

The Enforcement Dilemma in International Law

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Abstract

Law is the tool used by authority to control the behavior of group(s) for the protection of interests, rights, and titles, most probably for the one who can't by himself, by imposing duties and obligations on others. The smooth assurance can be performed by imposing restrictions and penalties, sometimes even resulting in loss of life through proper adjudication and enforcement mechanisms uniformly across the territory. Missing any essentials, including sovereign authority over a certain territory, independent courts, and enforcement machinery, makes the law ineffective and limited to paper only. No doubt, the enforcement of international law remains one of the most contested questions in global governance. This research work will make an attempt to dig out whether international law has these essentials by critically examining the enforcement dilemma and grounding theoretical debates in real-world events such as the Russia–Ukraine conflict and Israel–Palestine. Powerful states like the U.S. show resistance to the International Criminal Court, and the mixed record of tribunals in Rwanda and beyond further complicates the picture. Finally, the paper argues that if international law cannot replicate the coercive certainty of domestic law, then realistic reforms must be considered, including greater reliance on regional institutions, private actors, and business forums, to strengthen credibility and close the gap between law and practice.

Keywords: Enforcement of international law, Sovereignty and global governance, International adjudication mechanisms, Power politics and compliance, International criminal justice

Introduction

In the 19th century, jurist John Austin gave his definition of law under the “Command Theory,” wherein he defined law as the command of a sovereign backed by sanctions. Although it is not universally accepted, it provides two very basic essential elements of the law: command, known as binding legislation, and sanctions in case of violation. It can be safely argued that without a sovereign legislature, an empowered judiciary with universal compliance, and an executive authority free from the veto power of great powers, international law remains largely ineffective. By in-depth analysis of international law and its framework as compared to the domestic one, and by studying some real-world international cases and the role of the UN, international courts or tribunals, the UN Security Council, and veto power, we can get a clear image of why international law has enforcement dilemmas. This is the core subject of this research work, which will help us understand why international law cannot always mirror domestic legal mechanisms, resulting from political ground realities, power asymmetries, and institutional limitations, which shape the effectiveness of global legal governance.

Legislation: Legislation is the process of making law through which rules and regulations are formed, which are codified and apply in a defined territory to regulate the behavior of individuals, communities, or groups by defining rights and obligations for each. For the purpose of this research, we will limit ourselves to domestic law and international law. Domestic legal systems are underpinned by a central legislative authority such as parliament, usually in codified form. Its primary duty is to enact binding laws that apply uniformly across the state's territory, irrespective of individual consent within the jurisdiction. This not only establishes a clear hierarchy of laws but sets pre-defined procedures for their enactment and amendment. In contrast, the primary sources of international law are treaties (conventions) and customary practices of international relations in the context of law. It is pertinent to mention that treaties are agreements between states that bind the signatory parties with the liberty of lawful withdrawal, while customary international law arises from the widespread and consistent practice of states accepted as law (*opinio juris*). This means that states are bound by international law if they have consented to it. Simply, law is important because it gives us clear rules and regulations for living. Everyone knows their boundaries and possible consequences. It deters wrongdoers and compels everyone to play fair by bringing predictability to society. Otherwise, people would rely on their own power or strength to settle conflicts. Which would lead to injustice because the stronger party would always win, despite being dis-entitled. The same can be applied to states in the context of international law.

After a brief introduction of the sources of international law, let us drag the query: does international law have such a centralized binding legislature? If yes, how does it work? The answer is very clear — yes, it may have a legislative body in the form of the United Nations General Assembly, but it is neither central nor binding, although it can pass resolutions and declarations. This is the core reason for the enforcement dilemma in international law as compared to domestic law. This want reproduction of previous para “The majority of international law states are only bound if they consent, making laws optional, uneven, and creating a scenario of run in case of loss.” Moreover, one other major aspect is that the Domestic law is guided by constitutional procedures and majority rule while the international law is often shaped by power politics. As the subject of this paper is enforcement dilemma in international law, regarding the enforceability article 25 of the UN Charter states: "The Members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with the present Charter." Bare reading of this article suggests that all the member states grant the Security Council the power to make decisions that are legally binding on them. For the establishment of stance, let reproduce Article 2(4), which deal the Prohibition on Use of Force by stating: “All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.” Read with Article 51 dealing the exception in case of self-defense. No-doubt, most states including Israel is parties to the four Geneva Conventions of 1949. As per international law such rectification makes these 196 countries legally bound to follow these rules during armed conflict including but not limited to:

- I. **Geneva Convention IV (1949), Articles 27–34 & 47–78:** Protects civilians including women and children in times of war.
- II. **Common Article 3 to all four Geneva Conventions:** Prohibits murder, violence of all kinds including taking hostages, and outrages on personal dignity.

