swift decisions regarding Russian aggression, including any violations of humanitarian law. However, grave violations of humanitarian and human rights law are perpetrated in Gaza, yet these are often disregarded. Furthermore, several resolutions demanding an immediate ceasefire and the provision of humanitarian aid to Gaza were not realised due to the United States' vetoes in the Security Council. Consequently, the international community has been unable to prevent Israeli aggression, resulting in significant casualties.

4. THE ARAB ISRAELI CONFLICT AND ITS MODERN-DAY REPERCUSSIONS

Israel's claims over Palestinian territories have strengthened due to the institutionalization and ideological consolidation of Zionism. From the establishment of Zionism to 1948, there was a transitional phase, followed by a systemic transformation after 1948, during which Israel, under the theological concept of the "Promised Land", began to take actions that directly violated international law. Zionism seeks to establish a national home for the Jewish people in Palestine, initiated by Theodor Herzl in 1896. It has since been a dominant force in Jewish history, along with Political Zionism, the Law of

⁶ Some resolutions adopted against Russia can be reads as follow: Resolution ES-11/1 (March 2, 2022), Resolution ES-11/2 (March 24, 2022), Resolution ES-11/3 (April 7, 2022), Resolution ES-11/4 (October 12, 2022), Resolution ES-11/5 (November 14, 2022), Resolution ES-11/6 (February 23, 2023).”

Return, which grants the right of immigration to Israel on the principle that the Jewish State serves as a homeland for all Jews worldwide, further complicated matters (Kimmerling & Migdal, 2013; BBC, nd). The notion of the Jewish return to Palestine is deeply rooted in numerous passages of sacred texts, illustrating a significant historical and spiritual connection. These writings speak to the enduring bond between the Jewish people and the land written in the Holy Writ (Gottheil, nd: 666). The question of "Who is a Jew?" lacks a clear answer. In 1953, religious courts were officially recognized, granting them authority over personal status matters such as marriage, divorce, wills, and determining Jewish qualification (Cleveland, 2008).

Following its establishment, Israel implemented a policy of mass expulsion, forcing 1,380,000 Palestinians into exile, an event referred to as "Al-Nakba" (The Catastrophe) (Reinhart, 2002). During this period, Palestinians were forcibly displaced from their lands by Israeli forces and Zionist groups, and they were denied the right to return. After the 1948 Arab Israeli War, the United Nations (UN) adopted a resolution that also failed to guarantee the return of Palestinian refugees. This event highlights how UN resolutions did not foster peace in the region; instead, they inadvertently facilitated ethnic cleansing. Moreover, UN General Assembly Resolution 181 (II) in 1947, which proposed the partition of Palestine into two states, did not lead to a permanent solution. Instead, it laid the foundation for prolonged conflict. This moment became a turning point in the displacement of the Palestinian people and the emergence of new wars.

UN General Assembly Resolution 181 (II) (UN, nd.), which partitioned Palestinian territories into two separate states, not only terminated the British Mandate regime but also effectively eliminated the future prospects of the Palestinian people. Within the existing international system, the principles of sovereignty and territorial integrity were interpreted inadequately, much like the structural weaknesses that had previously undermined the LoN. When analyzing Articles 2 and 3 of the relevant resolution, it becomes evident that the resolution failed to provide a just and sustainable solution, further deepening the instability in the region.

Article 2. The mandatory Power shall use its best endeavours to ensure that an area situated in the territory of the Jewish State, including a seaport and hinterland adequate to provide facilities for a substantial immigration, shall be evacuated at the earliest possible date and in any event not later than 1 February 1948.

Article 3. Independent Arab and Jewish States and the Special International Regime for the City of Jerusalem, set forth in part III of this plan, shall come into existence in Palestine two months after the evacuation of the armed forces of the mandatory Power has been completed but in any case, not later than 1 October 1948.

