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Jurisdiction Without Sanctions? The Enforcement of ICJ Judgments in International Law

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Abstract

While the ICJ (International Court of Justice) has a very relevant role in the peaceful settlement of State conflicts, its implementation of its judgments is one of the classic challenges of International Law. Judgments have binding force between the parties per Article 59 of theStatute of the Court and case-observance by the member-states under Article 94 of the United Nations Charter is of limited nature and requires the involvement of the Security Council. The problem being the ICJ lacks its own execution apparatus with regard to a state that it can push an adverse ruling on. The present article aims to explore the conjugate dimension of the enforceability of ICJ judgments in light of the legal force. It separates bindingness, compliance and enforcement and claims that absence of the automatic sanctions does not deprive ICJ's decisions of their normative, legally binding force. Instead, the feeble point is in the uncoordinated, politically dependent methods open post judgment. Special attention is paid to Article 94, the Security Council, state compliance, countermeasures and recent ICJ practice relating to the allegations of armed conflict and genocide. The article proposes that what enforcement must do today is go beyond a strictly bilateral approach, and integrate more robust institutional follow-up, monitoring, diplomatic pressure and, where "legally possible", third state involvement. There is no need to make the ICJ more of a domestic-style coercive Court, but merely a much more credible linkage between judicial decision and actual implementation.

***Keywords**: International Court of Justice; ICJ judgments; enforcement; state compliance; Article 94; Security Council; international adjudication; sanctions; state responsibility; international law.*

1. Introduction and Conceptual Framework

The International Court of Justice, as the main judge of the United Nations and vital institution for peacefully settling interstate conflicts, is an important entity of the UN. It is judgments that serve its somewhat unusual role as they turn dubious assertions by sovereign states into binding decisions of international law. But judicial power and its exercise are not all one and the same. Article 59 of the Statute gives judgments addressed to the parties in a specific case binding effect and under Article 94(1) of the UN Charter, the parties are obliged to accept the decisions of the ICJ to which they are bound. Thus arises the legal duty. The more problematic question is that of state non-compliance or at best, its partial compliance with a judgment (Al-Qahtani, 2003).

The meaning of terms often thought to be synonymous, such as bindingness, compliance and enforcement, have been increasingly explored in recent scholarship. There are differences between bindingness, which relates to the legal status of the judgment, compliance, which relates to the conduct of the state after the judgment is entered and institutional or legal means to induce performance is involved in the enforcement of the judgment. This distinction is important because a judgment can be considered “binding” even if it isn't complied with 100 percent, and 100 percent compliance with the judgment can be obtained without any coercive enforcement means. It is in this sense that Llamzon's discussion of the practice of the ICJ is important. His study indicates that the way the Court exercises its jurisdiction is not always a good indicator of state compliance and that the Court's jurisdiction can affect state behavior without it being typically categorized as coercive (Llamzon, 2007).

International law is a "law" characterized by absence of a centralized enforcement authority. The ICJ is not a national court, and is not endowed with an executive arm, a police force or any other means for the attachment of state assets. Implementation is therefore generally subject to the judgment debtor's will, domestic institutions, diplomacy and in suitable cases, international pressures. This is not to say that is not political recommendation in ICJ judgments. These are still legally binding due to the respective international Act.

When decisions involve issues that are politically charged, like territorial sovereignty or an armed conflict, or reparations or purported violations of obligations to the international community, the implementation issue is more complex. The Court may be able to specify very carefully the nature of the legal rights, but at the same time may be unable to oversee all the other steps required for implementation. What Arakelyan's work of late has succinctly pointed out is this institutional insufficiency and a consideration of the Security Council, General Assembly and Secretary-General as potential parts of a larger enforcement template ((Առաքելյան, 2024).

There is also a difference in the scholarship about treaty compliance both in law and in practice. In an article on the domestic effects of international human rights treaties, Hashmi and his partners have shown that international obligations can lead to changes in the state's behavior as a result of a domestic law and institutional changes, even in the absence of traditional coercive sanctions (Pimpalkar, 2025). The general lesson to be drawn from that is that the effectiveness of the law cannot be determined by sanctions alone, even when issued by an ICJ.