- III. **Additional Protocol I (1977), Articles 51 & 52:** Prohibits direct attacks on civilians and their property.
- IV. **Additional Protocol I, Article 10 & 12:** Ensuring medical aid must not be obstructed.
- V. **Rome Statute of the International Criminal Court (1998), Article 8** – Classifies above violation as war crimes.

Interestingly, Under **Articles 146–147 of the Fourth Geneva Convention** member states are obliged to **search for persons alleged to have committed grave breaches** and either prosecute them in their own courts, or extradite them to a state willing to prosecute.

This is an appropriate stage to examine relevant real-world cases to judge, whether these articles of the UN Charter are actually honored by member states or not? On the one side the core subject of the International Criminal Court (ICC) is Crime of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (1948). While on the other side heinous acts took place in Rwanda, Bosnia, and Myanmar and currently by Israel in Gaza. Reports of UN, human rights organizations, and internationally respected journals indicate that Israel imposed a full siege on Gaza by cutting off food, water, and fuel for its 2.2 million people and awarding them a collective punishment including innocent children, women and advanced age people which is strictly prohibited under the Geneva Conventions¹. The widespread bombing in densely populated areas leads to a high number of civilian casualties compared to combatants which is disproportionate and indiscriminate resulting in violation of the internationally recognized principles of distinction and proportionality.

However, we can safely say that international legislation saved lives demonstrated in a solid case including the one famous by title Prosecutor v. Akayesu (1998) before the International Criminal Tribunal for Rwanda (ICTR) where reportedly it was the first case to convict a person for genocide under the Genocide Convention for sexual violence as a form of genocide and deterring future atrocities.² Intervention under the Responsibility to Protect (R2P), enforcing a no-fly zone and stopping attacks on civilians in Benghazi by preventing large-scale killings. Some critics of international law believe that such implementation of international law is purely based on a selective approach because it is only implementable on poor states or against those who are not backed by strong nations, comparing the nationality of those who are convicted with those who are freely moving despite the issuance of their arrest warrants.

Judiciary: The judiciary is one of the three main pillars of any political system. Any judicial system consists of a hierarchy of courts that give binding judgments based on the interpretation and application of statutes. In some countries the judgments of courts used as binding law for the purpose to fill gaps left by legislative. The judiciary acts as the guardian of justice and the rule of law by ensuring that freedom within the boundaries prescribed by law. Another prime function of the judicial system is to ensure that no one stand above the law including the government. A strong

¹ *Office of the United Nations High Commissioner for Human Rights (OHCHR), Report on the Human Rights Situation in the Occupied Palestinian Territory, Including East Jerusalem, UN Doc. A/HRC/56/CRP.4 (Geneva: United Nations Human Rights Council, April 2024).*

² *International Criminal Tribunal for Rwanda (ICTR), Prosecutor v. Jean-Paul Akayesu, Case No. ICTR-96-4-T, Judgment (Trial Chamber I), 2 September 1998, paras. 597–598, 731–734.*

independent judiciary builds trust in the legal system by punishing wrongdoers and protecting the innocent. This directly encourages people to resolve their disputes peacefully within the institutions of the state rather than using force or becoming violent either by choice or by obligation. For demonstration the authority of domestic courts can be seen when Pakistan's former Prime Minister was hanged to death by Lahore High Court due to being found guilty of murder conspiracy.³ Moreover, in 2009, Alberto Fujimori (Peru) was sentenced to 25 years in prison for human rights abuses.⁴ Like the Domestic judicial system, International Judicial system is also consistent upon different courts and tribunals. Here, we would name two big forums for adjudication i.e., the International Court of Justice (ICJ) and International Criminal Court (ICC).

The International Court of Justice which is also known as "World Court" was established in 1945 under UN Charter as a primary organ for the purpose of resolving disputes between member states. It deals with the dispute by issuing an "Advisory Judgment" to resolve the conflict peacefully but its jurisdiction can be invoked only by the consent of both disputing parties unlikely domestic courts. ICJ is consistent upon 15 independent judges, only one can be selected from a single state for a period of 9 years through both the UN General Assembly and Security Council by an absolute majority. Under Article 36 of UN Charter, it has jurisdiction over Territorial disputes, maritime boundaries, diplomatic relations, treaty interpretation, use of force, and environmental disputes, etc.

