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Power Politics and Legal Norms: How Great Powers Shape International Law Enforcement

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Abstract
The international legal order embodies a fundamental tension between the normative principle of sovereign equality and the practical dominance of power politics exercised by great powers. This paper examines how hegemonic states shape, interpret, and selectively enforce international law to advance their strategic interests while evading accountability. Drawing on realist, liberal institutionalist, and constructivist theoretical frameworks, it analyzes the interplay between material power and legal norms, highlighting mechanisms such as the UN Security Council's veto power, procedural dominance (penholding and double veto), unilateral sanctions, and economic statecraft. Through case studies including the 2003 Iraq invasion, China's rejection of the 2016 South China Sea arbitral ruling, Russia's 2022 invasion of Ukraine, and U.S. sanctions on the International Criminal Court (ICC) under Executive Order 14203 the analysis reveals patterns of selective compliance, exceptionalism, and the weaponization of legal tools (lawfare). The paper further explores counter-hegemonic responses, including Third World Approaches to International Law (TWAIL), which challenge Western-centric hierarchies and advocate for democratized legal discourse. Ultimately, while international law exhibits resilience through formal consent-based sources and normative stickiness, its enforcement remains contingent on great power consent and capabilities, perpetuating a hierarchical global order that undermines universal rule-of-law aspirations.

Keywords: Power Politics, International Law Enforcement, Great Powers, Un Security Council Veto, Hegemonic International Law, Exceptionalism, Sanctions, Lawfare, ICC, TWAIL, Sovereign Equality, Selective Enforcement

1. Introduction

The international legal order is frequently characterized by a structural paradox that pits the normative ideal of sovereign equality against the material reality of power politics (Müllerson, 2021). While the post-1945 architecture was designed to transition the world from a "law of the jungle" to a "rule of law," the enforcement of these norms remains inextricably linked to the strategic interests and material capabilities of great powers (Mazarr, 2022). In this environment, international law functions not merely as a set of constraints on state behavior but as a dynamic arena where hegemonic actors' instrumentalist legal interpretations, institutional procedures, and economic statecraft to preserve their dominance while shielding themselves from accountability (Ul Hassan et al., 2025). The tension between the apology of law for state power and the utopia of law as an independent arbiter of justice defines the modern crisis of global enforcement (Krisch, 2005).

Figure 1. Interconnected Challenges Shaping the Contemporary International Agenda



2. Theoretical Foundations: The Interplay of Power and Law

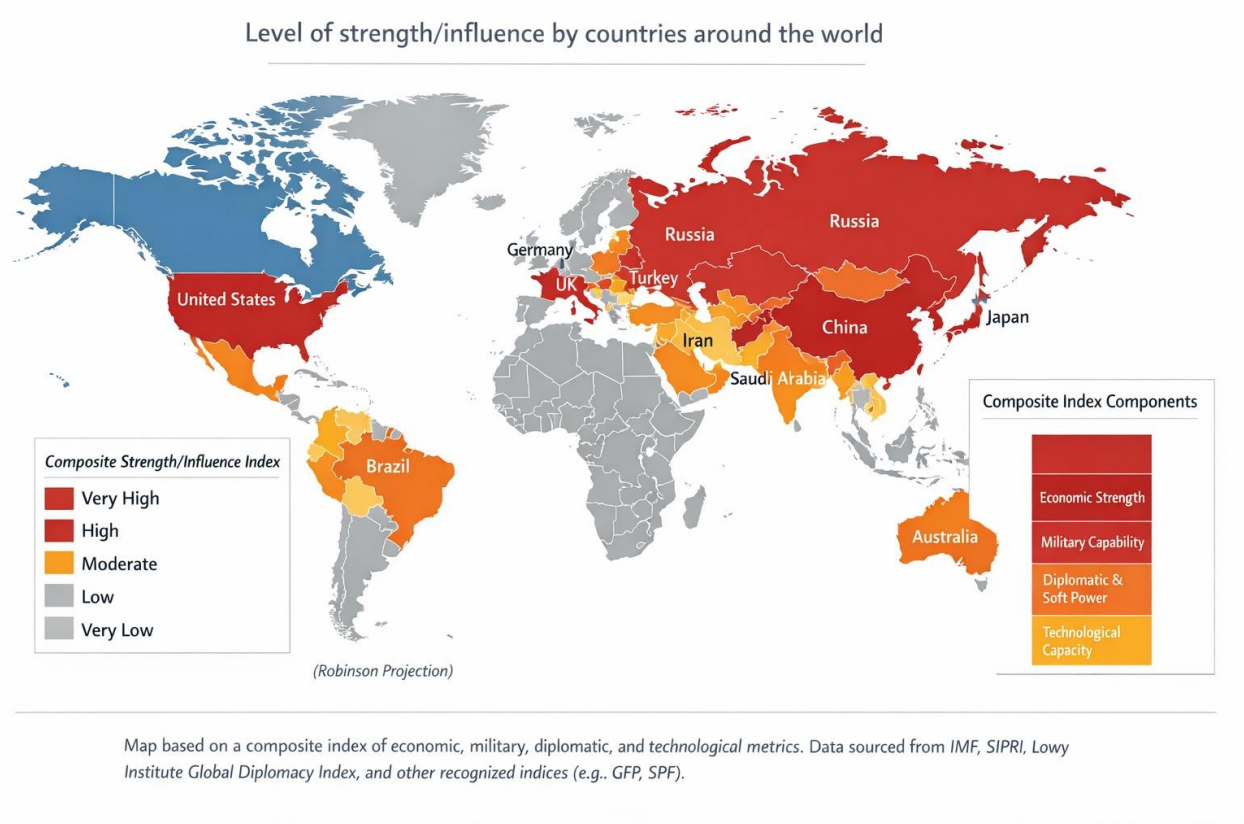
To understand how great powers shape international law enforcement, one must first examine the competing paradigms of international relations (IR) theory, which offer distinct lenses through which the utility and legitimacy of legal norms are viewed (Roth, 2021) These theories do not merely describe state behavior; they inform the strategies used by great powers to navigate or circumvent legal obligations (Nye, 2023).