So, the main position advanced in this paper is that there is no lack of enforcement in the ICJ; only an enforcement deficit. The Court has more legal authority than coercive. Article 94 tries to fill in that gulf by means of the Security Council, but this is a discretionary and politically tinged formula. This creates a system that is based on legal enforcement, institutional credibility, diplomacy, and good reputation and, in some cases, lawful counter-measures.

Whether ICJ judgments then, can continue to have effect in an international legal order in which jurisdiction is more powerful than enforcement is the question of this paper. It claims that these can but only when the concept of enforcement extends beyond the application of sanctions. But at the same time, there cannot be persistent non-compliance that can be ignored. Without substantive lesson-drawing in international adjudication, there is potential for a waning of faith in the process when it comes to tackling serious violations. The liturgical problem in the today's era is thus to reinforce the execution of ICJ verdicts without preventing the adjudicative independence of the Court and the sovereign equality of states.

2. Legal Bindingness of ICJ Judgments and the Enforcement Problem

Any consideration of the enforcement of ICJ has to begin with its judgments' legal status. According to Article 59 of the Statute the decision of the Court shall have effect between the parties and in regard to a particular case only. There is also a reaffirmation of the finality of judgments in article 60. The obligations are bolstered by the consent language contained in 'article 94(1) of the UN Charter', to 'comply' with an ICJ decision in any case to which it is a party. All of those ensure that a judgment by the ICJ is not a "advisory opinion. Makes the relevant states legally committed.

Consequently, compliance must be recognized as a duty of good faith and not as an optional political action. There can be no acceptance by a state of the authority of Court, participation in the case, and then the treaty the judgment adverse as non-binding. While citing the Justiniano case, Ndikum in his analysis of the bona fide principle provides an example of how international adjudication is in dire need of the implementation of judicial decisions in good faith by the State(Ndikum, 2023).

However, the execution of a judgement is not necessarily the same mode of payment for the debt stipulated. But there is no hierarchy between a domestic court and executive authorities of the same state as in international law. The ICJ is able to find responsibilities, define rights and obligations and can award reparations; it doesn't have a general enforcement arm. This institutional distinction is of special importance where the compliance involves modifying in current state behavior or paying compensation, or, as is most important in this case, passing domestic legislation.

The Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda) case judgment of 2022 provides an example of the difference. Court estimates the costs Uganda owes for internationally wrongful acted. The judgment was legally binding; but the mere fact of a quantified obligation does not mean that there is a recovery mechanism or international bailiff in place (Lee, 2023). The determination and execution of a judgement is therefore a separate process.

The same issue is reflected in the dynamic of relation between international and domestic laws. The implementation can, however, be caught up by national constitutional principles and judgments as illustrated in the Jurisdictional Immunities litigation between Germany and Italy. The entanglements between the effects of the ICJ's decision and constitutional issues within the Italian legal framework are explored in Kuc's recent analysis (Kuc, 2024). ven if local legislation can kill off an international obligation that was taken on, the case highlights the practical problems with such implementation.

Automatic execution should not, however, be understood as a sign of ineffectiveness of the ICJ's judgments. States can choose to comply as they do value international legitimacy, diplomatic relations and reciprocities. Implications of compliance can also affect the reputation and risk of establishing precedent to be used against one's own state later. International adjudication, therefore, often serves as a law/political process.

In more recent work Garay, Hathaway and Zhang, refute the conventional bilateral view on enforcement. They submit that the duty to respect ICJ judgments could have an erga omnes nature as well because peaceful adjudication is a fundamental alternative to the use of force, a principle with erga omnes attributes, unilaterally(Garay et al., 2025a). The use of this would be a conceptual tool for the ability to include states beyond the immediate parties in the push for compliance if it were accepted.

