



Towards reforming international law: Challenges in the Gulf and Arabian Peninsula

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Abstract

Objectives: The reform of international law in the Gulf and Arabian Peninsula is overly complex, requiring a thorough examination of historical and contemporary factors at the national level. This study emphasized the importance of using the past as a guide for future developments in international law in the region to promote peace, security, and regional engagement through an effective governance model focusing on clarifying and narrowing the mandates of regional organizations. **Method:** This study employed a historical and comparative analysis to evaluate the relationship between governance structures and international law in the Gulf and Arabian Peninsula. It is a critical examination of third-world perspectives in shaping international law reforms, ensuring an inclusive approach that reflects the voices of emerging states. **Results:** The findings suggest that while regional organizations in the Gulf possess broad mandates in theory, they often struggle to realize their full potential due to vague objectives and governance challenges. Narrowing the mandates and focusing on areas where regional bodies like the GCC can add the most value will lead to more effective outcomes while ensuring an equitable reform process. **Conclusion:** Reforming international law in the Gulf requires a balance between historical lessons and future aspirations. Clarifying the roles of regional organizations and promoting equal participation from all states is critical for achieving meaningful reforms. Ultimately, these efforts could foster independent foreign relations while enhancing regional cooperation and governance.

Keywords: reform, the Arabian Gulf, Arabian Peninsula, Governance, policy

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نحو إصلاح القانون الدولي: التحديات في الخليج وشبه الجزيرة العربية

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ملخص

الأهداف: إن إصلاح القانون الدولي في الخليج وشبه الجزيرة العربية يطرح تعقيدات كبيرة بسبب الحاجة إلى دراسة متأنية للعوامل التاريخية والمعاصرة على المستوى الوطني. حيث هدفت هذه الدراسة إلى تبيان أهمية استخدام الماضي كدليل للتطورات المستقبلية في القانون الدولي في المنطقة لتعزيز السلام والأمن والمشاركة الإقليمية من خلال نموذج حوكمة أكثر فعالية، مع التركيز على توضيح وتضييق نطاق تفويضات المنظمات الإقليمية. **المنهج:** قدمت الدراسة تحليلاً تاريخياً ومقارناً لتقييم العلاقة بين الحوكمة والقانون الدولي في الخليج العربي، من خلال دراسة نقدية لوجهات نظر العالم الثالث في تشكيل إصلاحات القانون الدولي، وضمان نهج شامل يعكس أصوات الدول الناشئة. **النتائج:** أشارت النتائج إلى أنه في حين تمتلك المنظمات الإقليمية في الخليج تفويضات واسعة من الناحية النظرية، فإنها غالباً ما تكافح لتحقيق إمكاناتها الكاملة بسبب الأهداف الغامضة وتحديات الحوكمة. إن تضييق نطاق التفويضات والتركيز على المجالات التي يمكن لمجلس التعاون الخليجي أن يضيف قيمة أكبر للوصول إلى نتائج أكثر فعالية مع ضمان عملية إصلاح للقانون الدولي. **الخاتمة:** إن إصلاح القانون الدولي في الخليج يتطلب إيجاد التوازن بين الدروس التاريخية والتطلعات المستقبلية من خلال توضيح أدوار المنظمات الإقليمية وتعزيز المشاركة المتساوية من جانب جميع الدول لتحقيق إصلاحات ذات مغزى، ومن الممكن أن تعمل هذه الجهود على تعزيز العلاقات الخارجية المستقلة مع تعزيز التعاون الإقليمي والحوكمة.

الكلمات المفتاحية: الإصلاح، الخليج العربي، شبه الجزيرة العربية، الحوكمة، السياسة

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Introduction

“If international law is, in some ways, at the vanishing point of law, the law of war is, perhaps even more conspicuously, at the vanishing point of international law”. Hersch Lauterpacht

International law continues to be a law between states and non-state actors (Nussbaum, 1954), a doctrine that had been revolutionized to fit more state actors (Claussen, 2019, p. 152) in the second phase of the history of international law post 1945. The world is witnessing the emergence of reforming international law (Rose, 1998, pp. 93-140) to fit non-state entities of limited international legal capacities (Schermer & Blokker, 2011, p. 985). The common understanding of international law is that it is a body of rules or ‘international social order’ (Bentham, 1789, p. 6) that directs international relations, leading to harmony in international society based on a particular shared understanding. Scholars have debated whether international law can be considered true law or not (Janis, 1984, p. 405; Lauterpacht, 1933). Understanding the nature and capacities of international law in the Gulf is crucial for this verification.

Along with other academic voices, there has been much debate about whether reform of international law in the Gulf is needed at the current time. Reform is considered necessary by some, while others dispute it. In the opinion of the latter, international law is an established legal system that has existed for centuries and proved its functionality (Alshdaifat, 2017, p.1). Others reject this view specifically in the Gulf for many reasons, that is, unrest in the region. What are their lines of argument? Is this due to the law’s enforcement limitations, procedural deficiency, absence of a judicial system and supreme legislative power, or something else? The arguments include theoretical debate and functional-based views.

Those who see no need for reform believe that international law in the Gulf region is understood as an imperfect law; that is, it cannot be considered a true law. These critics point to the absence of the power to legislate and enforce it through an international judicial system, among other issues raised in this study. The law enforcement capacity of the GCC itself is minimal politically and legally.

Some see international law in the Gulf as law in a perfect sense, even though other scholars perceive international law as moral rules with no binding force ((Neth. v. Belg.), 1937 P.C.I.J.).

Despite the ease of drafting inter-governmental rules, they are often poorly received by the international community. International law in the Gulf is made up of a variety of different subsystems. Many factors can influence politics, including economic power, ideological orientation, territorial size, population size, and religious and social structure (Slomanson, 2011, p. 4).

