



Noncompliance with International Court of Justice Decisions: What it Means and How it Occurs?

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Abstract: As the highest judicial instrument of the United Nations, the International Court of Justice provides an essential venue for the resolution of disputes between nations. However, the impact of ICJ rulings on encouraging adherence to international law is still being debated. In this study, the author offers a thorough evaluation of the court ability to enforce its rulings. This research analyzes the strengths and limits of the International Court of Justice's enforcement procedures by looking at case studies and empirical data to determine what variables impact state compliance with ICJ judgments. The author assesses the efficacy of advisory opinions, provisional measures, and final judgments issued by the International Court of Justice by conducting a critical review of the court's jurisprudence. This paper also evaluates the efforts of other stakeholders, such as the United Nations Security Council and individual governments, to ensure that the world court rulings are implemented as intended. The article places its study amid larger discussions regarding the function of international law in encouraging conformity and cooperation among nations, in addition to its emphasis on the International Court of Justice. The examination of "Enforcing International Law" plays a vital role in perpetuating discussions regarding the advantages and disadvantages of the international legal framework. It offers a comprehensive and well-supported evaluation of the effectiveness of the ICJ's rulings.

Keywords: International Law, ICJ, Decision, Enforcement, Jurisdiction, Domestic, World court

1. Introduction

As per Judge Stephen M Schwebel,

“The International Court of Justice is a body of high achievement and unused potential. But it is not a body of uniformly high achievement or unlimited potential.” (Schwebel, 1994)

The formation of ICJ took place in 1945 through the establishment of the UN Charter. The primary duty of the Court is to settle disputes betwixt states and provide guidance on legal matters when specifically requested by a designated United Nations entity or organization. The (ICJ), as an institution, is universally comprehensive in its framework and aims to provide impartiality to the entire international community, regardless of any particular legal or economic perspective. Moreover, the International Court, as a global entity, is tasked with preserving the principles of the legal values by settling disputes among states. It operates impartially and is not influenced by any involved parties in the conflicting matter. The Court operates as a mechanism to bring the global community closer

to the governance of laws without being controlled or influenced by the various systems of the region. In order to accomplish this, it strives to establish an impartial judicial framework to preserve the independence of the Court and demonstrate its commitment to the principles and regulations of the UN. The International Court of Justice has played a vital role in advancing international legal frameworks, thus carrying on the legacy of its predecessor, the Permanent Court of International Justice. International law is constantly changing, and the Court, through its judicial role, has had a significant influence on the development of regulations. In other words, the ICJ has sought to fill gaps in a legal system that is often unclear to nations through its thoughtful decisions. (Slaon, 2014)

1.1 Jurisdiction of International Court Of Justice

International Court of Justice is comprised of two forms of Jurisdictions which are Contentious Jurisdiction and Advisory Jurisdiction. It is the first category of states that agree to have the disputes submitted to the Court for reference. Later jurisdiction deals with issues concerning Court's reference to the General Assembly, Security Council, and other UN organs and specialized agencies. Such questions can be related only to legal issues that arise in the course of their activities. The court only gives an advisory opinion which is not binding (Szafarz, 1993)

There are three forms to express consent in a contentious jurisdiction: compulsory jurisdiction, ad hoc, ante hoc, or the optional clause. Consent expressed ad hoc takes place in respect of a particular case referred to the Court while the relevant States are obliged to compromise with the issue. This is the main point of the agreement indicating the subject matter and acknowledging by all concerned that there is a dispute, as well as setting the framework within which the Court will make judgment. The consent ante hoc is expressed before any controversy and is demonstrated by having a jurisdiction clause into an international treaty (ROMANO, 2007)

There is an inference that in relation to the treaty dispute and also those referring to the interpretation of the agreement, it will be resolved by submitting them to the International Court of Justice (ICJ).- Consent provided under the optional clause, or compulsory jurisdiction comes through a declaration by the state committing itself to receive any claims directed to it within the Court. Thus, this declaration which may be done at any time and also revoked at any time is ipso facto compulsory, by a State admitting it to Court's compulsory jurisdiction (Oxman, 2001)

1.2 Explanation of Jurisdiction Rationae Personae

According to Article 34(1) of the Statute of the ICJ, only States are competent parties to the Court for contentious jurisdiction. Nevertheless, other states can fund cases filed on behalf of their nationals by other states. In general, this is done through diplomatic protection. The State of nationality can only protect the person under international law after the person has exhausted all local judicial remedies within the jurisdiction of the State where he has been injured in a legal manner. (Alvarez, 1996)

1.3 Compliance in states and the factors that affect it

It is crucial for the effectiveness and also credibility of international regulation that states comply with judgments made by the International Court of Justice (ICJ). However, following the rulings of the ICJ is not always automatic and could rely on various factors.