The crux of the matter is thus simple: If an ICJ judgment is issued, it is legally binding, even though it cannot necessarily be made coercively executable. The lack or failure of enforcement does not give rise to lack of jurisdiction. It is rather a picture of the decentralization of international law. What matters is whether current mechanisms offer the right kinds of incentives for the effective implementation by legal authority.

3. Article 94 of the UN Charter and the Security Council: The Enforcement Gap

Article 94 is the main article regarding an ICJ judgment which is linked with an institutional enforcement mechanism. The obligations of compatibility are set out in Paragraph 1. For a failure to fulfill the due obligations of a judgment, Paragraph 2 gives the option to take the matter to the Security Council, which may ‘make recommendations’ or ‘take decision on measures to give effect to the judgment' (Bentwich & Martin, 2024).

It is immediately clear that this arrangement was weak, because of the Article 94(2) language. All judgments do not have to be enforced automatically by the Security Council; it can take action if it considers it necessary. Thus, political enforcement organ's response is discretionary whereas the duty to make a response remains upon the judgment debtor.

The separation of these two gives rise to a structural separation of judicial power and political actualization. The ICJ decides what is legal, and what isn't. In contrast, the Security Council functions in a political context, the main concerns of which are international peace and security. It is therefore not just a kind of administrative arm of the court. This may be shaped by strategic linkages, geopolitics and interests of the permanent members of this body.

Another challenge with the voting system of the Security Council. Choices that involve substantive decisions can only be made if the situation demands it, and otherwise cannot be taken unless it is generally agreed upon and a permanent member does not cast his veto. Thus political issues remain in the background which may dictate whether any impact is experienced from Article 94. Ahmad recently measured the voting structure as a prominent impediment to effective Security Council enforcement, and showed how the Nicaragua case is an example of how political factors can hinder its enforcement (Gazzini, 2022).

Due to limited practical application of Article 94, there have been calls for a more general approach by institutions. Arakelyan suggests the General Assembly and the Secretary-General can also play a role in the process of promoting implementation, such as when there is a political "blockage" to action by the Security Council (Slobodianyk et al., 2020). They would not be quite such coercive as Security Council measures but would add to the political pressures and provide a better international record of non-compliance.

The International Court can even make an indirect contribution. It is not an enforcing body, but its decisions can help to define exactly what must be done. A clearly reasoned judgement minimizes the potential for divergent interpretation of the obligation to act legally and can serve as the basis for future diplomacy/institutional activity. This is all the more critical if the judgment does not require just one act. he most important recent suggestion is that the idea that enforcement has to be bilateral should be abandoned. However, some other states might have legal interests in enforcing ICJ judgments if the ICJ's obligations are *erga omnes or erga omnes partes* (Garay et al., 2025b). Their proposal would acquaint the strategy of hardening the implementation as well as lessen its reliance on the Security Council. It would also acknowledge the contribution of international adjudication as an international interest in its own right.

However, this kind of development should be taken with a grain of salt. The introduction of a wholesale right of third states to engage in countermeasures could add to legal challenges to the lawfulness, proportionality and intent of countermeasures. Enforcement cannot be used as a justification by powerful States to unilaterally enforce a policy behind judicial compliance.

It is, therefore, important that Article 94 be understood as part of an incomplete mechanism. It does not give any guarantees for successful enforcement of the international system, though it does state that it is not legally irrelevant if the international system is not being complied with. The Charter, in itself, has its main weakness not just in the words of the Charter, but in the political context where the provision operates.

This leads to an institutional enforcement gap instead of a purely juridical enforcement gap. Collective enforcement is heavily reliant on political will; the State has the obligation to ensure compliance and the Court issues the judgment. It is critical to the credibility of the authority of the Court in developing and strengthening this relationship.

4. State Compliance, Non-Compliance and the Limits of Sanctions

The existence of an enforcement deficit should not lead to the assumption that states routinely disregard ICJ judgments. Compliance is more common and more complex than a simple distinction between obedience and defiance. States may comply because judgments provide legitimate solutions to disputes, because non-compliance would impose diplomatic costs, or because continued international cooperation is more valuable than resisting the Court.