We shall now examine the process of adjudication before the International Court of Justice (ICJ). An aggrieved state can file an application under Article 36 of the ICJ Statute or parties to a dispute through a special agreement invoke the jurisdiction of ICJ. If the unilateral jurisdiction of the ICJ is invoked, the other party may present preliminary objections to challenge the jurisdiction and admissibility in accordance with Articles 36(2) and 79 of ICJ Statute. Onward memorials, counter-memorials, rejoinders exchanged in line with Article 53–55 of said statute. Following Article 59, judges make a binding decision by majority after a public hearing, irrespective of the fact that ICJ cannot impose sanctions or enforce its decisions. What makes it unique is no concept of appeal, although interpretation or revision is possible by utilizing Articles 60 and 61. If any Judgment-Debtor in a case does fulfil its obligations, Judgment-Holder may seek help from the Security Council as stated in Article 94 for the implementation, but the Veto power often blocks such execution.

It's time to repeat the previous exercise of considering a real-world scenario dealt with by ICJ. The *Nicaragua v. United States* (1986) case can be a perfect example wherein a judgment was issued against the U.S. regarding unlawful use of force and support for the Contras. Judgment of ICJ was ignored by the U.S. resulting in prolonged conflict and civilian deaths in Nicaragua⁵. Another incident can be reported about the *Bosnia and Herzegovina v. Serbia and Montenegro* (1993–2007), a genocide case wherein the ICJ explicitly acknowledged Serbia's failure to prevent the Srebrenica massacre, but due to the enforcement dilemma of international law ruling thousands had already

³ *Zulfikar Ali Bhutto v. The State*. PLD 1979 SC 53. *Supreme Court of Pakistan*.

⁴ *Public Prosecutor v. Alberto Fujimori Fujimori*. Judgment of 7 April 2009. *Special Criminal Chamber of the Supreme Court of Justice of Peru*.

⁵ *International Court of Justice (ICJ), Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America), Merits, Judgment of 27 June 1986, I.C.J. Reports 1986, 14, paras. 190–200, 292–293*.

been killed before the decision⁶. Similarly, in Israel's Separation Wall Advisory Opinion (2004), the ICJ held that construction of the wall in Palestinian territories was illegal and it is a violation of fundamental rights of Palestine and as expected the decision was disregarded, which not only resulted in the forced displacement, movement restrictions, and finally resulted in the recent war between Israel and Palestine.⁷ Moreover, a recent example of the ICJ's enforcement challenge is the South Africa v. Israel (2024) case.⁸ The Court issued binding provisional measures that required Israel to prevent acts of genocide and to allow humanitarian aid into Gaza. Despite this, reports from Human Rights Watch, other organizations, and state show non-compliance. There are ongoing restrictions on aid and harm to civilians.

Another court that is designed to cover the cons of ICJ is the International Criminal Court (ICC). It is a permanent tribunal established by the Rome Statute having jurisdiction over individuals instead of state to prosecute individuals so that perpetrators of grave crimes can be personally held accountable even if the state wants to shield them. This formulation may be helpful to prevent impunity in delivering justice to victims and deters future crimes for the most serious crimes of international concern genocide, war crimes, crimes against humanity, and the crime of aggression. Unlike the expectation the ICC too often suffers from limited jurisdiction because it relies on state cooperation for arrests due to having no executive authority. Reportedly its orders and indictments have occasionally been ignored and obstructed by powerful states undermining its authority. For instance, ICC issued the arrest warrants against Sudanese President Omar al-Bashir for genocide and crimes in Darfur but he travelled freely even continued political influence despite the fact that many victims remained unprotected.⁹ Once more arrest warrant, which created international hype was of Russian President Vladimir Putin over alleged war crimes in Ukraine in March 2023.¹⁰ Similarly International Criminal Court (ICC) too issued arrest warrants for Israeli Prime Minister Benjamin Netanyahu and former Defense Minister Yoav Gallant in November 2024¹¹ for war crimes and crimes against humanity in Gaza conflict but despite such arrest warrants, an increase in the use of starvation as a method of warfare and intentionally targeting civilian infrastructure was observed.