The effectiveness of the normative framework sustaining an ICJ judgment is one facet that impacts whether a state adheres to that decision. The likelihood of compliance increases if the choice is grounded on a usually recognized concept or criterion of international law. However, people may be far less likely to comply if the decision is founded on a norm or concept that is subject to debate or is otherwise ambiguous. The political as well as strategic interests of the state additionally contribute in whether the state follows ICJ judgments. When evaluating the benefits and also prices of adhering to ICJ rulings, states may choose to comply if they identify that doing so remains in their national passions. On the other hand, a nation may pull out of carrying out an ICJ judgment if it feels doing so would be counter to its nationwide rate of interests. (Martinez, 2003)

The nature of the conflict may additionally have an effect on the chance that a state will follow an ICJ ruling. Conformity might be a lot more possible if the problem is of a technical or legal nature, since it might be less complex to implement the ruling. Compliance may be much more challenging, nonetheless, if the dispute is political or tactical in nature, since it may be tougher to solve the underlying tensions between the celebrations. The actions of non-state actors might also impact exactly how states abide by ICJ rulings. Compliance with ICJ judgments may be more possible if third-party entities like the United Nations (UN) or local organizations are

proactively engaged in motivating compliance. (Llamzon, 2007)

On the other hand, compliance might be less potential if third-party actors are not engaged or are viewed as prejudiced or ineffectual. Ultimately, states may be more probable to obey ICJ rulings if they fear unfavorable attention if they do not. It is possible that a state's image as well as, by expansion, its determination to follow ICJ rulings might experience if it is regarded as a chronic transgressor of international regulation or as a state that does not abide by its international dedications. In general, ensuring that ICJ rulings are adhered to is a challenging and diverse issue that is affected by lots of variables. The worldwide community must be committed to safeguarding the guideline of legislation as well as fostering international peace and also justice in order to efficiently resolve non-compliance with ICJ judgments. (Charney, 1989)

1.4 Consequences of Noncompliance with International Law

The consequences for the international lawful order of stopping working to comply with International Court of Justice (ICJ) judgments are major. Failing to comply bring into question the ability of worldwide regulation as well as the United Nations Charter to cultivate global justice and also security. The policy of law might endure as a result of countries rejecting to apply ICJ rulings. States are obligated to uphold their international responsibilities and adhere to the verdicts of international courts and tribunals as per the principle of legality, a fundamental pillar of international jurisprudence. Failure to apply ICJ judgments damages worldwide order, making it harder for countries to resolve their differences amicably as well as for the worldwide community to deal with serious international issues. States' failing to follow ICJ rulings likewise threatens the predictability and also security of international law. (Christine, 2013)

Disagreement with ICJ rulings makes it harder for federal governments to know what actions are permitted under international regulation and lowers the system's predictability and also security. This has the potential to worsen already present worldwide problem and instability. In addition, the authenticity of the ICJ itself could be threatened if its judgments are not adhered to. By not adhering to ICJ rulings, governments erode the legitimacy as well as credibility of the court, making it harder for the ICJ to implement its work. The reliability as well as regard accorded to various other global tribunals as well as courts may endure because of this. It is vital for the efficacy and also legitimacy of the worldwide lawful system that non-compliance with ICJ rulings be attended to. The global neighborhood has to react in a collective and also extensive way, declaring its commitment to the rule of law as well as working to additional globe peace as well as justice. (Andrew!Guzman, 2001)