Non-compliance can also be in various forms. A State can expressly provide for a refusal of a judgment; can postpone its execution; can execute only a part of the judgment; or may accept the judgment on paper, without, however, taking domestic measures in a manner which undermines the execution of the judgment. This makes it challenging to measure compliance. Some judgments involve a single action, payment of a fixed amount, others, legislative changes, cooperation for a long period (Frackowiak-Adamska, 2022).

Thus, the question of sanctions needs to be analyzed in the larger context of the law of state responsibility. There is no general rule in international law that each failure to abide by the decision of the ICJ leads to economic or military sanctions. In suitable situations countermeasures may be appropriate but have the requirements of purpose, necessity and proportionality. They are not allowed to be immediately used as undirected retaliatory acts.

Such a restriction is important because it is possible to replicate inequalities in the international system through unilateral sanctions. A strong state might have a significant economic and/or diplomatic leverage, and a smaller state may have very less incentive to oblige the obedience. There may thus be a concern that a unilateral economic power based enforcement regime might violate the equality of sovereigns (Snidal et al., 2024).

One solution that may be considered is weekly (or shorter) financial penalties, or astreintes. Kang suggests that such a mechanism might be a way to make the implementation of ICJ sentences more practical (Odynski & Broc, 2022). This concept is not new in the domestic legal system, where courts can give financial penalties for ongoing non-compliance. However, the law to back such a power would have to be carefully thought through in an international context. The ICJ has no powers but its own.

In the case of reparations, it is of significance in particular. If a monetary award is decided, it does not necessarily create a means of enforcing the repayment. This shows that it is not always the case that there is no law-based remedy. However, it can also be the absence of institutional arrangements for the change in the efficacy of the remedy towards achieving performance.

Recent scholarship suggests that one should not question only about whether or not the respondent state has fully performed the judgment as a measure of compliance. Alexianu's statement regarding the efficacy of "provisional measures" suggests that efficacy can manifest itself in various ways, such as "building the international norm," strengthening the UN system and affecting state conduct (Alexianu, 2025). Thus, a wider understanding may help as an international court can have legal and institutional impact even if immediate compliance is curtailed.

That also applies with regard to the provisional measures. Panagis highlights the ICJ's power to judge compliance of provisional measures gives rise to new issues regarding the link between the main claim and the evaluation of actions by the ICJ (Panagis, 2024). This means that compliance is becoming increasingly issues in a judicial process in and of itself, and not only one that is left to political institutions as an issue after judgment.

International judgments need to be balanced, in order to be enforced. Too little enforcement can lead to a loss of faith in the Court and too much enforcement can make the Court an object of political politicization and make States wary of international judicial settlement. A multi-layered model that makes the legality the foundational element of the system, but adds diplomatic, institutional and carefully structured coercing elements to introduce additional motivation to act (Youvan, 2024).

It is not legitimate to always award penalties for delay or disagreement. The international system should instead make a distinction between a lack of real implementation, and outright abuse. There should be real consequences for willful and ongoing disregard of a final judgment, especially if the judgment is in relation to significant breaches of international law.

5. Recent ICJ Practice: Contemporary Challenges to Enforcement

The enforcement question has been brought to the fore of late through recent ICJ proceedings. The Court has been increasingly called on to deal with armed conflict and accusations and promises made to