2.1. Realist Skepticism and the Primacy of Security

Realism, the cornerstone of IR theory, posits that the international system is fundamentally anarchic, lacking any centralized authority capable of regulating the interactions of self-interested states (Aria, 2025). Within this framework, the primary concern of all states is power and security, and law is viewed as an epiphenomenon that reflects the underlying distribution of material resources rather than an independent constraint (Samoraj, 2022). Neo-realism, particularly the approach of Kenneth Waltz, suggests that in an anarchic system, no authoritative decision-making structures exist to resolve conflicts about how the law should be applied; instead, rules are set by powerful states and change whenever the distribution of power shifts.

From a realist perspective, great powers comply with international law only when it serves their national interests or when it provides a cost-effective method of stabilizing their dominance (Krisch, 2005). Offensive realism suggests that states are inherently aggressive and obsessed with security, viewing territorial expansion and military build-up as necessary for survival in a zero-sum environment (Svoboda, 2022). In this context, international law enforcement is often viewed with suspicion, as it may be perceived as a tool used by rivals to constrain a state's freedom of action. Defensive realism similarly prioritizes self-help over institutional reliance, arguing that states must remain the final judges of their legal requirements to ensure their own preservation (Thomas, 2023).

Figure 2. Global Distribution of Material Power and Influence



2.2. Liberal Institutionalism and the Logic of Cooperation

Liberalism and neoliberal institutionalism provide a more optimistic assessment of international law, emphasizing the potential for collective action and rule-based order even under conditions of anarchy (Cai et al., 2024). Scholars such as Robert Keohane argue that institutions reduce transaction costs, provide information, and facilitate cooperation by aligning state interests (Keohane, 1984). For hegemons, international law provides a source of legitimacy that can reduce the costs of enforcing their will through brute force, turning raw power into right and obedience into duty (Ashaba, 2019).

However, the liberal framework has faced significant challenges due to the weakening of multilateral institutions and the rise of nationalism. Critics of liberalism argue that it underestimates the degree to which power dynamics permeate these institutions, allowing great powers to manipulate the rules they ostensibly follow (Saaida, 2024). The crown jewel of the liberal order, such as the World Trade Organization (WTO) and the United Nations Security Council (UNSC), are increasingly sites of geopolitical rivalry where legal mechanisms are either used as weapons or disabled when they no longer serve the interests of the powerful (Choi et al., 2024).

2.3. Constructivism and the Normative Social Structure

Constructivism offers a distinct approach by focusing on how ideas, norms, and identities shape state behavior. Unlike realism and liberalism, constructivism argues that the international system is socially constructed through shared beliefs and perceptions (World Economic Forum, 2025). In this view, great powers act as

norm entrepreneurs, seeking to redefine international behavior, or as norm antipreneurs, resisting the emergence of new norms that threaten their status (Kalvin Fung, 2025).
The establishment of frameworks like the Responsibility to Protect (R2P) illustrates how evolving ideas about sovereignty and human security influence global governance. Yet, constructivism also highlights how cultural and historical narratives can fuel disputes, as seen in the way differing perceptions of sovereignty shape the foreign policies of China, Russia, and the United States (Posner & Sunstein, 2024).

