

The Effectiveness of Mechanisms for Ensuring the Implementation of Security Council Decisions and International Court of Justice Judgments in International Law: From Legal Obligation to Political Reality

Ahmad. Momeni Rad^{1*}, Mohammad Jassim. Hameed Al-Maamouri²

¹ Associate Professor of International Law, Department of Public Law, Faculty of Law and Political Science, University of Tehran, Tehran, Iran

² Ph.D. Student in International Law, Faculty of Law and Political Science, University of Tehran, Tehran, Iran

* Corresponding author email address: momenirad@ut.ac.ir

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EDITOR: Asghar Jafari ^{id} Associate Professor, Department of Psychology, Kashan University, Iran. Email: as_jafari@sbu.ac.ir				
REVIEWER 1: Asghar Jafari ^{id} Associate Professor, Department of Psychology, Kashan University, Iran. Email: as_jafari@sbu.ac.ir				
REVIEWER 2: Asghar Jafari ^{id} Associate Professor, Department of Psychology, Kashan University, Iran. Email: as_jafari@sbu.ac.ir				

1. Round 1

1.1. Reviewer 1

Reviewer:

In the discussion of the International Court of Justice, the sentence “the Court’s contentious judgments do not, in principle, have general binding effect” should be supplemented by an explanation of the distinction between the binding force of judgments under Article 59 of the Statute and their broader interpretive, evidentiary, or persuasive influence on the development of international law. Without this distinction, the discussion risks understating the Court’s systemic normative significance.

The Introduction refers to “experiences such as the Nicaragua v. United States case and the Security Council’s conduct during the Iraq crisis,” but these examples are not introduced with sufficient specificity. Please identify which Iraq crisis is intended, explain its legal relevance to the enforcement question, and state whether it is being used as a case study, an illustrative example, or comparative evidence. The article would benefit from a more explicit methodological justification for selecting these examples.

In Section 2-1, the sentence “The binding force of international decisions is one of the fundamental elements of the international legal order” presents a strong normative proposition but needs qualification. International law contains numerous non-binding instruments that may nevertheless influence State conduct, including recommendations, declarations, advisory opinions, and soft-law standards. Please explain why the present study focuses specifically on binding decisions and how legally non-binding instruments may interact with compliance and implementation.

The claim in Section 3-3 that the International Court of Justice “is not empowered to annul Council resolutions directly” is generally sound, but the article should discuss the debate regarding incidental review and judicial interpretation of Security

Council resolutions. A more nuanced explanation is needed of how the Court may assess the legal effects or validity-related implications of Council measures within a case properly before it, without exercising a formal annulment jurisdiction.

In Section 4-1, the reference to the LaGrand, Avena, and Medellín matters should be treated with greater doctrinal precision. The article should clarify that Medellín v. Texas was decided by the Supreme Court of the United States, not the International Court of Justice, and explain its significance for the domestic effect of ICJ judgments, particularly the distinction between international responsibility and domestic judicial enforceability.

Authors revised the manuscript and uploaded the document.

1.2. Reviewer 2

Reviewer:

In Section 2-2, the paragraph discussing Chapter VII decisions states that such decisions “generally possess a stronger capacity for bindingness and implementation.” The phrase “stronger capacity” should be defined more rigorously. It would be useful to explain whether the author means a greater legal obligation, wider addressee scope, more substantial enforcement tools, higher likelihood of compliance, or a combination of these criteria.

The discussion of the 1971 Namibia Advisory Opinion correctly notes that the legal effect of Security Council resolutions depends on text, context, and intent; however, the article should quote or more precisely summarize the Court’s legal reasoning. In particular, please explain how the Advisory Opinion has been interpreted in later doctrine and practice, and whether it supports the proposition that binding decisions may also be adopted outside Chapter VII.

In Section 2-3, the sentence stating that Article 94 is the “principal authority” for the bindingness of Court judgments should be revised to give Article 59 of the Statute equal analytical prominence. Article 94 establishes the Charter-based obligation of United Nations Members to comply, whereas Article 59 defines the inter partes scope of the judgment’s binding force. The relationship between these two provisions should be examined more carefully.

In Section 2-4, the article states that “failure to implement a judgment may give rise to the international responsibility of the State.” Please specify the legal basis and consequences of this responsibility. The revision should clarify whether non-compliance constitutes a continuing internationally wrongful act, what forms of reparation may be relevant, and whether the responsibility arises from breach of the original substantive obligation, breach of Article 94, or both.

In Section 3-1, the discussion of the Military Staff Committee states that political disagreements among major powers caused it to play “a limited role in practice.” This is correct but insufficiently developed. Please explain the historical reasons for its institutional paralysis, the relationship between Articles 43 and 47 of the Charter, and why the failure to operationalize the Committee has encouraged reliance on delegated enforcement, multinational coalitions, and regional arrangements.

In Section 3-2, the paragraph on sanctions should distinguish more carefully between comprehensive sanctions, targeted sanctions, secondary effects of sanctions, and the legal obligations of Member States to implement sanctions regimes domestically. The discussion would be strengthened by addressing practical obstacles such as domestic legislative incorporation, sanctions evasion networks, uneven enforcement capacities, and due-process concerns associated with listing and delisting procedures.

In Section 3-3, the sentence asserting that the veto “can prevent collective action” should be expanded to distinguish between the legal veto under Article 27(3), the practice of threatened vetoes, abstentions by permanent members, and informal political bargaining. These mechanisms do not operate identically and may have different implications for the legality, timing, and practical implementation of Security Council action.

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2. Revised

Editor’s decision: Accepted.

Editor in Chief’s decision: Accepted.