The process of reforming the law in the region needs to recognize that diversity in its application, interpretation, and enforcement can affect how the international law of the Gulf is applied.

The following analysis accepts that international law can be regarded as a law, albeit an idealized one.

I. The Academic Debate on Whether International Law Is Law

Jurists' opinions have been sharply divided over one of the most controversial issues long debated (Edwin, 1932, p. 239; Schwebel, 1996, p. 339; Sloan, p. 2013).

Is international law considered a law in the Gulf? It has been argued that international law is not a true law. It is a code of conduct based solely on moral principles. Others in the Gulf see international

law as true law and believe it should be treated in the same manner as ordinary state laws. In the UAE, an international treaty has the same legal force as federal laws. The nature of international law became controversial with the advent of the 19th century (Lauterpacht, 1927, p. 17) due to positivists who argued that whether it is true law or not varies according to different definitions of law. As a result, international law is viewed by Arab positivists as a form of morality.

II. Normative Questions in the Gulf

Some oppositionists observe that there could not be any international law since it cannot be enacted by an international legislature, enforced by an international judiciary, and developed by an effective international executive. In the absence of a superior authority to enforce the law, the states do not respect it and only obey it when it serves their interests, and this leads to more respect for intergovernmental rules than international ones.

In the Gulf and Arabian Peninsula, international law faces normative questions regarding the proper goals and methods to achieve those goals and how international law can be regarded as legitimate. It is a recurring question whether ethical-political standards fashioned for evaluating domestic law should also apply to international law, such as democracy, the rule of law, and even legitimacy (Barber, 2018).

Scholars and jurists have debated whether it can be considered a true law. Some jurists believe it constitutes a valid law, while others question its validity (Roth, 2003, pp. 232-256). In the view of scholars who accept its validity, they consider international law as a law, and it should not be assimilated or equated with national laws, the majority of the Gulf states' constitutions aligned with this idea as an ideal one.

Others disagree with this viewpoint. Which lines of the argument are being advanced? Is this due to the enforcement capability's

limitation, lack of procedural safeguards, the absence of a judicial system in the region, the absence of supreme legislative power, or something else? Through a combination of theoretical and functional viewpoints, the argument is developed.

Furthermore, the legality of international law is another test question in the Gulf, and it is viewed in two fold by the Gulf legal community. Both the natural law theory and the positivist theory are valid. As a result, these theories attempt to provide a legal framework for consideration.

The Gulf view supports that international law should be treated equally with municipal law. How can we determine whether international law constitutes a law? There is no proper answer to this question. This question would have been asked, can international law be an effective system of law or not? Are there any questions regarding the legality of international law if there is no ultimate intergovernmental lawmaker and no restrictions on its enforcement?

International law in the Gulf encompasses a range of laws, agreements, institutions, norms, judicial institutions, and general norms that all states have agreed upon. International law functions similarly to municipal law but serves a different purpose. Similarly, international law also has a source of law, enforcement procedures, and enforcement in the Gulf.

A Gulf state's municipal law is governed by its domestic constitutional principles or other domestic statutes that are not new to its pre-existing legal system because international law is not the same and follows different paths depending on whether the treaty stipulates its establishment and what purpose it serves.

A state's agreement constitutes international law and becomes a solid legal system as a result of the state's application efforts. It is

accepted in the Gulf that international law is applied and agreed to accept its application. The establishment of the GCC provides a way for all to come together and follow the same system of universal law due to the interconnectedness of the global system.

International law now serves as the regulatory framework for all states and international entities. In the Gulf, its principles are accurately applied, making it a suitable and effective fit for the region's legal systems.

In my view, international law is indeed a law, albeit with unique characteristics distinguishing it from domestic legal systems. Its binding nature, institutional frameworks, and the normative guidance it provides are essential elements that fulfill the functions of law. However, the challenges it faces, from the central enforcing authority to issues of selective compliance, highlight areas where international law needs to evolve.

The effectiveness of international law often depends on the political will of states and the international community's commitment to upholding legal norms. As globalization deepens, the importance of robust international legal frameworks becomes increasingly critical in addressing global challenges. Thus, while acknowledging its limitations, international law remains a vital and evolving component of global order.

III. International Law in the Gulf and Arabian Peninsula

Divergent interpretations of the word 'law' given by jurists are at the root of the controversy regarding whether international law is a law. Among other authors,⁽¹⁾ I consider it true law.

(1) The reluctance of Austin to apply the notion of "law" to international law without a credible system of sanctions can be understood from Oppenheim's differentiating views of morality and law.

There is no question about the status of international law as a law in the Gulf. The only issue to be addressed is the level of effectiveness that should be invested in a system of law. The creation of an effective and solid legal system in the region is possible since there is a need to question the validity of the law as a binding system in light of its existing limited general functions, such as the ability to make laws, conduct judicial proceedings, and administer laws. At present, the point of view of the Gulf is that international law cannot be considered true international law. For instance, the law does not have a universally accepted standard for its application as it lacks a well-developed process for making laws. There is no hard and fast rule on how the states must act, and it lacks a well-developed process for interpreting and enforcing the law.

To enhance the effectiveness of international law in the Gulf, one must consider the limitations of international law and the lack of consistency across jurisdictions. In the Gulf, countries have different legal traditions and practices, and the creation of universal standards could bridge gaps in interpretation and enforcement, facilitating greater participation of Gulf states in the drafting of international agreements to ensure their specific concerns are addressed and establishing regional courts or tribunals with binding jurisdiction over disputes arising from violations of international law.