2. Enforceability of ICJ Decisions

The authenticity and efficiency of the worldwide legal system depend on whether or not ICJ rulings can be applied in domestic courts. While ICJ rulings are lawfully binding, the court has no power to enforce them. This triggers inquiries over the authority of ICJ rulings and also the roles of numerous stakeholders in guaranteeing their implementation. The ICJ might be made use of as a tool for implementing its own judgments. The ICJ has the power to offer judgments and also impose its searching for via succeeding procedures. Nonetheless, the ICJ sources are limited, so its rulings cannot be implemented by themselves. Instead, the ICJ relies on states as well as other celebrations working together to guarantee its judgments are complied with. The United Nations Security Council is one more avenue for putting ICJ rulings right into result. As per Phase VII of UN Charter the Security Council possesses the capability to enforce judgments of the International Court of Justice through monetary authorizations and the application of coercion. However, political worries and the last word of the Security Council's long-term participants limit the effectiveness of these measures. Domestic courts and also local companies might likewise enforce decisions made by the ICJ. By integrating worldwide legislation right into residential law, local courts might provide result to ICJ judgments, while local companies can motivate adherence to ICJ judgments by means of local accords as well as institutions. (Devaney, 2014)

Regardless of these safeguards, it is nonetheless tough to put an ICJ judgment into method in international courts. Political elements, technical troubles, and a lack of sources are only some of the reasons why ICJ rulings aren't constantly carried out. The worldwide area must be dedicated to safeguarding the guideline of regulation and also promoting global peace as well as justice in order to efficiently attend to non-compliance with ICJ rulings. Whether or not ICJ rulings are actually executed is a difficult inquiry with numerous relocating components. If the global community is serious about securing the guideline of regulation and cultivating international peace and justice, it will certainly need to take a collective, diverse strategy to resolving non-compliance with ICJ judgments.

(BONAFE, 2017)

2.1 The Jurisdictional Basis for The Finality and Enforceability of Judicial Decisions on A Global Scale

Decisions made by international courts, such as (ICJ), must be binding as well as enforceable for the worldwide lawful system to be in operation as well as legitimate. Nonetheless, the bindingness and enforceability of such judgments have a complex as well as diverse lawful basis. States are bound to support their worldwide commitments in good faith under the idea of *Pacta Sunt Servanda*, which supplies a lawful basis for the binding and enforceable nature of international court rulings. This basic tenet of international legislation relates to choices made by the ICJ as well as various other international courts. Failing to abide in good faith with ICJ judgments might have serious repercussions for a state's trustworthiness as well as standing on the global stage. Customary global legislation is one more lawful basis for the finality and enforceability of court judgments made at the worldwide level. The regular and also global method of nations, paired with a feeling of lawful duty, gives birth to traditional worldwide legislation as a resource of international regulation. If the ICJ has actually regarded a regulation of traditional international regulation to be binding, states should follow it. International court judgments may likewise be made binding and enforceable by treaties and also other international accords. (Shany, 2012)

A state is bound by the judgments of international courts if it has authorized a treaty or various other international agreement that contains provisions for conflict resolution or the territory of worldwide tribunals. Finally, the teaching and practice of international courts as well as tribunals may boost the authority and also legitimacy of global judicial judgments. To increase their authority and also authenticity, global judicial judgments need to be consistent, well-reasoned, and backed by the technique of various other worldwide courts and tribunals. The legal concepts underlying the finality and also enforceability of court judgments rendered in international territories are complex and also countless. The ideas of international law, universally accepted regulation, pacts and diverse other global arrangements, and the legal systems and customs of international courts and tribunals are merely a few of the significant factors that influence them. The international neighborhood needs to be committed to defending the guideline of legislation as well as cultivating global tranquility and also justice in order to properly address non-compliance with international judiciary rulings. (Posner, 2005)

The lawful concepts underlying the finality and enforceability of court judgments made in foreign territories are complex and also various. Principles of global regulation, traditional international legislation, treaties and various other international agreements, and also the jurisprudence and also method of worldwide courts and also tribunals are only several of the important things that affect them. The global neighborhood should be devoted to safeguarding the rule of legislation and also cultivating global peace and also justice in order to effectively attend to non-compliance with global judiciary judgments. (Reisman, 1969)