Although the failure of the LoN did not initially manifest in this specific issue, over time, the erosion of the UN's authority and credibility became increasingly evident. The UN's inability to enforce its resolutions, coupled with the continued displacement and suffering of the Palestinian people, underscores the long-term consequences of international institutional failures in preventing conflicts and upholding justice.

The Israeli-Palestinian conflict has continued in a manner similar to the Cold War era, where the West perceived Palestinians as the "other". Particularly after the 1990s, Israeli policies persisted amid various violent incidents. Despite the signing of the Oslo Accords in 1993, the situation in the region did not improve; on the contrary, with the outbreak of the Second Intifada, it became evident that the conflict had not significantly changed since 1948 (TÜBA, 2023). In 1993, within the framework of the Oslo Accords, the acceptance of UN Security Council Resolution 242 and its role as the basis for negotiations with Israel was a significant step taken by the Palestine Liberation Organization (PLO). However, the extent to which Resolution 242 was genuinely accepted by Israel and the West remains questionable. Following the Six-Day War, Israel occupied East Jerusalem, the West Bank, Gaza, the Sinai Peninsula, and the Golan Heights. In response, the UN Security Council passed Resolution 242, calling for Israel to withdraw to its pre-war borders. However, not only has Israel failed to implement this resolution, but no sanctions or enforcement measures have been imposed to ensure compliance (Resolution 242, 1967).

During this period, Israeli leaders continuously justified their claims over Palestinian territories through the theological concept of the "Promised Land". Unfortunately, none of the UN resolutions concerning the region were respected by Israel, with UN Security Council Resolution 242 being the most significant example. This resolution was crucial as it aimed to establish a two-state solution by addressing Palestinian territorial rights. However, after 2000, a particularly provocative event took place: the then Prime Minister of Israel, Ariel Sharon's visit to the Al-Aqsa Mosque. During this visit, Sharon was accompanied by over 1,000 Israeli police officers, highlighting the highly sensitive nature of the event. The reason for such extensive security measures was his statement, which echoed a declaration made after Israel's capture of East Jerusalem during the 1967 Six-Day War. Sharon reaffirmed the Israeli claim over the site by stating, "The Temple Mount is in our hands" (Plügge, 2023, 284).

During the Second Intifada, Israel began the construction of the Separation Barrier in the West Bank, citing security concerns and claiming that the wall was necessary to prevent Palestinian militant attacks. However, only 15% of the wall is located within Israeli territory, while 85% extends into the occupied West Bank. Additionally, the wall isolates 705 square kilometers of land from the West Bank and East Jerusalem (AA, 2018). In 2004, the International Court of Justice (ICJ) ruled that the construction of the wall was in violation of international law and issued an advisory opinion stating that Israel must dismantle the wall. Additionally, the ICJ found Israel's actions unlawful, ordering an immediate halt to construction and mandating compensation for affected Palestinians (The Wall Case of 2004, ICJ Rep 136). However, Israel has not complied with this advisory ruling.

As seen, Israel not only refuses to implement international legal decisions regarding Palestinian territories, but it also seeks to isolate the region from the rest of the world through the Separation Barrier. In this context, a crucial issue arises regarding Hamas and Gaza. After Israel's withdrawal from Gaza in 2005, Hamas gained significant influence in the region. Hamas was founded in 1987 during the First Intifada under the

leadership of Sheikh Ahmed Yassin. The movement's victory in the 2006 Palestinian elections caused significant concern within the administration of the then U.S. President George W. Bush, which had been promoting democracy in Palestine and Iraq. As a result, Hamas was designated a terrorist organization by several Western governments, including the United States, the European Union, and Israel (Baconi, 2018: 97). During Benjamin Netanyahu's tenure as Israel's Prime Minister, policies advocating continued control over the occupied Palestinian territories were reinforced, alongside recurrent military operations in Gaza. Notably, these included Operation Cast Lead (2008-2009), Operation Protective Edge (2014), and Operation Guardian of the Walls (2021). The most recent conflict began on October 7, 2023, and is ongoing (Henderson, 2018; Cohen, 2023).