In terms of intergovernmental efficiency, there is no efficient intergovernmental police force, some states in the Gulf play a dominant role, universal international treaties are not accepted unanimously, immediate and effective action is not taken if international rules are violated, and no rules for decision-making have been established. With this in mind, most international law violations are not prosecuted, many of its rules are left unapplied or unclear, and there is no clear distinction between national and international law.

Despite these limitations, international law in the Gulf remains a law, one that is in the process of development, and one that holds great promise for the future. The Gulf Cooperation Council has made strides in fostering regional cooperation and harmonizing laws among member states. For example, the Bahrain-Qatar border dispute, resolved by the ICJ in 2001 (*Qatar v. Bahrain (ICJ, 1994)*), underscores the potential of international law to mediate and resolve complex disputes in the Gulf.

International law in the Gulf faces challenges related to its effectiveness, enforcement, and universal acceptance. However, through regional cooperation and the development of institutions like the GCC, there is a clear pathway towards strengthening the legal framework and ensuring that international law continues to evolve and gain greater acceptance and efficacy in the region.

IV. How Does International Law Currently Operate in the Gulf and the Arabian Peninsula?

In the inevitable power struggle, neither moral nor legal principles will significantly constrain states, and their cooperation will always be limited (Degan, 1992, p. 1). International law is no exception to the rule that law is dynamic (Alshdaifat, 2021; Hage, 2020). Since its inception, it has undergone many changes, while at other times, it anticipates them, providing early warnings of potential trends in international relations. Unlike municipal law, international law encounters great difficulty in keeping up with rapidly changing times and circumstances (Pound, 1910, p. 12).

Brierly argues that international law has primarily served to stabilize rather than facilitate the growth of international society (Brierly, 1958, p. 68). In the Gulf, existing values have been protected rather than new values created. The domestic legislative processes

of Gulf States are analogous to international ones in the absence of a world legislative body. However, there is a substantial downside to the treaty process (Koskenniemi, 2005). It involves the consent of states with different interests, traditions, and ideologies, and the concept of sovereignty poses the greatest challenge (Hoffmann, 1995, p. 35), governed by a decentralized system.

A sense of crisis has arisen in international law due to rapid changes. This crisis has been caused by several factors, including rapid technological advancement, the rise of various ideologies and systems of public order, including the emergence of many independent states with diverse cultures and levels of development. The proliferation of international organizations is driven by the fear of war (Brecher, 1988, p. 280), the reluctance of more advanced states to directly enforce their interests, and the increased number and function of these organizations.

Due to various circumstances, international law in the Gulf plays an increasingly significant role beyond the boundaries of states' territorial jurisdiction. The GCC work is conducted daily by intergovernmental organizations at national and regional levels. Including international law in the Gulf in the law-making and implementing process will provide a check and balance process and a decisive international judicial system. Only then will the essential functions of international law be served and promoted.

Similarly, the Saudi Arabia v. Aramco arbitration (1958) demonstrated the challenges of applying international commercial law within the context of sovereign state actions. Additionally, the UAE-Qatar Airspace Dispute (2018) illustrates the role of international law in resolving aviation disputes when Qatar filed a complaint with the ICAO against the UAE for airspace restrictions.

The functions of international law in the Gulf include establishing peace and order, avoiding the use of force, protecting human rights, promoting friendly relationships, and creating a global legal order. The strength of national legal systems depends on whether states can cooperate mutually to create a stronger international legal system. However, regional power is not balanced, major agreements are treaty-based, and most international law violations are not automatically prosecuted.

The system is too political; not all states play an equal role, some rules are not defined, nor are states prosecuted, and punishments are unnecessarily generalized. Negative effects are caused by the actions of state representatives, such as reductions in foreign aid, embargoes, economic sanctions, and blockages.

V. International Law, Governance, and the Gulf

Several issues surround the scope, implications, and nature of governance in the Gulf. In its most general sense, the term may be defined as a multifaceted process by which human activities are expanded to the entire globe and various cognitive frames of reference. Consequently, the phenomenon appears to have both “real” and “ideational” aspects, which are mutually influencing. Additionally, governance is a normative concept. As a result, there are a variety of views about what is desirable and can/should be regulated. Several historical eras have been marked by it, especially the post-Gulf War era.

Despite its potential importance for international law (Rothwell, 2010, p. 120), it can sometimes be challenging to discern its implications. Taking into account these implications, it can be argued that governance cannot be considered an autonomous and all-inclusive phenomenon if it remains untouched by international law.

However, it is worth noting that international law was historically based on a certain rejection of a truly global regulation or interaction after the collapse of the Holy Roman Empire (Mills, 2006, p. 49).

International law began to focus on a particular type of actor, the state, and its relationship with other states. In this respect, international law is uniquely susceptible to a phenomenon that challenges the authority and role of the state. Despite this, the implications of governance in the Gulf remain fundamentally ambiguous, as they are intrinsically linked to the development of international law itself.

However, it would be beneficial to delve deeper into how the Gulf War significantly altered the political landscape of the region, particularly in terms of state sovereignty, regional security, and international relations. A more detailed analysis of how Gulf countries have balanced the need for modernization with traditional power structures would deepen the exploration of governance. This includes understanding how oil wealth continues to influence governance models and the efforts made towards economic reforms in the region. Simply put, governance in the Gulf is intricately linked to the social contract between ruling elites and citizens, which is often defined by the distribution of oil wealth and public services. In the post-Gulf War context, it is useful for future research to explore how shifting economic conditions, coupled with rising expectations from younger populations, are challenging traditional governance models, leading to gradual reforms in areas such as education, labor markets, and public participation.