⁶ *International Court of Justice (ICJ), Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro), Judgment of 26 February 2007, I.C.J. Reports 2007, 43, paras. 430–438, 471.*

⁷ *International Court of Justice (ICJ), Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion of 9 July 2004, I.C.J. Reports 2004, 136.*

⁸ *International Court of Justice (ICJ), Application of the Convention on the Prevention and Punishment of the Crime of Genocide (South Africa v. Israel), Provisional Measures, Order of 26 January 2024, I.C.J. Reports 2024, paras. 54–62, 78–86.*

⁹ *International Criminal Court (ICC), Prosecutor v. Omar Hassan Ahmad Al Bashir, Case No. ICC-02/05-01/09, Warrant of Arrest (Crimes against Humanity and War Crimes), 4 March 2009; Second Warrant of Arrest (Genocide), 12 July 2010.*

¹⁰ *International Criminal Court (ICC), Prosecutor v. Vladimir Vladimirovich Putin, Case No. ICC-01/22, Warrant of Arrest, 17 March 2023, paras. 1–25.*

¹¹ *International Criminal Court (ICC), Situation in the State of Palestine: Arrest Warrants for Benjamin Netanyahu and Yoav Gallant, Pre-Trial Chamber I, Warrant of Arrest, 21 November 2024, ICC-01/18-387, paras. 1–15.*

This never means that the ICC order was never honored. A Prominent case that may be referred to demonstrate the enforcement of the international court's rule is *Prosecutor v. Thomas Lubanga Dyilo*, which was decided in 2012 by ICC and convicted a Congolese militia leader for conscripting and using child soldiers, and the court successfully awarded him 14 years in prison¹². Likewise, the ICJ in the Corfu Channel Case (*UK v. Albania, 1949*) gave its decision against Albania by holding them responsible for mine explosions which resulted in British sailors' death and thus Albania complied and paid the damages in 1955.¹³ The author chooses not to repeat the critics' viewpoint here, pertaining to successful cases occur mainly because it favors stronger nations against weaker ones.

UN Security Council: The United Nations (UN) is the most important organ of UN established in 1945 after World War II with the aim of protecting and maintaining international peace, preventing wars, and enforcing binding decisions on member states under Chapter VII of UN Charter by working as an executive authority in the context of international law. In a similar fashion to local investigation authorities, it is the duty of UN Security Council to investigate any situation that could threaten international peace, then recommend methods of peaceful resolution if fail then to impose legally binding sanctions on member states, and worst to use force including the deployment of armed forces peacekeeping missions. It has five permanent members including the US, UK, China, France, and Russia, while 10 states are elected by the General Assembly for 2-year terms based on regional representation.

The most controversial and defining feature of the Security Council is the veto power, takes into account a hypothetical state causing grave harm to international peace and responsible for the deaths of millions of innocent people. A resolution is passed by United Nation to halt the aggression and the matter comes before UN Security Council and all the members of UNSC decided to use force against that state by 14 out of 15 members in support after exercising all peaceful means, but the remaining one permanent-member state used its Veto Vote in favor of the belligerent state. This single "no" vote is sufficient to block a resolution regardless of the support it has from the other 14 members. As a result, no matter how many innocent lives are taken or will be taken, no preventive action will be practice. This theory did not occur due to fear; rather, it happened recently. The U.S. used its veto power time and again in the UN Security Council to block resolutions calling for a ceasefire in favor of Israel and shield them from diplomatic pressure¹⁴, which resulted continuation of military operations, and reportedly Israel has killed nearly 19,000 children in Gaza¹⁵, while

¹² International Criminal Court (ICC), *Prosecutor v. Thomas Lubanga Dyilo, Case No. ICC-01/04-01/06, Judgment (Trial Chamber I), 14 March 2012, paras. 589–593.*

¹³ Likewise, the ICJ in the Corfu Channel Case (*UK v. Albania, 1949*) gave its decision against Albania by holding them responsible for mine explosions which resulted in British sailors' death and thus Albania complied and paid the damages in 1955.

¹⁴ US News. (2024, February 20). US casts third veto of UN action since start of Israel-Hamas war. US News. <https://www.usnews.com/news/world/articles/2024-02-20/us-casts-third-veto-of-un-action-since-start-of-israel-hamas-war>

¹⁵ Al Jazeera Staff. (2025, August 19). Israel has killed nearly 19,000 children in Gaza war as strikes intensify. Al Jazeera. <https://www.aljazeera.com/news/2025/8/19/israel-has-killed-nearly-19000-children-in-gaza-war-as-strikes-intensify>