Table 1. International Relations Theories and International Law

Theory	Actor Focus	View of International Law	Enforcement Logic
Realism	States as unitary actors	Instrument of the powerful; secondary to security	Self-help, coercion, and balance of power
Liberalism	States and institutions	Essential tool for cooperation and legitimacy	Reciprocity and institutional incentives
Constructivism	Social structures and ideas	Socially constructed norms and identities	Norm internalization and social recognition

3. The Evolution of Sovereignty and Legal Hierarchy

The cornerstone principle of international law is state sovereignty, a concept that has evolved from the absolute immunity of the Westphalian era to the more qualified definitions of the contemporary world (Popko, 2023).

3.1. The Westphalian Legacy and Recognition

Before 1900, sovereign states enjoyed absolute immunity from the judicial processes of other states, a direct consequence of the principle of Westphalian equality. The constitutive theory of statehood defined a state as a person of international law only if it was recognized as sovereign by at least one other state (Tacker, 2021). This created a gatekeeping mechanism where recognized nations were not bound to respect international law in their dealings with unrecognized entities (Michaels, 2024).
In the modern era, the meaning of sovereignty has shifted with the development of jus cogens norms, such as the prohibition against the threat or use of force and the principle of self-determination (Behera, 2020). The United Nations Charter expresses the view that all states are juridically equal. However, this legal equality often conflicts with the factual hierarchy of the international system, where material dominance dictates enforcement (Panjwani, 2025).

3.2. Hegemonic International Law and Formal Hierarchies

Scholars have noted that the global legal system is influenced by what Georg Schwarzenberger termed the international oligarchy the cyclical rise and fall of great powers that reshapes the legal order (Chas, 2024). Great powers often seek to translate their political privileges into legalized hierarchies, such as the permanent seats and veto power in the UN Security Council (Martinali, 2024).
This hegemonic international law allows dominant states to act as both the architects and the exceptions to the rules. When legal frameworks based on sovereign equality become too constraining, hegemons may withdraw from international law and replace it with domestic legal tools that better accommodate formal hierarchies (Binder et al., 2020).

4. Structural Mechanisms of the United Nations Security Council

The United Nations Security Council (UNSC) possesses the unique mandate to maintain global peace and security through binding decisions under Chapter VII of the UN Charter. However, the Council's structure

provides a clear illustration of how great power politics can paralyze international law enforcement (Okeke et al., 2024).

4.1. Veto Power and Institutional Paralysis

The veto power, granted to the five permanent members (P5), is the most significant distinction between the Great Powers and the rest of the international community. Article 27(3) establishes that all substantive decisions must be made with the concurring votes of the permanent members. The veto has frequently been used to defend national interests or promote specific foreign policy goals (Nordqvist, 2024).

The impact of the veto transcends its actual use; the mere threat of a veto often prevents draft resolutions from being formally tabled, a phenomenon known as the hidden veto. This structural rigidity has led to systemic deadlock, particularly in cases involving the direct interests of the P5 (Ngosa et al., 2024).

Table 2. Post-Cold War Veto Usage by P5 Members

P5 Member	Veto Usage Post-Cold War (since 1991)	Strategic Context
Russia	24 Vetoes	Often used to block resolutions on Syria, Ukraine, and the Balkans
United States	16 Vetoes	Frequently used to protect Israel or block condemnation of US military actions
China	13 Vetoes	Historically less active but increasingly using the veto on issues related to sovereignty
France	0 Vetoes	Has not cast a veto since 1989
United Kingdom	0 Vetoes	Has not cast a veto since 1989

4.2. Procedural Tactics: The Double Veto and Penholding

The P5 also employ sophisticated procedural mechanisms to maintain dominance. The double veto is a tactic used to ensure that a matter is treated as non-procedural. If the Council President determines a matter is procedural, a P5 member can veto that decision to force the matter into the non-procedural category, and then exercise a second veto on the substance of the matter (Nordström, 2024).

Furthermore, the penholder mechanism allows a member typically a P5 member to take the lead in drafting and negotiating resolutions. This gives the penholder significant influence over the framing of a conflict and the proposed enforcement measures (Schütz, 2024).