International law practice can also be seen as playing an important role in increasing the visibility of voices other than those of states in international legal forums (Hollis, 2005, p. 137; Schachter, 1971, p. 110). This is done by contributing to the creation of an intergovernmental public sphere.

VI. Is There a Particular Hallmark of Governance in the Gulf?

Considering the administrative and regulatory aspects of treaties in the Gulf and Arabian Peninsula is becoming increasingly important. A growing number of intergovernmental regulations have been enacted on subject matters that were, in the past, solely the responsibility of states or their administrative departments. The following types of obligations are becoming increasingly prevalent:

- Replacement of domestic regulation with international regulation: In addition to observing that international law is being enforced in new and positive ways in this part of the region, it is interesting to note that increasing its obligations is a positive rather than a negative act.
- Direct regulatory norms: International norms do not replace the government's regulatory regime but rather considerably limit it. For example, nondiscrimination in trade regimes is one of the most common practices.

A reevaluation and rebuilding of international law in the Gulf is an obligation of the states in light of current economic, political, and global conditions. The application of international law to international relations in this region is fraught with many complexities. The use of force, self-defense, humanitarian intervention, and cyber threats at present primarily influence global public opinion.

Hence, the sources of international law must be evolved and reformed to have true governance at the regional level. As a matter of definition, governance refers to the order of authority within a nation or a community of nations (Jessop, 1999, p. 29). There are two orders of authority: national law and international law. The first operates within a nation, that is, Gulf states, while the latter exists among

nations. While the Gulf state's constitution defines its legal authority, an agreement between and among these states defines its international authority. Among the components of a national constitutional order are the conditions required for it to be established; its structure and design; its ideas, relationships, and institutions; its support and maintenance; the repair of failed states and the restoration of effective government. Similarly, there are certain conditions required for the international legal order to be established (Falk, 1969); including reaching agreements among diverse nations; identifying the subjects to be regulated by international law; formulating international laws and establishing agency powers; and ensuring effective enforcement and maintenance.

International law is integral to managing relations between states, resolving disputes, and maintaining global stability. However, its effectiveness often comes into question due to the complexity of international relations, political methods, and diplomatic channels. The Joint Comprehensive Plan of Action (JCPOA) with Iran ([JCPOA], 2015) highlights the intricacies of international agreements and governance, showing both the potential of international law to regulate nuclear proliferation and the difficulties in maintaining such agreements when political dynamics change.

Similarly, the ongoing dispute over the Strait of Hormuz underscores (Waehlich, 2012) the critical role of international maritime law in ensuring the free passage of vessels and preventing conflicts, yet also revealing the limitations in the enforcement of these laws by bodies like the International Maritime Organization (IMO).

The debate over whether to create new international laws or to enforce existing ones is ongoing. Current laws provide a foundational framework that can address many issues if properly enforced, but gaps

in these laws, especially in emerging areas such as cyber warfare and space exploration, suggest the need for new regulations. Changing international laws is inherently challenging due to the need for consensus among diverse states with varying interests. Therefore, a balanced approach that includes both strengthening the enforcement of current laws and developing new regulations for future challenges may offer the best solution for maintaining international order and resolving disputes.

VII. Reform of International Law in the Gulf Region

Reforming international law in the Gulf region involves the comprehensive process of analyzing existing laws, advocating for necessary changes, and implementing those changes within the legal system.

However, the process of reforming and developing meaningful and effective international law faces significant challenges. The most notable of these is the issue of sovereignty. Sovereignty refers to the authority of a state to govern itself without external interference, and it is a fundamental principle in international relations. This principle often poses a considerable obstacle to the development of more extensive and unified rules in international law, as states may be reluctant to cede any degree of their sovereignty or accept external influence over their legal systems.

The comparison between inducement and coercive systems is insightful considering the economic diversification plans in countries like the UAE and Saudi Arabia in leading economic reform and diversification. Saudi Arabia's Vision 2030 (Government of Saudi Arabia, 2016) encourages private-sector investment by offering financial incentives and easing regulatory constraints in industries like tourism, entertainment, and renewable energy.

Also, the labor market reforms like in Qatar (International Labour Organization, 2021) recent labor reforms are aimed at improving conditions for foreign workers as inducements to attract international goodwill and investment. The security and governance in Bahrain (International Crisis Group, 2021), during periods of political unrest, imposed strict laws against dissent and restricted public gatherings. These measures highlight a governance model that relies on enforcement to maintain order and prevent challenges to the status quo. Saudi Arabia's recent environmental initiatives, such as curbing water overuse and enforcing industrial pollution standards, reflect a more enforcement-driven approach in areas of national concern.

States in the Gulf region may aspire to establish a regional body capable of enforcing international law effectively. However, it might be prudent to reconsider this ambition. Generally, international law functions best when it operates as an inducement system, akin to the World Trade Organization, rather than a coercive system, such as the UN sanctions. These complex and highly relevant issues are best addressed through incentive-based cooperation among Gulf states since they have similar interests and shared national goals. Therefore, it may be advantageous to create a bifurcated regional system. Organizations like the Arab League Educational, Cultural, and Scientific Organization (ALECSO) and the Arab Labor Organization (ALO), among other regional agencies, could continue their roles as regional forums.

Gulf states interested in expanding the scope and power of international law might consider forming a regional political organization similar to the European Union. In such an arrangement, sovereignty is significantly curtailed, and members are incentivized through greater rewards for cooperation.

The GCC has significantly influenced international law, however, it does not hold the status of a sacrosanct institution due to its ineffectiveness in maintaining regional peace and security.