according to UNICEF, more than 50,000 children reportedly killed or injured in the Gaza¹⁶. Similarly, Russia and China have repeatedly used their vetoes to shield their own allies and interests from international scrutiny. Most recently, on April 12, 2017, Russia vetoed numerous resolutions condemning a suspected chemical weapons attack in Syria, even though nearly all other members of the Security Council supported it¹⁷. Yet, At the same time, when thousands of innocent people were being killed during the Bosnian War in the 1990s. The United Nations, through its Security Council, stepped in and sent peacekeeping forces to protect civilians which aftermath saved lives of thousands of innocent people¹⁸. Moreover, Rwanda faced one of the worst genocides in history in 1994 and as result nearly a million people were killed in just a few months. Eventually UN Security Council send peacekeeping forces to stop the killings and protect the survivors though criticized for being late¹⁹. Above all, the UN created the International Criminal Tribunal for Rwanda (ICTR) for accountability of genocide's leaders to justice. It held accountable high-ranking political, military, and media representatives who orchestrated and incited the murders. This shows that the United Nations Security Council can prevent threats to international peace and security. However, its effectiveness relies on the political will and shared interests of its member states.

Enforcement Dilemmas: Upon careful consideration of both positive and negative aspects, it is up to the reader to decide whether international law is fulfilling the requisites of law or does it fall under the definition of law. It is clearly evident that serious concerns and dilemmas persist in relation to its enforcement. Such dilemmas can pose a serious threat to global peace and security if left unaddressed. Ironically, this threat may not be limited to the weaker states only but can also become a hazard for the very countries holding veto power. This claim has two strong standings; one, such excessive or biased use of this privilege can damage the moral authority and diplomatic standing of these nations, and it can foster resentment among the international community, including isolation of veto-wielding states, and weaken their ability to build alliances. Secondly, what if one veto-holding country becomes the victim of aggression by another veto-holding state?, it can possibly be in near future between the America and Russia, under these circumstances, the victim state would find it extremely challenging to seek justice through the Security Council against the aggression, because the aggressor could simply use its veto to block any resolution and thus it would cause the death of innocent citizens, including children and women. Therefore, it is very necessary to highlight these dilemmas from different aspects to overcome them; otherwise, international law may continue to struggle to achieve its core objective. The major impediment in the true enforcement of international law can be:

¹⁶ UNICEF. (2025, May 27). 'Unimaginable horrors': more than 50,000 children reportedly killed or injured in the Gaza Strip. <https://www.unicef.org/press-releases/unimaginable-horrors-more-50000-children-reportedly-killed-or-injured-gaza-strip>

¹⁷ Bhargava, R. (2018). *The Security Council veto and Syria: Responding to mass atrocities through the "Uniting for Peace" resolution*. *Indian Journal of International Law*, 57(2), 285–307.

¹⁸ United Nations Security Council. (1993, June 4). *Resolution 836 (1993) concerning Bosnia and Herzegovina*. [https://undocs.org/S/RES/836\(1993\)](https://undocs.org/S/RES/836(1993))

¹⁹ United Nations. (1994, May 17). *Security Council Resolution 918 (1994) concerning Rwanda: Imposing an arms embargo and expanding protection of civilians under UNAMIR*. United Nations. [https://undocs.org/S/RES/918\(1994\)](https://undocs.org/S/RES/918(1994))

Centralized Legislative Body: International law has no single centralized parliament or legislative body with the authority to enact binding rules for all states. United Nations resolutions, for instance, have a limited scope. They apply only to member states and need assent among the permanent members of the Security Council to have binding power. These times-consuming formalities and reliance on political consensus among the member states lead to delays or diluted decisions, which may not be fruitful for the redressal of emergencies as many have already lost their lives. Moreover, this allows many global crises to continue for years, a clear example can be the ongoing conflict in Syria and Gaza, reflecting how absence of a united global law slowed down necessary actions and resulted in prolonged humanitarian suffering. In contrast, domestic legal systems have a centralized parliament or legislative body that can quickly make laws, which is not only applicable to all citizens but have the potential of addressing any law-and-order scenario.