the international community regarding genocide. These proceedings have drawn attention to the Court as well as highlighted the weaknesses in its enforcement.
Important proceedings are the South African v. Israel. From January 2024 onwards, the Court issued provisional measures in line with the Genocide Convention and issued further orders. There is a lengthy scholarship literature on the lawfulness of provisional measures. However, *gapsa* draws attention to the fact that the measures put in place by the Court are of a provisional nature and thus characterized as legally binding, whereas becker emphasizes the fact that it is challenging to transcribe judicial measures and to transform the judicial given into actual change as long as the conflict itself is ongoing (Becker, 2024).
What these proceedings have for enforcement is a difference between legal authority and its practical implications. Provisional measure can take the form of legally binding measure without coercive measures. However, it may have a bearing on diplomatic considerations and indoor legal debate and practice of other countries. It also may serve as a binding legal precedent that may be used to evaluate future actions.
he Ukraine vs. Russia cases are also a sign of the growing part the Court is playing in cases involving obligations of broader international interest. In its 2024 genocide-convention judgement, the Court took into its deliberations the scope of the dispute as well as Ukraine's allegations about compliance with the Convention (Słotwińska, 2025). As the case illustrates, however, the issue of compliance could be a component of the judicial process and not simply outside the Court's jurisdiction.
There are these modern cases that exhibit an important paradox. As more international conflicts get brought to the ICJ, its normativity grows. Meanwhile differences are played up through high-profile clashes. In that case, a court can make a determination what international law requires, without having any means to force the State to change its conduct.
But that is no excuse to give up on international adjudication. Instead, it reinforces the call for a change in the institution. First, i think Article 94 needs to be strengthened by more explicit, defined ways of taking the non-compliance case before the Security Council. Second, there should be improved mechanisms in place for implementation to be recorded and monitored, especially when a continuing conduct is needed to make a judgment. Thirdly, the importance of the General Assembly and other UN organs to secure political and diplomatic consequences in cases where action by the Security Council is inhibited should be better exploited.
Fourthly, the inclusion of third states needs to be responsibly developed. Compliance interest is not limited to the parties in a case in which a ICJ's judgment involves erga omnes obligations or erga omnes partes obligations. In fact, the study “The International Judiciary', Hathaway and Zhang suggests just that model, and refers to the duty to respect ICJ judgements as an erga omnes obligation (Garay et al., 2025c). This would allow a wider range of states to get involved in enforcement with the limitations of international law.
Lastly, financial mechanisms might be considered, when applicable. Excises may sometimes help out in micro-economic sanctions, as they are more proportional than economic sanctions. Any such mechanism, however, should be clearly legal - and respect the jurisdiction and competence of the Court. Reform should be about credible compliance, not punitive enforcement, therefore. The ICJ should continue its role as a court. Making enforcement completely subject to political counteraction will make

its judgments look weak instead of strong. The strategy should be a "layered" one: binding judgments, domestic implementation, international monitoring, diplomatic pressure, Security Council action, if feasible, and lawful collective measures in cases of "serious and persistent" non-compliance.
A model like that would acknowledge the need for international sovereignty and have less contrast between legal judgment and practical consequences.

Conclusion

ICJ judgments show a structural feature of international law: There is actually much more power in courts than there is in centralized coercive power. The Court has the jurisdiction to make the adjudications and the final decisions by the Court are legally binding on the parties. Having no automatic enforcement feature thus does not detract from their legal status. It certainly raises a practical challenge between rights and their effectuation, though.

There is an important mechanism in the UN Charter, Article 94, which helps bridge that divides but because of its discretionary and political nature the Security Council is not an effective enforcing body. Wider legal obligation / idiom, reputation, diplomacy, pressure at home (domestic implementation), now to compliance.

An analysis of recent cases, such as Ukraine, Russia, South Africa and Israel, remedies that the ICJ has an important role to play and also its enforcement structure's limits. The cases also indicate that compliance cannot only be a bilateral affair when it comes to judgments with *erga omnes or erga* omnes partes obligations.

Not the domestic-style coercive court is the right response, but rather the ICJ. Rather, enforcement ought to be facilitated with well-defined Article 94 procedures, enhanced monitoring, and increased utilization of UN institutions and with thoughtful financial ramifications and legitimate involvement from other states to the extent allowed by international law. This would be consolidation of the judicial nature of the Court and it would be harder to ignore persistent non-compliance.

Finally, it is not that it can focus on sanctions in every case that makes the ICJ legitimate, but that it can make legal determination meaningful official state action. The lack of trustworthy implementation of the law, however, is thus the central issue posing a challenge to jurisdiction, not the lack of jurisdiction. To ensure that confidence in international adjudication and the broader rule of law can be maintained, it is crucial to strengthen that relationship.