VIII. The Dynamics of Liberal Reform in Regional International Law

The process of international law reform on the regional level is sustained by a dynamic of liberal reform that is at once external and internal to the law. Taking individual freedom as the principle and limit of governmental action, liberalism posits certain domains of liberty, such as the economy or the family, in which the state should interfere to the least extent possible. Yet, paradoxically, liberalism also endorses and legitimizes numerous interventions in society and the individual through mechanisms of ‘social government’ or the welfare state, which are seen as necessary to guarantee and support individual freedom in the face of the risks of modern society; and through disciplinary practices that shape individual subjectivities and instill the self-mastery necessary for the responsible exercise of freedom.

These contradictory pulls- do not intervene, but intervene in the right ways- are internal to liberal government and create a dynamic of liberal reform in international law (Sinclair, 2019). The evolution of international law and its institutions show commonalities, continuities, and discontinuities. A complex combination of morality, expertise, and the law was used by the UN in each episode to legitimize its expanding powers (Tardy, 2007, p. 49). Every organization’s reforming mission connected international law to a range of moral discourses and expert practices associated with economics, development, public administration, and management science. This was true regardless of whether it was understood as a process of ‘civilization’, ‘modernization’, or ‘development’.

As a result, international law was reimagined and transformed through the integration of novel concepts (Kelsen, 2004, p. 11), doctrines, and techniques derived from national traditions of public law. Using analogies drawn from domestic legal systems as well as particular legal doctrines, rules, and principles, we can see how international law has taken effect at the imaginary level both as a result of constitutional and administrative analogies on the regional level. The reform of the regional organizations must also take into account the compulsory, even coercive forms of power that pervade international relations and the agency of individuals within international organizations (Kennedy, 1995, p. 56), and the real consequences of reforming the organization, as they are experienced on the ground. This involves recognizing the impact of reforms on individuals and communities and ensuring that these changes contribute positively to the goals of justice, efficiency, and freedom. By addressing these complexities, regional international law reform can navigate the intricate balance between minimal state interference and necessary governmental intervention, fostering a legal framework that supports both individual liberty and collective well-being.

IX. Reform of International Law in Practice

Despite its often-invisible presence in the Gulf region, international law operates effectively, achieving remarkable success even when its implementation goes unnoticed. The emergence of new needs, such as preventing or punishing terrorist acts and regulating e-commerce, has prompted the development of new treaties. Without these frameworks, chaos would ensue. International law establishes a legal system based on the principle of states as actors, where their legal responsibilities are defined in their interactions with one another and their treatment of individuals within their respective

boundaries (Susskind, 1985, p. 147). Its domains include human rights, disarmament, international crime, refugee issues, migration, nationality, treatment of prisoners, use of force, and conduct of war.

Since its creation given their special relations, geographic proximity, similar political systems based on Islamic beliefs, joint destiny, and common objectives, the GCC has prevented large-scale interstate conflicts and promoted state sovereignty (in particular after the emergence of regional powers in the Middle East). In recent years, however, the GCC has changed its purpose. Playing a significant role, the overwhelming dominance of the American military and political system in the region has rendered interstate war not anymore a primary threat to international security.

In terms of the security hierarchy, “human security” issues like human rights and genocide prevention have risen in importance, while “hard”⁽²⁾ security issues, such as terrorism or proliferation, have a much greater intra-state dimension. Having to deal with external issues is a task that is well suited for the GCC.

There have been several instances in which the GCC has been criticized, both for its inaction, that is, the Syrian conflict, and its overreaction. Although various proposals have been made regarding the reform, it is clear that it is difficult (or almost impossible) to make substantial changes to the law.

As a result, when we examine specific instances of international law reform in the Gulf, we discover that the situation is much messier, more complex, and more contingent than those depicted by considering international law in general. During the decades following the Second Gulf War, the GCC introduced the concept

(2) Human security concerns should be limited to situations marked by the threat or outbreak of violence.

of military alliance, which functions as an “implied power” of the organization. However, the GCC does not provide much insight into how international law permitted and legitimized peacekeeping operations at the time.

On the other hand, Peacekeeping operations consist of a diverse array of practices arising from a series of institutional innovations introduced to address various problems, each partially framed and contested in legal terms (Cheeseman, 1995, p. 8). These operations are governed by a set of rules and principles that guide their conduct, legally mandated by the General Assembly or the Security Council (Holt, 1995, p. 12). These mandates are subject to legal language that governs their extension and deviations. Notably, the Suez and Congo operations provided opportunities for developing new rationales and techniques of international executive rule that have continued to influence international relations. Peacekeeping gained legitimacy and support from its role as a decolonization instrument, its prominence for small states, and its association with expert development and modernization practices aimed at building decolonized states in the image of Western welfare states. While international law in the Gulf region operates successfully, its practical impact and evolution are shaped by a complex interplay of factors, including regional dynamics, external influences, and the shifting nature of security threats. The GCC's role in this process highlights the challenges and opportunities of implementing international law in a rapidly changing and often contentious environment.

X. Centralized Legislative Body and the Universal Application

Despite the absence of definitive authority over international law (Goldsmith, 2009, p. 1791; Koh, 1997, p. 659), the UN remains the most widely recognized and influential international organization,

with the International Court of Justice serving as its judicial arm. International law, in legal terms, is largely customary, developed through practice over time rather than through formal legislation⁽³⁾ (Klabbers, 2009, p. 58).

Today, much of international law in the Gulf is still based on custom, expressing the reciprocal needs of nations.⁽⁴⁾ Customary systems have the disadvantage of being unable to adapt to rapid change, which is a significant weakness. The customary international law (North Sea Continental Shelf cases, ICJ Reps, 1969, 3 at 44)⁽⁵⁾ system has, at times, responded very rapidly to the changes in laws of primitive societies.