Since October 7, 2023, Israel's actions in Gaza have resulted in one of the most intense conflicts in the region's history. When analyzed through the lens of international law and global organizations, the gravity of the situation becomes even more apparent. Historically, after experiencing two world wars, the international community—mainly Western nations—attempted again to preserve peace, this time through the UN instead of the LoN. Having learned from past conflicts, global actors took steps to maintain peace and establish a modern framework for state-individual relations, prioritizing the protection of civilians and individual rights. The post-war international system emphasized genocide prevention, ensuring that states that resorted to war as a means of achieving political goals would face strict sanctions.

As of 2025, during the period examined in this paper, including phases of partial ceasefires, Israeli attacks in Gaza have resulted in 48,458 deaths and 111,897 injuries (AA, 2025). This raises critical concerns regarding the UN's role in enforcing sanctions and the degree to which international law considers these actions a priority. The significance of this issue lies in the fact that Israel's actions have primarily targeted civilians, raising the question of whether these acts amount to the destruction of an entire society's future. While conflict and war continue to be a reality, it is crucial that faith in international

institutions and the rule of law is maintained. The ability of international legal frameworks to hold states accountable for violations remains a fundamental test for the credibility of global governance and human rights protections. However, one may still ask whether international law adequately addresses the international conflicts and regulate them.

In comparison with domestic legal systems, international law is characterised by an absence of a central enforcement mechanism capable of adjudicating rules and applying them to specific subjects. This absence gives rise to numerous questions regarding the validity of international law. Some authors go so far as to state that, while international law exists, its influence is often overstated, as governments primarily adhere to it based on self-interest rather than internalisation, consistency, or moral considerations (Goldsmith & Posner, 2005: 225). Consequently, it may be perceived that international judicial mechanisms are inadequate in terms of efficiency and are unable to address the concerns and resolve disputes among the parties involved. The recent application lodged by the South African government, accusing Israel of a material breach of the Genocide Convention, represents a significant development in the realm of international law. The outcome of this application, if the International Court of Justice (ICJ) determines Israel to be responsible for genocide, will have far-reaching implications for the interpretation and application of international law.⁷

While it is true that, in principle, the decisions given by international courts are only binding on the parties to the cases concerned, it is also true that the decisions of international courts, most notably those of the ICJ, are of great importance in terms of the progressive development of international law (Acer, 2021: 32-41). Furthermore, many authors writing on international law usually quotes judgments of the ICJ (and the PCIJ) as decisive authority (Shaw, 2010: 81-82). Therefore, not only final judgments but also subsequent orders by the ICJ are closely followed by the international community.

⁷ A recent publication by Seda Ermiş and Emine Erden Kaya has detailed what genocide is and how it was drafted by the Genocide Convention. See (Ermiş and Kaya, 2024: 200-203).

Accusations have been levelled against Israel by South Africa for violations of the Convention on the Prevention and Punishment of the Crime of Genocide (hereinafter the Genocide Convention). A complaint has been filed with the International Court of Justice (ICJ) by South Africa against Israel on 29 December 2023. The application made by South Africa references the Genocide Convention and accuses Israel of intentionally targeting a group specifically protected under Article 2 of the Genocide Convention. Thus, as for the Genocide Convention, "...genocide means any of the following acts committed with *intent* to destroy, in whole or in part, *a national, ethnical, racial or religious group*, as such: (a) Killing members of the group; (b) Causing serious bodily or mental harm to members of the group; (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; (d) Imposing measures intended to prevent births within the group; (e) Forcibly transferring children of the group to another group."⁸ It is not aimed to analyse the legal process before the Court in this paper. However, in the history of the UN, blaming Israel who based its legitimacy over another genocide called Holocaust, is an essential historical development that deserve special attention.