5. Case Studies in Selective Enforcement and Non-Compliance

Case studies of the use of force and maritime disputes demonstrate how material capabilities allow hegemons to treat law as a flexible instrument of policy (Kraska, 2025).

5.1. The 2003 Invasion of Iraq

The invasion of Iraq by a coalition led by the United States and the United Kingdom in 2003 illustrated how hegemonic powers bypass the collective security apparatus of the UNSC when it fails to produce desired strategic outcomes. The subsequent failure to prosecute the aggressor states reinforced the concept that international law functions as a restraint of the weak (Simuziya, 2023).

5.2. Maritime Disputes in the South China Sea

In 2016, the Permanent Court of Arbitration (PCA) ruled that China's large-scale claims in the South China

Sea had no legal foundation under UNCLOS. China openly disapproved of the decision, labeling it null and void. Because no forceful coercion mechanism exists to enforce PCA rulings against a state with China's potential, the ruling remains practically unenforceable (Seymour, 2023).

5.3. The 2022 War in Ukraine

Russia's full-scale invasion of Ukraine in 2022 represents an extreme example of the discrepancy between state practice and law. While the international community responded with unilateral sanctions, the collective security system of the UN was paralyzed by Russia's veto power (Fedorenko et al., 2022).

6. The Weaponization of International Criminal Justice

The International Criminal Court (ICC) has become a primary target for strategic pressure from great powers that refuse to submit to its jurisdiction (Alni et al., 2024).

6.1. US Opposition and the Sanctions Regime

The United States has long maintained a policy of exemptionalism regarding international treaties this hostility escalated in 2025 in response to ICC investigations into alleged war crimes by US and Israeli personnel (Ignatieff, 2005).

Executive Order 14203 imposed sanctions on the ICC Prosecutor, Karim Khan, and other court officials, designating them as specially designated nationals. These sanctions which include asset freezes and entry bans have been condemned by UN experts as a direct assault against the independence of the tribunal. The US also relies on the American Service-Members' Protection Act (ASPA) to protect its personnel from international prosecution (Mostaghimi et al., 2023).

Table 3. US Sanction Measures under Executive Order 14203

Sanction Detail (EO 14203)	Target Group	Stated Justification
Asset Blocking	ICC officials and their families	Unusual and extraordinary threat to US national security (Trump, 2025).
Visa Restrictions	ICC employees and agents	Efforts to prosecute protected persons (Trump, 2025).
Prohibition of Services	US persons/entities	Facilitating illegitimate judicial overreach (Trump, 2025).

6.2. Budgetary Instrumentalization and Vulnerability

Great powers also exert influence over international justice through financial resources. In 2015, major contributors including Japan, Germany, and the UK opposed a Basic Size core budget initiative for the ICC. This privatization of justice makes the Court contingent upon Western influence and has led to decisions to deprioritize cases involving great powers, such as the investigation into US Forces in Afghanistan (Hashimy, 2024).

Table 4. Financial Status of International Legal Institutions

Institution	Budgetary Context	Key Financial Influencer
ICC	149 million Euro (2020) (ICC, n.d.).	Japan, Germany, UK, France (Real Instituto Elcano, 2025).
ICJ	Requested 1.1 million dollars increase for 2024 (UN, 2024).	General Assembly member states (UN, 2024).

WTO DSM	Appellate Body incapacitated since 2017 (Carnegie Endowment, 2025).	United States through veto over appointments (Carnegie Endowment, 2025).

7. Economic Statecraft and Unilateral Enforcement

In the absence of functional centralized enforcement, great powers turn to unilateral economic statecraft. Sanctions have become the primary instrument of foreign policy for the US, applied with increasing frequency to achieve objectives ranging from suppressing terrorism to curbing nuclear proliferation (McMaster et al., 2025).

7.1. The Sanctions Arms Race and Multipolarity

By the end of 2023, there were 596 active commercial, military, and financial sanctions globally, with the US accounting for 47 percent. These measures occur outside international procedures established under the UN, and their legal status remains unclear. This has launched what may be a sanctions arms race between the West and the rest (Krishnan, 2025).

Targeted states like Russia and China have formed a coalition of the sanctioned, increasing economic cooperation to bypass Western-controlled systems like SWIFT (Atlantic Council, 2025).

7.2. Informal Coercion and Trade Lawfare

Russia and China frequently employ unofficial or informal sanctions that are seldom recorded in databases, allowing them to deny political motivations. Russia has historically used its energy weapon, while China has employed tourism boycotts. These states elude accountability by introducing restrictions under the guise of sanitary or security concerns (Angeli, 2023).