The adjudicative function of international law is also decentralized (Anderson, 1991; Larson, 1960, p. 505; Kelsen, 1955, p. 985). Compared to the most primitive laws, it is a far more effective example of a dispersed judicial function. There is no centralized enforcement mechanism in international law (Kenneth, 1978, p. 353), and the adjudication function is performed by the process of reciprocal adjudication. The criticism of international law being reformed in the Gulf is that it does not have an effective enforcement tool.

Are the provisions of international law in the Gulf implemented? If so, how? We will examine the legislative function of the regional

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- (3) Stasis and dynamism are constantly at odds in international law, as certainties must be produced while changing environments must be adapted.
 - (4) No indication is found in classical writings that the law of nations applies differently to different nations. According to Grotius, international law is universal, and secular natural law is relevant to all nations.
 - (5) 'Not only must the acts concerned be a settled practice, but they must also be such, or be conducted in such a way, as to be evidence of a belief that this practice is rendered obligatory by the existence of a rule requiring it. ... The States concerned must feel that they are conforming to what amounts to a legal obligation.'

legal system and its adequacy in light of the region's present needs to answer this question. Analyses of these functions can be conducted based on an examination of their centralization directions.

XI. Implementation of International Law in the Gulf

To understand the implementation of international law in the Gulf, we must examine the legislative function of the regional legal system and its adequacy in meeting the region's current needs. This involves analyzing how these functions are centralized or decentralized.

A. Legislative Function

- Customary Law: In the Gulf, customary international law plays a significant role. This law is based on long-established practices and mutual understandings between states. However, the slow adaptability of customary law is a major drawback, particularly in an era of rapid technological and societal changes.
- Treaties and Agreements: While customary law remains important, treaties and international agreements are increasingly used to address specific issues. These formal agreements provide a more flexible and adaptable framework compared to customary law.
- Regional Organizations: The GCC is a key regional organization that influences the legislative function in the Gulf and helps coordinate policies and laws among member states, promoting legal harmonization and addressing regional challenges.

B. Adjudicative Function

- Decentralized Adjudication: The Gulf region, like the broader international community, lacks a centralized judicial body with binding authority. Instead, disputes are often resolved through international arbitration, bilateral negotiations, or recourse to international courts like the ICJ.

- **Reciprocal Adjudication:** The process of reciprocal adjudication involves states mutually agreeing to abide by certain rulings or arbitration decisions. This system relies heavily on diplomatic relations and mutual respect between states.

C. Enforcement Mechanisms

- **Lack of Centralized Enforcement:** One of the main criticisms of international law in the Gulf is the absence of a centralized enforcement mechanism. Compliance with international law relies on state cooperation, diplomatic pressure, and, in some cases, economic sanctions.
- **Regional Enforcement:** The GCC and other regional bodies play a role in encouraging compliance among member states. However, their ability to enforce international law is limited by the need to respect state sovereignty and the lack of coercive power.

D. Adequacy of the Regional Legal System

To assess the adequacy of the regional legal system in the Gulf, we need to consider the region's current needs and challenges:

- **Adaptability:** The legal system must be flexible enough to adapt to rapid changes, such as advancements in technology and evolving geopolitical dynamics.
- **Enforcement:** Effective enforcement mechanisms are crucial for ensuring compliance with international law. Strengthening regional cooperation and enhancing the role of organizations like the GCC could improve enforcement.
- **Integration of Customary and Formal Law:** A balanced integration of customary practices and formal treaties can provide a robust legal framework that respects traditional norms while addressing modern challenges.

However, it is pertinent to note that while the regional legislative machinery has defects, it has the advantage of dealing with only one main subject. As a result, international conventions sometimes compare favorably with the less-than-perfect national legislative processes, which also often entail errors in judgment (Franck, 1988, p. 705). Even though nation-states constitute the main participants, they do not actively push for reform.

The very idea is that the system of international law requires further addition to its rules or amendment of its existing rules through conscious legislative efforts. International law is currently facing not only the absence of a sovereign legislature and legislative machinery, but also a sovereign international parliament (Strupp, 1934), which is a major concern. Despite this, overall, international law's legislative process is highly effective, and new rules of law are introduced frequently. There are two main obstacles to legislative processes.

First, there is a lack of consensus regarding key issues that the law should govern. There is no acceptance of a common interest in these issues as a result of the current economic and political climate. In this case, there is no legal remedy or legal technique that can be applied. There is a possibility that this consensus will emerge through the plenary assemblies, so the existing legal machinery or techniques will undoubtedly assist in developing such a consensus.

Second, international society lacks the mechanisms to secure the effective implementation of rules, even in areas where rules have been agreed upon. It is beyond the scope of the present contribution to discuss the problem of organizing an effective executive authority in international law. Despite these arrangements, the executive authority cannot be made completely independent of the legislative authority of the international community's legislative assemblies.

International law is traditionally viewed as a global system of law in its traditional meaning of universality (UN Doc. S/2004/616). All states are bound by this system, which has worldwide applications. International law has universal application in this sense, primarily in terms of its formal aspects (Jennings, 1987, p. 39; Von Bogdandy, 2008). An example of this case is the Gulf states, which encompass the principles of sovereignty (Tomuschat, 1999, p. 63), non-intervention, peaceful coexistence, and cooperation among independent states. National law cannot be invoked to justify the actions of a state that has broken its international obligations to international law (Fischer-Lescano & Teubner, 2003-2004, p. 999). A party cannot rely on the provisions of its internal law to justify its failure to implement an international agreement as per Article 27 of the Vienna Convention on the Law of Treaties, 1969. Moreover, Article 46 (1) provides that a state cannot invalidate its consent by claiming that it has expressed its consent in violation of a provision of its internal law governing competence to conclude treaties (Kennedy, 1970, p. 495).