2.2 How Customary International Law Helps Put ICJ Rulings into Practice?

The judgments of the International Court of Justice (ICJ) depend heavily on popular international regulation for their implementation. The binding and also enforceable nature of international court judgments is grounded in traditional worldwide regulation, which develops from the constant as well as global technique of states paired with a sensation of lawful obligation. The ICJ has actually acknowledged the worth of popular global legislation and has cited it in a variety of its judgments as a result of this. By helping armed opposition companies in Nicaragua, the USA, the ICJ stated, violated a norm of normal worldwide regulation that restricted making use of force in worldwide affairs. The impact of normal global law on state method might additionally contribute to the implementation of ICJ judgments. A state has to comply with a policy of popular worldwide regulation that the ICJ has actually considered enforceable even if it has actually not agreed to go through a treaty or various other international agreement. (Alter, 2008)

There are, nevertheless, obstacles to ICJ judgment enforcement when depending on normal global law. Given the liquid nature of the idea, identifying precisely when and also how a particular norm of traditional global law entered being may be difficult. Troubles with executing ICJ judgments might additionally emerge from variations in state practice and the interpretation of traditional global legislation. Customary global law plays a complicated and multidimensional duty in the application of ICJ rulings. Given that ICJ rulings are based upon customary global legislation, they are lawfully necessary as well as enforceable; nevertheless, the extent to which they are in fact applied depends on a number of scenarios, including the evolution of normal global regulation, state method as well as interpretation, and ICJ jurisprudence. If the international community is truly committed to safeguarding the

enforcement of laws and fostering global harmony and fairness, it must adopt a collaborative and multifaceted strategy to address cases of non-compliance to judgments made by (ICJ). (Huneus, 2013)

2.3 ICJ Decisions and their Resultant impact on the Progress of International Law

The (ICJ) has played a crucial role in shaping the evolution of international law. Through establishing and elucidating the core principles of international law, the ICJ's legal precedents and verdicts contribute immensely to the development of customary international law. The progress of International Law has gained from the judgments made by the (ICJ) in various manners, encompassing the rise of fresh standards and concepts. For instance, the ICJ introduced the idea of freedom of navigation in international waters in the Corfu Channel case, which is now largely recognized as an international legal principle. The improved clarity that ICJ decisions give to existent concepts and procedures of international law is another advantage of their existence. For instance, in the Oil Platforms case, the ICJ made it plain that under international law, the right of self-defense does not cover the destruction of civilian property. The (ICJ) has played a vital role in the advancement of fundamental principles within the realm of international law, while also shaping the structural and operational frameworks that underpin it. For instance, the ICJ has advocated for the use of international arbitration to settle legal disputes and has significantly aided in the development of standards and guidelines for the management of international legal proceedings. (Talmon, 2015)

Generally, ICJ judgments have made vast contributions to the development of international law. Through its jurisprudence and decisions, the ICJ helps to develop customary international law by defining and explaining the conceptual foundations of international law. It is important to promote compliance with ICJ judgments, considering their essential role in the evolution of international law and, hence, the effectiveness and legitimacy of the international legal system.

3. An Overview of the Various Mechanisms Used to Implement ICJ Decisions

The ICJ's decisions must be upheld for the international law system to be effective and legitimate. There are various ways to make sure that decisions are followed even while the ICJ cannot do so on its own. One method for carrying out its decisions is the (ICJ). The parties are obligated to comply with any provisional directives that the ICJ releases, which can assist in guaranteeing the enforcement of its judgments. By taking steps to ensure the publication and dissemination of its judgements, the ICJ can further increase public understanding of its rulings and promote compliance. Another venue for implementing ICJ decisions is the (UN) Security Council. As per Article 94 of the UN Charter, the Security Council possesses the power to execute ICJ rulings. This encompasses the utilization of armed forces, limitations on movement, and financial penalties. It is viable for local tribunals to assist in executing decisions from the (ICJ). If the state in question has agreed to be bound by the decision, individuals or groups may be entitled to request enforcement of the decision in domestic courts.