References:

Alexianu, M. (2025). Effectiveness Beyond Compliance: Examining the Goal-Based Impact of the International Court of Justice’s Provisional Measures. *Hague Yearbook of International Law*, *38*.

Al-Qahtani, M. M. (2003). *Enforcement of international judicial decisions of the International Court of Justice in public international law*. University of Glasgow.

Becker, M. A. (2024). Crisis in Gaza:’South Africa v Israel’at the International Court of Justice (or the unbearable lightness of provisional measures). *Melbourne Journal of International Law*, *25*(2), 182–240.

Bentwich, N., & Martin, A. (2024). *A Commentary on the Charter of the United Nations*. Taylor & Francis.

Frackowiak-Adamska, A. (2022). Trust until it is too late! Mutual recognition of judgments and limitations of judicial independence in a Member State: L and P. *Common Market Law Review*, *59*(1).

Garay, C., Hathaway, O. A., & Zhang, K. (2025a). The World Court’s Enforcement Dilemma-And How to Solve It. *Geo. LJ*, *114*, 63.

Garay, C., Hathaway, O. A., & Zhang, K. (2025b). The World Court's Enforcement Dilemma-And How to Solve It. *Geo. LJ*, *114*, 63.
Garay, C., Hathaway, O. A., & Zhang, K. (2025c). The World Court's Enforcement Dilemma-And How to Solve It. *Geo. LJ*, *114*, 63.
Gazzini, T. (2022). *The changing rules on the use of force in international law*.
Kuc, O. (2024). Obligation to comply with ICJ decisions: The" Jurisdictional Immunities" saga within the Italian legal order. *Studia Iuridica*, (102), 109–131.
Lee, J. (2023). Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda). *American Journal of International Law*, *117*(1), 113–121.
Llamzon, A. P. (2007). Jurisdiction and compliance in recent decisions of the International Court of Justice. *European Journal of International Law*, *18*(5), 815–852.
Ndikum, A. R. (2023). Application of the Bona Fide Principle to State Party Compliance with Court Judgments. *Journal of Constitutional Law and Jurisprudence*, *6*(1), 1–15.
Odynski, K., & Broc, H. (2022). Commercial Arbitration. In *The Environment Through the Lens of International Courts and Tribunals* (pp. 351–379). Springer.
Panagis, N. (2024). Jurisdictional Entanglement: The Relationship between the Jurisdiction over a Dispute and the Jurisdiction to Assess Compliance with Provisional Measures. *The Law & Practice of International Courts and Tribunals*, *23*(1), 7–35.
Pimpalkar, K. C. (2025). The Impact of International Human Rights Law on National Legislation. *Jus Corpus LJ*, *6*, 44.
Slobodianyk, T. M., Mytnyk, A., Loktionova, V. V., Pleskun, O. V., & Syrota, D. I. (2020). Ensuring enforcement of judgements through the prism of reforming criminal provisions. *International Journal of Criminology and Sociology*, *9*, 735–747.
Słotwińska, K. (2025). Russia's Aggression and the International Court of Justice: The Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation). In *Legal Perspectives on the Russia-Ukraine War* (pp. 89–99). Routledge.
Snidal, D., Hale, T., Jones, E., Mertens, C., & Milewicz, K. (2024). The power of the "weak" and international organizations. *The Review of International Organizations*, *19*(3), 385–409.
Youvan, D. C. (2024). *Challenges in Prosecuting Politically Powerful States for Genocide: A Comparative Analysis of ICC and ICJ Jurisprudence*.
ԱռաքելյանՌոզա. (2024). ԱՐԴԱՐԱԴԱՏՈՒԹՅԱՆ ՄԻՋԱԶԳԱՅԻՆ ԴԱՏԱՐԱՆԻ ՎՃԻՌՆԵՐԻ ԿԱՏԱՐՄԱՆ ՄԻՋԱԶԳԱՅԻՆ ԿԱՌՈՒՑԱԿԱՐԳԵՐԸ. *State and Law*, *99*(2), 192–204.