Sir Holland considers international law a vanishing point of jurisprudence because it lacks sovereign authority and sanctions if its rules are violated (as cited in Boucher, 2009). States follow the rules of international law by courtesy, and there is no judge or arbitrator to decide international disputes. In light of the changed character of international law, his view is not, tenable although it may have been correct at his time. International law does not exclude sanctions at all. External powers can impose sanctions on a state if it violates international law. Many treaties not only confirm that it is a law between states, but that it is binding as well (Chayes, 1998). Therefore, international law does not constitute the terminus of jurisprudence.

The proposal for reforming international law in the Gulf and

Arabian Peninsula can be approached in two distinct ways, first, the logical explanation, and second, the empirical approach, in analyzing what has been accomplished by the GCC during its history. A logical inference could be drawn, for example, that the GCC would be used more widely. A similar hypothesis may be assessed empirically by asking whether states with few reservations about international treaties tend to utilize international law more frequently.

Although some of the reforms suggested are difficult to evaluate, I acknowledge that they are worth considering. The most prominent are those about the attitude of the Gulf states toward international law. It is readily apparent from the history of international law in the region that there is a strong correlation between acceptance and use.

Despite many suggestions for “reforming”, these suggestions have failed to achieve their intended goal. In terms of international law activity, the trend is in the direction of a decrease. We contend that reforming international law in the region must address itself more directly to the political realities of its history. This is essential for any chance of success. It is imperative to note that the GCC is a political phenomenon subject to some political influences. This includes the decision made by national governments as to whether or not to use the institution.

However, rather severe reservations are attached to the acceptance of some treaties. Any attempt to reform will be met with monumental political restraints that may be highly fundamental to prevent any significant alteration as few states are willing to give up sovereignty to accept treaties with fewer reservations.

A disturbing tendency exists to ignore the problems in the region and the lessons that should have been learned from it. Possibly, the most frustrating failure of certain applications of international law

in the region is that it is on the verge of atrophy due to the problems that have brought it to this point. There is, however, serious doubt whether any new reform can resolve all or even some of these issues.

The GCC, however, is not always incompletely successful in reaching this goal. The discussion of suggested reforms must, however, be framed within the context of what is politically feasible, and any possible results of these reforms should be viewed in the context of the Gulf and Arabian Peninsula's history. Accordingly, the regional judicial system is a failure, and the gap may be widening due to normative changes and slow institutional changes. In the absence of responsive ways of bridging the gap, the regional judicial system will be forced to swing between high hopes and bitter disappointments in an endless cycle.

Based on the previous discussion, we can learn lessons that will help us avoid this trap. And this can be done through adequate investment in developing the regional institutional capabilities and other supporting institutions. It is becoming increasingly imperative to follow the law since the number of legally recognized claims is increasing, and more states are uncomfortable with international law. The stakes are rising as well. If states distrust the system or find it ineffective, they will pursue private, extra-legal strategies or simply lump up the costs of their legal claims and internalize them. In comparison with institutional reforms, substantive commitments can be achieved more easily. Adequate investment in developing regional institutional capabilities and other supporting institutions is crucial. As legally recognized claims increase, states' compliance with international law becomes more critical. Without trust in the system, states may resort to private strategies. Substantive commitments can be achieved more easily than institutional reforms, highlighting the need for practical and politically feasible approaches to reforming international law in the Gulf.

XII. Centralized Legislative Body and the Regional Application

Recent years have seen significant changes in international law, which now extends beyond regulating conduct among states. Classic intergovernmental organizations are no longer the sole actors in international law, and regional commitments are also increasingly governed by substance rather than legal form. The distinction between “hard” and “soft” law is becoming blurred, raising questions about the sectoral approach to international law, particularly regarding functionality and reform in the Gulf. There is a pressing need for a regional legal system capable of addressing the challenges of regionalism, effectively creating a form of global law within a regional context.

1. Adapting to Modern Realities

Gulf states must adapt and reform their legal frameworks to align with modern realities. It is the responsibility of the states themselves to ensure their norms and standards can adjust to rapidly changing environments, new economic and social actors, and emerging synergies. Legal instruments should be flexible, using a “cancel and replace” approach to stay relevant. Developing nations should be able to respond to shared challenges through various development models, adopting the concept of “functional equivalence”. This means setting common regional targets while allowing different methods to achieve these goals.

2. Inclusive Stakeholder Involvement

Creating an adaptable and respectful international law in the Gulf requires the involvement of a wide range of stakeholders, not just intergovernmental negotiations. Companies, social partners, and civil society must be included in the norm elaboration process. Effective

international law reform must address the complex and multifaceted challenges of today's world, moving beyond the traditional state-centric approach.

3. Addressing Regionalism and Transnational Threats

The process of regionalism and new transnational threats have fundamentally altered governance and the purposes of international law. Interstate legal systems are often ineffective in addressing cross-border pollution, refugee influxes, or weapons proliferation. International law must enhance national governments' capacity and willingness to respond to these issues at their source, thus, achieving desired conditions in the international system, from peace to prosperity.

4. Strengthening Domestic Institutions

International regulatory and institutional frameworks can improve the performance of domestic institutions if well-designed and structured. These frameworks can support domestic political and legal groups in complying with international law, sometimes even enforcing international agreements at the national level (Burke-White, 2006, p. 327). However, these functions alone may not always influence state behavior or ensure consistent compliance with international obligations (de Búrca, 2003, p. 680). Alternative methods, such as diplomatic isolation, economic sanctions, or military force, may be necessary in cases where states deliberately exclude themselves from international institutions or lack the will to comply.