8. Exceptionalism, Double Standards, and the Rule of Law

A persistent theme is exceptionalism the tendency of certain states to remain outside of multilateral regimes (Ignatieff, 2005).

8.1. American, European, and Chinese Exceptionalism

The American stance is a paradox of being simultaneously a leader and an outlier (Ignatieff, 2005). The US has been a driving force for human rights while refusing to ratify major treaties or maintain domestic practices consistent with global standards. This is rooted in the conviction that the US model is superior and must not submit to international institutions (Posner & Sunstein, 2024).

China's exceptionalism is increasingly defined by its role as a norm entrepreneur inside the UN, advocating for a state-centric model that prioritizes sovereignty over human rights (Cai et al., 2024).

8.2. The Corrosive Effect of Double Standards

The promotion of double standards judging enemies by international criteria while applying permissive standards to oneself is considered the most damaging form of exceptionalism. When the US holds detainees at Guantanamo Bay without Geneva Convention hearings while demanding those protections for its own personnel, it supports a double standard. Such practices subvert the sense of fairness and reciprocity that international law claims to advance (Ottawa Roundtable, 2025).

9. Lawfare and the Instrumentalization of Legal Systems

Lawfare is the use or misuse of legal systems to achieve military or strategic objectives (Lieber Institute, 2001).

9.1. Lawfare as Irregular Warfare

States like China and Iran have become skilled at deploying lawfare to non-kinetically capture institutions and determine territorial control. Lawfare is arguably a specialist strand of psychological operations (PSYOPS), where the goal is to influence the behavior of target audiences by leveraging the legitimacy that law confers (Posner et al., 2024).

9.2. Strategic Litigation and International Claims

States use strategic litigation to challenge opponents' actions or seek legal redress. The integration of legal and military strategies has transformed modern warfare into a dual-layered conflict where legal arguments complement traditional tactics (Yücel, 2025).

10. Counter-Hegemonic Strategies and TWAIL

Third World Approaches to International Law (TWAIL) emerged to contest the universal status of international law, arguing it facilitates the marginalization of the Global South (Chimni, 2006).

10.1. Democratizing the Discipline and Alternative Norms

TWAIL seeks to deconstruct the role of international law in creating racialized hierarchies (Ngosa et al., 2024). Strategies include:

- Democratization: Challenging the privileging of Western voices in legal discourse (Tzouvala, 2025).
- Provincializing Europe: Viewing Europe as a particular rather than universal entity (Panjwani, 2025).
- Insurgent Jurisprudence: Understanding law through the lived experiences of Third World peoples (Aria, 2025).

10.2. The Resilience of Legal Rules

Despite pressures, international law possesses a degree of stickiness. Treaties can only be modified through formal amendment or agreement by the parties all of which require state consent. This rigid incrementalism prevents international law from being easily reshaped by the whims of a single hegemon (Hathaway et al., 2025).

11. Conclusion:

The analysis demonstrates that international law operates not as a neutral, autonomous constraint but as a contested arena profoundly shaped by power asymmetries. Great powers particularly the P5 members of the UN Security Council routinely instrumentalize legal norms, institutions, and procedures to legitimize their dominance, shield allies, and obstruct accountability for violations when these frameworks conflict with core national interests. Mechanisms such as veto power, unilateral sanctions regimes, budgetary influence over bodies like the ICC, and lawfare tactics reveal a persistent pattern of selective enforcement and double standards that erodes the legitimacy of the post-1945 legal order.

This structural paradox where law aspires to universality yet bends to hegemonic realities fuels cynicism among weaker states and encourages counter-hegemonic strategies, from norm contestation by rising powers like China and Russia to scholarly critiques advanced by TWAIL scholars seeking to provincialize Western dominance and amplify Global South perspectives. Despite these pressures, international law retains counter-hegemonic potential through its dependence on state consent, incremental evolution, and the normative pull of shared ideas.

In an increasingly multipolar world marked by geopolitical rivalry and institutional fragmentation, meaningful reform such as veto restraint initiatives, enhanced ICC independence, or broader democratization of global

governance remains elusive without genuine great power buy-in. Absent such commitment, the international legal system will continue to reflect rather than transcend power politics, functioning more as a tool of the powerful than as an impartial arbiter of justice. Bridging this gap between normative ideals and enforcement realities demands sustained scholarly and diplomatic efforts to strengthen reciprocity, reduce exceptionalism, and foster a more inclusive and equitable global legal order.

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