- I. Judicial Limitations:** International courts are structurally constrained by the concept of state sovereignty, meaning that a state cannot be bound to a court's jurisdiction unless it has expressly agreed to it. Therefore, judgment execution is purely reliant on state cooperation and the consent of party states. A judgment debtor always has an option to revoke consent for obstructing adherence to decisions, and this is the prime reason for the lack of direct enforceability of international law. In contrast, domestic courts exercise compulsory jurisdiction over disputes within their territories and possess established enforcement mechanisms for the potential of implementation of their decisions irrespective of subject consent. This dilemma of international law significantly weakens the universality and effectiveness of international justice. The ICC, having jurisdiction over individuals rather than a state but still depends solely on state cooperation to carry out arrest warrants, dealing evidence, or facilitate any transfers of grave violators. Despite the fact, the ICC is mandated to prosecute cases involving aggression, war crimes, crimes against humanity, and genocide. The Court's authority is essentially symbolic in the absence of such cooperation. The arrest warrant against Israeli Prime Minister Benjamin Netanyahu illustrates this dynamic. Despite serious allegations of international crimes, the absence of universal jurisdiction and the selective cooperation of states have enabled him to travel around the world without facing apprehension.
- II. Absence of Centralized Enforcement:** The enforcement dilemma in international law is most acutely reflected by the absence of a centralized supranational enforcement body simply a global police authority. The enforcement of international judgments and arrest warrants is delegated to national governments. Which often leaving compliance to the discretion of the very actors accused of violations. Although international norms and judgments may be legally binding but their practical implementation remains uncertain and politically contested. Consequently, individuals accused of international crimes frequently evade accountability, thereby fostering an environment conducive to repeated violations. This converts binding legal obligations into requests for assistance, rendering compliance discretionary rather than mandatory. Unlike, domestic legal systems possess the inherent power to direct and compel the police or the executive branch of government to execute its orders.
- III. The Veto Power:** The veto privilege enjoyed by the five permanent members of the United Nations Security Council constitutes a fundamental structural obstacle to collective action

and to the consistent enforcement of international law. Since the establishment of the UN, the P5 states have utilized this right on more than 320 documented occasions, primarily by Russia (the former Soviet Union) and the United States.²⁰ Many human rights organizations argue that these vetoes have directly contributed to worsening violence and civilian suffering because the UN or its organ could not act. Sometimes the veto doesn't just stop peace efforts but it actually makes things worse. Instead of calming situations, it works like pouring oil on the fire by giving protection to those fueling wars and this allows conflicts to drag on even longer. While in domestic legal systems, no single person even a group has the authority to stop justice.

- IV. Exit Option for States:** In international law, states can simply walk away from agreements when the rules no longer serve their interests. It is because at the international level, states often treat legal duties as a matter of convenience, for example, in 2017 the United States announced its withdrawal from the Paris Climate Agreement by arguing that the deal was unfair to U.S. workers and industries²¹. US was free to step down, despite the fact being world's largest emitters of greenhouse gases, being one of the world's biggest polluters. A more recent example is Russia's withdrawal from the European Court of Human Rights (ECHR) in 2022²², following its invasion of Ukraine. ² By leaving, Russia closed the door on thousands of ongoing human rights cases against it and made it harder for victims to seek justice at the international level. In contrast, people living under domestic law cannot simply "opt out" of rules they dislike.
- V. State Sovereignty:** Many states use the principle of sovereignty as a channel of immunity to shield their violations. Every now and then, claiming independence results in a refusal to follow international law and becomes a threat to international peace. States occasionally argue that outside interference violates their independence, even when they are committing serious abuses. For example, China rejected international rulings on the South China Sea, particularly, following the decision Permanent Court of Arbitration in 2016 by arguing that it's as invalid, alleging sovereignty over the disputed waters. Simply, Sudan refused to hand over Omar al-Bashir to the International Criminal Court despite arrest warrants for genocide and war crimes in Darfur. The government argued that surrendering a sitting head of state would violate Sudan's sovereignty. In both cases, sovereignty became a tool for defying international law. This stands in sharp contrast to domestic legal systems, where individuals cannot claim "personal sovereignty" to escape the law. A citizen charged with a crime cannot simply say they are independent and therefore immune from prosecution.
- VI. Political Interests Over Justice:** Powerful states on certain occasions use international law for their own gain, irrespective of the possible consequences for other states. States support the decisions of the UN and international courts only when they align with their foreign

²⁰ Oxfam. 2024. *Vetoing Humanity: How P5 Security Council Vetoes Undermine Global Peace and Security*. Boston, MA: Oxfam America.

²¹ Davenport, C. (2017, June 1). *Trump will withdraw U.S. from Paris Climate Agreement*. *The New York Times*. <https://www.nytimes.com>

²² *European Court of Human Rights*. (2022, September 16). *Russia ceases to be a Party to the European Convention on Human Rights*. ECHR Press Release. <https://echr.coe.int>

policy. For example, the United States has backed the International Criminal Court (ICC) when it investigated leaders from countries like Sudan but when the same institutions investigate their own actions or those of their allies for war crimes in Afghanistan. US leave no room for cooperation with such investigations, even treating them as a threat to their sovereignty and even going so far as to impose sanctions on ICC officials²³. By contrast, domestic courts are expected to apply the law equally to everyone, regardless of political preference.