It is widely acknowledged that South Africa's application to the International Court of Justice (ICJ) to issue an order that would prevent Israel from further committing crimes, particularly genocide, was favourably received by the Court. Consequently, the Court released a series of provisional measures pertaining to the ongoing atrocities in Gaza. Notwithstanding the Court's intention to deliver its definitive judgment subsequent to the requisite legal processes, these provisional measures were implemented in a timeframe where "irreparable prejudice could be caused to rights which are the subject of judicial proceedings or when the alleged disregard of such rights may entail irreparable consequences" (Provisional Measures, Order of 26 February 2024, paragraph 60). The

⁸ For the document, see; UN General Assembly, Convention on the Prevention and Punishment of the Crime of Genocide, United Nations, Treaty Series, vol. 78, p. 277, 9 December 1948, <https://ihl-databases.icrc.org/pt/ihl-treaties/genocide-conv-1948> [accessed 09 March 2025].

armed activities in the Gaza region have the potential to inflict irreparable harm in terms of human suffering. It is important to note that provisional measures issued by the Court are binding on the state parties involved, and any violations of these measures could be influential in the final judgment. Consequently, the Arab-Israeli dispute, particularly the Palestinian question, has been overlooked by the international community in favour of the actions of the great powers. International law, it must be noted, has limited capacity to resolve the issue independently, unless there is a collective action taken by the majority of the state community. In such a global order, it appears challenging to resolve issues solely through the application of international law. However, as a collective of humanity, we retain the aspiration to establish a more equitable global order, through the unification of those who have been marginalised.

5. CONCLUSION

The international system of states is built on unequal relations. This unequal situation does not only imply material inequality among the components of the system but also implies that the legal order on which the system is based is also based on inequality. In order to trace this claim, it may be meaningful to look at the experiences of the League of Nations and the United Nations and to read these experiences through the Palestinian issue. The Arab-Israeli issue, which started long before the establishment of the State of Israel and could not be resolved through the LoN evolved into another dimension after the Second World War. In this period, the United Nations failed to intervene in this growing problem that it inherited from the past and failed to prevent the situation we are in today.

In this context, the Palestinian issue is not merely a regional matter confined to the Middle East; rather, it is a global issue. The actors involved in this event, which has global implications, are not limited to Israel and Palestine alone. On the contrary, all the countries that are engaged in the process under the auspices of the United Nations are also key stakeholders. The ongoing events in Palestine and Gaza are eroding trust in the legal framework of the global system and diminishing the credibility of international institutions,

especially the UN, which is the most comprehensive and influential organization in the world.

The inadequacy of international legal institutions in solving the Palestinian issue has shaken and is shaking the confidence in international law and international organisation. On 7 October 2023, a historical breakthrough took the conflict between Israel and Palestine to a completely different level in legal, political and humanitarian terms. Israel was sued by the Republic of South Africa in the International Court of Justice for 'committing the crime of genocide'. A critical threshold has been crossed here, and the International Court of Justice has started to hear the case, and not only that, it has also taken provisional measures against irreversible damages. The most fundamental question here is to what extent the court's judgement will be in accordance with justice and to what extent the judgement will be complied with.

It can thus be posited that the Palestinians are represented by the system's 'other', and that the persecutions to which they have been subjected for many years have not received sufficient attention from the international system. This situation bears similarity to that which occurred during the League of Nations period, and it continues in the United Nations period. The inaction of the dominant states within the system in addressing Israel's expansionist policies is arguably the primary factor contributing to the protraction and exacerbation of this issue.

Etik Beyanı: *Bu çalışmanın tüm hazırlanma süreçlerinde etik kurallara uyulduğunu yazarlar beyan eder. Aksi bir durumun tespiti halinde Akademik İzdüşüm Dergisinin hiçbir sorumluluğu olmayıp, tüm sorumluluk çalışmanın yazarlarına aittir.*

Destek ve Teşekkür: *Bu araştırmanın hazırlanmasında herhangi bir kurumdan destek alınmamıştır.*

Katkı Oranı Beyanı: *Araştırmanın kavramsal ve analiz kısımlarının hazırlanmasında her yazar eşit oranda katkı sağlamıştır.*