The execution of ICJ judgments is further facilitated by the assimilation of international law within the internal judiciary of some countries. Regional organizations and specialized agencies may also be involved in the execution of ICJ decisions. For instance, the European Union has its own courts and dispute-resolution procedures, which could help to ensure that ICJ decisions are followed. In some situations, specialized organizations like the International Atomic Energy Agency may also contribute to ensuring that international law is upheld. In conclusion, we have access to a wide range of measures to promote conformity to ICJ decisions. The international society's dedication to maintaining the principles of justice, safeguarding the authority of the ICJ, and upholding the legal and institutional structures of individual states is paramount to ensuring the effectiveness of these processes. (Lopez-Claros, 2020)

3.1 The United Nations Security Council's Impact on Enforcement Promotion

Pursuant to Article 94 of the UN Charter, the UN Security Council is charged with implementing the judgments rendered by the ICJ. With regard to ICJ decision enforcement, Security Council has several options that it would employ, such as, imposing of monetary penalty, travel restriction, and even the use of forces. In particular, Security Council employed its powers in several cases, especially Corfu Channel case and case concerning Oil Platforms. Security Council has several times approved the resort to force as means of coercing the culprit states into compliance with ICJ directives while slapping them with economic sanctions. There are also criticisms of the use of Security Council's enforcement power. In addition, the ICJ's actions are criticized, where proponents argue that

such conduct contravenes state sovereignty. Also, these sanctions may also be influenced by politics and fall to the permanent members' veto power. In spite of the above challenges, however, the Security Council remains an important factor in ensuring that ICJ judgment is implemented. Since there is power given to Security Council to enforce ICJ decisions, it is important to promote rule of law and recognize ICJ's authorities. Nonetheless, a close inspection of any measure the Security Council adopts on its enforcement should strictly be guided by international laws and the UN Charter. In general, it is a very important and difficult task to encourage the application of ICJ statements. The Security Council plays a key role in this process. For the Security Council's action to enforce some of its decision to comply with the international law and the United Nations charter.

3.2 Possible Domestic Court Enforcement of ICJ Rulings

One must not underestimate the significance of domestic courts in carrying out ICJ rulings. If the concerned state has agreed to abide by the ruling, individuals or collectives may have the right to seek enforcement of the decision in local courts. The execution of ICJ rulings is also facilitated by the incorporation of international law into the domestic legal frameworks of certain countries. "Pacta sunt servanda", which requires states to fulfil their responsibilities under international law in good faith, emphasizes the ability of domestic courts to uphold ICJ decisions. This principle may provide a basis for individuals or groups to file legal claims in domestic courts to have the ICJ judgment enforced, particularly if the relevant state has not taken any action to execute the decision. The institutional and legal frameworks of various states, the political commitment of national authorities to uphold international law, and the availability of legal remedies for parties seeking to enforce ICJ decisions are just a few of the variables that affect domestic courts' capacity to effectively enforce ICJ rulings. There have been cases where domestic courts helped to implement ICJ decisions. For example, the Avena case, as ruled by (ICJ), determined that Mexican individuals who had their entitlements violated according to the Vienna Convention on Consular Relations should undergo a new trial and be granted a fresh opportunity to present their cases. The Mexican government and those impacted filed a number of legal challenges, but the US Supreme Court determined that the ICJ decision applied to all parties hence the cases should be examined.

It is an important and multifaceted question whether domestic courts will uphold ICJ decisions. Several factors, including those of a legal, institutional, and political nature, will determine whether domestic courts can uphold ICJ judgments. It is possible to strengthen domestic courts' ability to uphold ICJ decisions and advance the rule of law through developing regional legal systems and promoting global legal norms.

3.3 Existing Enforcement Mechanisms: Problems and Limitations

The current methods for upholding ICJ judgements face a number of challenges and limitations, despite the fact that doing so is essential. A major barrier is the lack of clear and effective enforcement processes for ICJ rulings. Governments are required by international law to implement ICJ decisions, but there is currently no open framework in place to make sure this happens. A number of factors, including those that are legal, institutional, and political in origin, may make it difficult for domestic courts to uphold ICJ decisions, even if some governments have incorporated international law into their domestic legal systems. Another challenge is the political nature of many cases heard by the ICJ. States that disagree with the ICJ on basic political or ideological grounds may be less inclined to adhere to its decisions. Furthermore, some governments can view ICJ decisions as unfair or biased, particularly if they think the court is only representing the interests of more powerful nations. Another issue is the lack of resources that are available to promote ICJ judgment compliance. However, despite their possible role in encouraging compliance, the UN General Assembly and other international institutions might not have the resources or political will to effectively carry out ICJ judgements. (Fikfak, 2015)

4. Recommendations to make ICJ Decisions more Binding

Strengthening current enforcement measures, such the UN Security Council's attempts to guarantee that ICJ judgments are adhered to, is one option. To achieve this, the Security Council's authority may need to be increased so that it may take more decisive action to ensure compliance, or new processes may need to be created to work with other parties and regional organizations to promote compliance. A third recommendation is to promote the use of arbitration and mediation as additional methods for resolving disputes when governments are at odds. For instance, this can entail constructing brand-new organizations or expanding already existing ones like the International Center for Settlement of Investment Disputes.