VII. Non-State Actors: Terrorist groups and private armies are not fully covered by international law which leaves a major gap in global peace and security efforts. When a foreign state or authority wants to use its force to address of illegal acts committed by non-state actors, the non-state actor compels the state to prevent such action by threatening to disturb further internal peace and political system and the states which are politically weak are left with no option but to do so. In contrast, when a foreign authority comes into action it leads to suffering and instability for civilians who often have no control over the group's decisions. For example, Hamas has caused serious problems for the people of Palestine fueling wars without facing the same legal consequences. The rise of such groups shows how fragile international law can be when it comes to actors that do not officially represent a state. These groups are operated across borders recruit fighters globally and use modern technology for propaganda and attacks which makes them even harder to control. Without proper mechanisms to deal with non-state actors global security will always remain at risk.

Possible Pathways for Resolving the Over-Enforcement Dilemma: The enforcement dilemma can possibly be addressed through practical and balanced approaches that make enforcement more effective while avoiding concentration of power in the hands of a few states. A fair system is the need of the hour, as it must protect weaker and politically less influential countries from being left at the mercy of dominant authorities. Simply, a step-by-step binding commitments can make enforcement more reliable even if goes against a powerful state rather than an ideal and impractical approach.

I. Binding General Assembly Resolutions: Every resolution passed by the UNGA is non-binding under Article 10, except for matters relating to the internal functioning of the UN, such as the budget. Only those resolutions adopted by the Security Council acting under Chapter VII are legally binding on all member states within the scope of Article 25. This structure often leaves the General Assembly with limited authority. By using Article 108, which permits member states to enact any amendments by a two-to three majority, the scope of Article 25 could be expanded to make resolutions adopted by a two-thirds majority in the General Assembly legally binding, at least on non-military matters, rather than mandating approval from all five permanent members in each case. By this, the protocol of the Security Council would remain intact because its major concerns are usually about military action. It will reduce the likelihood of strong opposition from the permanent members of the UNSC.

²³United Nations. (1945). *Charter of the United Nations and Statute of the International Court of Justice*. San Francisco: United Nations.

- II. Reform Veto Power:** The current veto system allows even a single permanent member of the Security Council to block a resolution. Since any formal change to the UN Charter requires the consent of all P5 members, and voting away own power will be near to impossible. Alternatively, the P5 members should make a voluntary, collective political pledge not to use the veto in situations involving genocide, crimes against humanity, or large-scale war crimes (mass atrocities). Moreover, a resolution should only fail if at least two permanent members vote against it. This would prevent any single Permanent Member from unilaterally blocking a resolution supported by a strong majority (nine out of fifteen Security Council members). The voting procedure outlined in Article 27(3) of the UN Charter, which calls for "the concurring votes of the permanent members," can be essentially changed by this modification. Attempting to pass the suggested change as a simple interpretive amendment to the Security Council's rules of procedure would be highly contested and nearly impossible. The idea that the remaining 188 member states could compel the P5 by withdrawing diplomatic relations is a complete ideal scenario. It is because even getting a two-thirds majority for an amendment is difficult. Therefore, a voluntary approach by these P5 members would be more practical and fruitful.
- III. Strengthening the Judicial Role:** The Jurisdiction limitations prevent ICJ and ICC from being a reliable check on the misuse of power by dominant states. A starting point is to expand the use of advisory opinions. General Assembly can request advisory opinions from the ICJ under Article 96. A procedural resolution (not subject to a P5 veto) could be passed by the Assembly mandating that the Assembly automatically seek an ICJ opinion on the legality of the situation whenever a P5 veto prevents action on a Chapter VII matter. Although such an opinion by the ICJ will be not legally binding but such legal determinations would create political and moral influence on the vetoing state. This will raise the cost of unilateral obstruction before the international community. A stronger step would be to compel the Security Council through a General Assembly resolution or political agreement to consider an ICJ ruling as a binding authority. Whenever a state has been found violating its duties as a "breach of the peace" as defined by Article 39 of the Charter by the ICJ, the UNSC must deal with it as a resolution for taking actions involving military and non-military measures under UN Charter. Moving toward more ambitious reform, member states could adopt a new protocol granting the ICJ compulsory jurisdiction over disputes involving the interpretation or application of the UN Charter. This would allow the Court to assess the legality of state actions, and even the validity of Security Council resolutions, including the use of a veto but again P5 member would likely resist it. To move toward this, the other non-P5 states would need to establish a precedent of extreme political and economic isolation against any P5 member that vetoes the enforcement of a clear ICJ judgment, making the cost of the veto too high. ICC focuses on individuals responsible for crimes such as genocide, war crimes, and crimes against humanity. The international community should universally embrace the principle of "universal jurisdiction" for the core ICC crimes. This would allow any state to investigate and prosecute an individual for these crimes, regardless of where the crime occurred or the nationality of the perpetrator or the victim. The accused should be presented before ICC officials if the state does not wish to punish him itself. After reviewing the case, the ICC would apply international law to punish

the accused if guilt was established. Since the Court is composed of judges from different states, so its decisions will be not on part of single state.