Çatışma Beyanı: *Araştırmanın yazarları olarak herhangi bir çıkar çatışma beyanımız bulunmamaktadır.*

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THE CRISIS OF INTERNATIONAL LAW AND THE FAILURE OF COLLECTIVE SECURITY IN THE MIDDLE EAST

Extended Summary

Aim:

This study aims to examine the structural weaknesses of international law and institutions in addressing long-standing crises, particularly in the Middle East, through the lens of the Arab-Israeli conflict and the failure of international organizations. The research explores why the turmoil in the Middle East persists, focusing on whether the principle of sovereign equality—a fundamental element of the international state system—actually functions in practice.

The study is driven by the following research questions:

1. To what extent is international law an effective tool for establishing peace in the Middle East?
2. Why have international organizations such as the League of Nations (LoN) and the United Nations (UN) failed to address the Palestinian issue?
3. How has the crisis evolved in the post-October 7, 2023, era, and what role has international law played in this context?
4. Can strengthening international solidarity provide an alternative pathway to peace in the Middle East?

The necessity of this research stems from the ongoing instability in the region and the repeated failure of international mechanisms to enforce resolutions and prevent conflict escalation. By investigating the historical and legal dimensions of this issue, the study contributes to a broader understanding of why sustainable peace remains elusive in the Middle East.

Method(s):

This study adopts a conceptual and historical-legal approach, analysing the structural limitations of international law and

collective security mechanisms in the context of the Arab-Israeli conflict.

- The research is theoretical and analytical, rather than empirical or applied.
- It incorporates a historical examination of the role of the League of Nations, the United Nations, and international legal bodies (e.g., the International Court of Justice, ICJ) in shaping the Palestinian question.
- The study compares de jure principles (theoretical sovereign equality) with de facto realities (structural inequalities in the international system).
- The research also draws on ICJ rulings, UN Security Council resolutions, and historical peace efforts, highlighting their practical shortcomings.

Given that this is a qualitative study, the analysis relies on document analysis, including primary sources (treaties, legal rulings, UN resolutions) and secondary sources (academic books, journal articles).

Findings:

The study's findings reveal that:

1. International law operates under an unequal structure, favoring certain states over others, which undermines sovereign equality and justice in conflict resolution.
2. The League of Nations' failure to prevent conflicts and address territorial disputes directly contributed to the Palestinian question. The British Mandate system and Western geopolitical interests created the foundations for an unresolved territorial conflict.
3. The UN, despite its broader mandate, has similarly failed to enforce resolutions on Palestine, particularly due to the Security Council's structure, which allows major powers to block decisive action.
4. The International Court of Justice (ICJ) has issued rulings related to Israel and Palestine, but its provisional measures have not been effectively implemented, further

highlighting the lack of enforcement mechanisms in international law.

5. Efforts toward international solidarity and multilateral diplomacy remain constrained by power imbalances, making a comprehensive resolution unlikely under the current system.

Conclusion and Discussion:

This study underscores the structural inequalities within international law and collective security systems, which have historically failed to resolve the Palestinian question and broader Middle East conflicts.

- The findings indicate that international institutions are inherently biased in their enforcement mechanisms, allowing certain states to bypass international legal rulings while others are held accountable.
- The UN and ICJ rulings regarding Israel's occupation, military actions, and settlement policies remain unenforced, reflecting the power dynamics that dictate international law rather than the law functioning autonomously.
- The League of Nations' failure in handling the Middle East crisis set a precedent for continued institutional inefficiency, which the UN has been unable to rectify.
- The events following October 7, 2023, illustrate that international law remains ineffective in addressing real-time conflicts, further weakening its legitimacy as a mechanism for global peace and security.

In light of these challenges, the paper raises a fundamental question: Can international solidarity and alternative legal mechanisms create a more equitable system, or will international law continue to serve only the interests of powerful states? Addressing these inequalities is essential for envisioning a sustainable and just resolution to the Arab-Israeli conflict and broader Middle East instability.