5. Encouraging Participation and Building Capacity

Encouraging Gulf states to participate in international institutions and the international legal system is essential. This approach can influence state behavior by building the capacity and willingness of states to act domestically, providing incentives for national governments to

take action. Strengthened domestic institutions will be better equipped to achieve international goals and respond to transnational threats. This requires an adaptation of the concept of sovereignty to accept the influence of international rules and institutions on domestic political processes. The doctrine of the responsibility to protect is indicative of this shift.

6. Empowering International Law and the Community

The international community is increasingly empowered to intervene and influence events, moving beyond the traditional view that national governments are solely responsible for issues within their jurisdiction. International legal systems can shape domestic political outcomes by strengthening, supporting, and compelling action within national governments. The future of regional politics will be determined by the problems and aspirations that arise, and the law must regulate domestic government institutions accordingly. Establishing effective relationships between international law and domestic law is crucial for addressing these challenges.

This will enable the Gulf states to respond more effectively and efficiently to transnational threats. This will require an adaptation of the concept of sovereignty to accept, rather than reject, the influence of international rules and institutions on domestic political processes. New doctrines relating to the responsibility of protection are indicative of this shift. As a result, international law and the international community are becoming increasingly empowered to not only intervene in but also influence events.

Previously, national governments were responsible for all issues related to their jurisdiction and political processes. International legal systems possess powerful tools to influence domestic political outcomes at the national level by strengthening, providing backstopping, and compelling action. As with all aspects

of international law, the future of regional politics is ultimately determined by problems raised and aspirations generated. The law must be able to shape and regulate domestic government institutions if these problems and aspirations arise within states rather than between them. The challenge is that if there is to remain both a distinct body of international law and a distinct body of domestic law, a new set of effective relationships must be established with both of these institutions and with these entire bodies of domestic law.

XIII. Conclusion: What Needs to Happen Now

International law, while being complex and rapidly evolving, currently lacks the efficacy of a truly comprehensive legal system. Despite substantial advancements, there remains significant room for improvement. The global community bears the responsibility of continually reforming and enhancing international law to meet evolving needs (Ragazzi, 1997). This necessitates revising its content, expanding its scope, and improving mechanisms for ensuring compliance. As international law is pivotal for the future of humankind, it must evolve and adapt to changing circumstances (Akehurst, 1990, p. 43). To serve the interests of all states equitably, international law must become universal (Alshdaifat, 2019). International law in the Gulf and Arabian Peninsula can be improved by the following suggestions:

- 1 - Enhanced Regional Cooperation and Legal Frameworks: The GCC should develop a comprehensive legal framework that aligns with international law while addressing regional specificities. This framework should include the establishment of a Gulf International Law Commission, tasked with continuously updating and harmonizing legal standards across member states.
- 2 - Compulsory Jurisdiction of the ICJ: Granting the International Court of Justice compulsory jurisdiction over disputes involving Gulf states would ensure that all member states are bound to its decisions.

- 3 - Empowering Regional Judicial Bodies: Empowering regional judicial bodies would ensure that international law is applied consistently within the Gulf. These bodies could handle disputes specific to the region, thus reducing the burden on the ICJ.
- 4 - Integration of Judicial Precedents: Incorporating binding judicial precedents into regional and international law would promote consistency and predictability in legal rulings. This approach would help build a more stable and reliable legal framework.
- 5 - Strengthening Institutional Capacities: Gulf states should invest in strengthening the capacities of their legal institutions to better implement and enforce international law. This includes training legal professionals, enhancing judicial infrastructure, and promoting legal education focused on international law principles.
- 6 - Promoting Human Rights and Social Justice: Ensuring that international law in the Gulf prioritizes human rights and social justice is crucial. Legal reforms should focus on protecting the rights of all individuals and promoting social equity.
- 7 - Economic and Environmental Sustainability: Legal frameworks should promote sustainable development, regulate the exploitation of natural resources, and address environmental challenges such as climate change and pollution.
- 8 - Fostering International Collaboration: Gulf states should actively participate in international legal forums and collaborate with other regions to share best practices and harmonize legal standards.

The proponents of this argument argue that world communities should increase their engagement in social, political, and economic relations, international finance, and human rights coordination (Alfange, 1969, p. 61). In the context of international law, the state may develop a robust legal system. By doing so, the Gulf states can make international rules and have a degree of control over their activities in the regional arena.

In my opinion, international law should not be accepted in its current status, and efforts should be made to reform and strengthen its norms. State governments in the Gulf are ultimately responsible for enacting and enforcing international law. It is possible for them [States] to develop better institutions capable of reforming and then enforcing international law. There will never be a situation where international law does not affect the sovereign power of any individual state (Besson 2011, p. 373). As a result of the consensual agreement, states create, define, control, and regulate international law. However, it is not yet possible to develop the perfect system of international law. It is necessary to provide a framework for peaceful dispute settlement at the global level when there are internal or international conflicts (Raz, 2006, p. 1003).

I consider the establishment of regional judicial tribunals as another development that has resulted from the GCC system to be a good start. Several other positive developments can also be attributed to the International Law Commission and the Vienna Convention on the Law of Treaties.

Creating a robust legal system for the region at the national, regional, and international levels would be possible. When the economic, political, trade, human rights, and security-related aspects of a conflict are exclusively dealt with by municipal laws, then it is possible to leave the substantive issues, history, identity, and culture-related matters to regional laws. In terms of its formation, reformation, application, or procedure in the Gulf, international law does not have to imitate and follow municipal law. Depending on the areas of jurisdiction of each system, both could develop and function independently and effectively.

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