Not to mention, some have argued for the development of new legal frameworks to promote conformity to ICJ rulings. Other options include developing new international legal norms or developing new processes to hold states accountable for disobeying ICJ decisions. There are various and complicated proposals to make ICJ decisions more binding. More and more people are starting to recognize the advantages of enhancing the International Court of Justice's (ICJ) ability to enforce its judgments. However, by developing new legal frameworks and enhancing existing enforcement mechanisms, there are great opportunities to boost adherence to ICJ decisions and promote the legitimacy of the international legal order (PARK, 2018)

4.1 Efficacy Comparison of Various Enforcement Methods

Consequently, it is necessary to evaluate the effectiveness of various enforcement techniques for promoting compliance with ICJ judgements, given the drawbacks of current ICJ enforcement mechanisms. The implementation of ICJ decisions is partially done through the UNSC, national courts, and regional organizations. What can the UN Security Council do to enforce its adherence? Despite the fact that the Security Council can exercise this power, it was alleged that the Council is reluctant to do so in practice under Chapter VII of the UN Charter. On rare occasions, however, the Security Council has supported the ICJ decisions, particularly when Bosnia and Herzegovina and Serbia argued about the war crimes committed during the war in the former Yugoslavia. The significance of national courts in implementing the judgment made by the ICJ. Some governors with domestic legal system which is compatible with international law can be made to comply even through the local courts. But the local courts' efforts towards the enforcement of an ICJ verdict can be impeded by various legal, institutional, and political reasons (Štulajter, 2017)

4.2 The main results of this research are as follows

A major challenge for the international justice system involves the implementation of ICJ decisions. However, several legal, institutional, and political obstacles have restricted the powers of the (ICJ) to enforce its orders, though the latter has been indispensable in resolving international disputes to determine international law.

A variety of measures could be taken to ensure devotion to the ICJ judgment, but the efficacy of these tools depends on diverse and often uncontrollable legal, institutional, and political aspects. Regional organizations might also be of great importance to promote compliance with ICJ decisions in addition to the UN Security Council and national courts. Challenges and limitations of ICJ's current enforcement tools demand new legislative frameworks, stronger enforcement mechanisms and greater support for international legal and rule of law.

The issue of non-compliance of certain nations to the resolutions of the ICJ evidences that states have to take an active role towards the formation of the international law. The states actions contribute greatly to the legality of the international law system and support the implementation of the ICJ verdicts. Nations could do this by helping in the drafting, ratification and implementation of international legal instruments. They could also use other approaches, including promoting international legal norms and standards. However, this poses a problem for the future of international law when it comes to implementation and enforcement of ICJ decisions. These needs include development of international law more involvement and participation of the states; more new legal frameworks and strong enforcement mechanisms and the development of international standards and rule of law. By doing this, we can help to promote conformity to international legal norms and principles and strengthen the credibility of the global legal system as a whole.

5. Conclusion

This paper explored the issues relating to noncompliance with and enforcement of ICJ court decision as well as the effectiveness of different measures and their legal foundations to the enforcement and abidingness of the judgements. Therefore, this chapter reviewed the ICJ's jurisprudence and identified factors that determine compliance and the roles of the UN, national courts and regional organizations towards enforcement of its decisions. The present chapter has covered a number of topics in an argument towards enhancing ICIS enforceability, such as alternative dispute resolution mechanisms, civil societies, public opinions, and technology. The enforceability of international judgments and the advancement of international law is discussed and concluded in this chapter. In this Chapter, there is a thorough assessment of the factual performance of alternative approaches for enforcing ICJ judgments relevant to policymakers, scholars, and practitioners striving to promote international rule of law.

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