IV. Global Executive Force: A major weakness of the UN system is the lack of an executive arm to enforce international law. UN needs highly trained Rapid Deployment Core within the UN Secretariat's Department of Peace Operations, instead of relying on *ad hoc* contributions. This force would not only initiate Chapter VII actions but essential tasks such as protecting humanitarian operations, enforcing sanctions, or transferring ICC detainees. Article 43 of the UN Charter requires member states to make armed forces available to the Security Council for enforcement action. Why not states could agree to establish small specialized multinational units under UN command. Every UN member state should agree to contribute a fixed share of its armed forces. A realistic proposal is that each state provides at least 5 percent of its military strength to a global executive force. This force should not continue to be governed by the Security Council, where the veto can halt action, in contrast to current UN peacekeeping. The ICC and ICJ could be given operational authority instead, as they are both governed by the law and are not subject to political pressure. While the ICJ could authorize operations to enforce adherence to international rulings, the ICC could direct actions against those accountable for war crimes. Bypassing the UNSC and placing the force under the ICJ/ICC's command is a direct constitutional violation of the Charter. Therefore, the global executive force should remain under the formal command of the UN Security Council to comply with the Charter. However, both the ICJ and ICC must have the right to seek its assistance when a state or individual is found in violation of international law. This request could be made through an official letter to the Security Council. The Security Council must vote on such a request after it is submitted. Action shouldn't be blocked by a single veto. Rather, at least two permanent members would need to vote against it in order to reject it. If the Security Council fails to hold a vote within 14 days, the request will automatically be considered approved. In such cases, the global force would temporarily shift under the direct operational authority of the ICJ or ICC for that specific task.

Conclusion: The enforcement of international law remains feeble because it lacks the strong institutions that make domestic law effective. The lack of binding laws, authoritative Courts, and global force limits international law only to papers. Similarly, the veto power in the Security Council consistently undermines real justice, as can be seen in cases from Ukraine to Gaza. No doubt, the political will of powerful nation's defeats legal obligations. A state is always at liberty to withdraw from treaties when it suits them. Still, true enforcement and utilization of international law have shown positive outcomes in certain cases, such as Rwanda and the conviction of war criminals in international tribunals. These examples prove that international law can deliver justice if supported by political will. All it needs is few reforms of reducing the misuse of veto power, making General Assembly resolutions binding, honoring the verdict of international courts by creating credible enforcement mechanisms by powerful states.

List of Abbreviations and Acronyms:

Abbreviation / Short Form	Full Form / Meaning
Article 2(4)	Prohibition on Use of Force (UN Charter provision)
Article 25	Obligation of Member States to carry out Security Council decisions
Article 27(3)	Voting procedure in the Security Council
Article 36	Jurisdiction of the International Court of Justice (ICJ)
Article 39	Security Council power to determine existence of threats to peace
Article 43	Member States' obligation to provide armed forces to the Security Council
Article 94	Enforcement of ICJ Judgments through Security Council
Article 96	Power of General Assembly to request advisory opinions from ICJ
Article 108	Amendment Procedure of the UN Charter
Additional Protocol I (1977)	Protocol to the Geneva Conventions relating to the protection of victims in international armed conflicts
ECHR	European Court of Human Rights
GC IV	Geneva Convention IV – Protection of Civilians in Time of War
Geneva Conventions (GC)	Four treaties of 1949 governing humanitarian treatment in war
ICC	International Criminal Court
ICJ	International Court of Justice
ICTR	International Criminal Tribunal for Rwanda
Paris Agreement	Paris Climate Agreement (2015)
P5	Permanent Five Members of the United Nations Security Council (U.S., U.K., France, Russia, China)
R2P	Responsibility to Protect
Rome Statute	Treaty establishing the International Criminal Court (1998)
South China Sea PCA Case	Permanent Court of Arbitration Ruling (Philippines v. China, 2016)
UK	United Kingdom
UN	United Nations
UN Charter	Charter of the United Nations
UNGA	United Nations General Assembly
UNICEF	United Nations International Children's Emergency Fund
UNSC	United Nations Security Council
U.S. / US	United States of America

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