



The effectiveness or otherwise of judgments of the International Court of Justice: Law, institutions and the limits of compliance

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Abstract

The peaceful settlement of disputes between states had long depended on the existence of institutions capable of delivering binding decisions and inducing states to respect them. The International Court of Justice occupied the central position within that framework, and since its inception in 1946 had delivered judgments across a wide range of inter-state disputes. However, the binding character conferred on those judgments did not, of itself, guarantee that they were complied with. This article examined the effectiveness, or otherwise, of ICJ judgments, having regard to their legal nature, the extent to which they secured meaningful outcomes, the challenges that undermined their effectiveness, and the measures capable of strengthening it. Adopting a doctrinal methodology, the article found, first, that effectiveness was structurally constrained by the absence of an independent coercive enforcement mechanism and by the vulnerability of Security Council enforcement under Article 94(2) to the veto. It found, second, that formal compliance by a losing state did not, by itself, guarantee that a judgment achieved its underlying purpose, since institutional weaknesses on either side of a dispute could independently undermine effectiveness. Accordingly, the article recommended a voluntary veto restraint for Article 94(2) referrals, a standing compliance-monitoring body, advance domestic implementing legislation, and independently audited reparations-distribution mechanisms. It concluded that the effectiveness of ICJ judgments was not an inherent property of the Court's legal and institutional design but a contingent outcome dependent on political will and institutional capacity at every level.

Keywords: International Court of Justice, judicial effectiveness, compliance, enforcement, Security Council veto, international adjudication

Introduction

The International Court of Justice ('ICJ' or 'the Court') is the principal judicial organ of the United Nations, established under Chapter XIV of the UN Charter and formally inaugurated at The Hague in April 1946. Since its inception, the Court has delivered judgments across a wide range of inter-state disputes and has contributed significantly to the development of international law. Article 94(1) of the UN Charter obliges every member to comply with any ICJ decision to which it is a party, and Article 59 of the Statute confirms that such decisions are final and binding between the parties.

Yet this clear legal obligation has not guaranteed compliance. In 1986, the United States disregarded the judgment against it in the Nicaragua case and vetoed the Security Council resolution that would otherwise have called for its compliance. In March 2022, the Court ordered Russia to suspend its military operations against Ukraine; Russia neither participated in the hearing nor complied, and its own permanent Security Council seat rendered enforcement futile from the outset. These episodes, thirty-six years apart, expose the same structural problem: a court whose judgments are legally binding but whose practical effect depends entirely on the political will of the states against which it may be required.

This article examines the effectiveness, or otherwise, of ICJ judgments in five further parts. Part II sets out the conceptual and theoretical foundations necessary to assess effectiveness. Part III examines the legal and institutional framework governing ICJ judgments. Part IV identifies the challenges that undermine their effectiveness in practice.

Part V considers the prospects for strengthening that effectiveness. Part VI sets out the article's findings and recommendations, and Part VII concludes.

The analysis draws on the doctrinal method characteristic of legal scholarship, examining the relevant provisions of the UN Charter and the ICJ Statute, the Court's own jurisprudence, and the writings of publicists, while also engaging with the empirical and theoretical literature on treaty compliance developed within international relations scholarship. In doing so, it seeks to contribute to the existing literature in two specific respects, developed in Parts IV and VI below: by distinguishing more precisely between external political interference and internal institutional fragmentation as separate categories of obstacle to compliance, and by identifying a receiving state's own institutional capacity, distinct from a paying state's compliance, as an independent determinant of a judgment's practical effectiveness.

Conceptual and Theoretical Foundations

A judgment of the ICJ is a final, binding determination of the rights and obligations of the parties to a contentious case, to be distinguished from an advisory opinion, which carries no binding force under Article 94. Compliance refers to a state's actual conduct in response to a judgment, and is to be distinguished from enforcement, the institutional or coercive mechanisms available, in principle, to compel that conduct. Effectiveness, the central concept of this article, is understood in the practical sense developed by Shany: the extent to which a judgment induces compliant conduct, resolves the underlying dispute, and contributes to the

broad system of pacific settlement. This deliberately distinguishes effectiveness from mere binding legal force: a judgment may be binding and yet practically ineffective. Effectiveness has been approached through competing theoretical lenses. Realism treats international courts as incapable of constraining state behaviour independently of the underlying distribution of power, predicting that powerful states comply only where compliance serves their interests. Liberal institutionalism and constructivism, by contrast, emphasise institutions, shared norms, and identity as inducing compliance even against immediate material interest. Compliance theory occupies a middle ground, attributing much non-compliance to limited capacity or perceived legitimacy rather than deliberate defiance. No single theory offers a complete account: realism explains the defiance examined in Part IV, while compliance theory and institutionalism better explain the high aggregate rate of voluntary compliance documented in the empirical literature.

The ICJ is the successor to the Permanent Court of International Justice, established in 1920 and dissolved with the League of Nations. Its Statute, annexed to the UN Charter in 1945, has been treated by the Court itself as carrying forward the jurisprudence of its predecessor, and its caseload expanded markedly from the late 1980s onward, a period sometimes described as the Court's 'renaissance', during which the docket diversified to include maritime delimitation, environmental protection, and allegations of genocide and unlawful force, in addition to the more traditional territorial disputes that had dominated its earlier years.

Empirically, the picture is more encouraging than the cases discussed in this article might suggest in isolation. Schulte's comprehensive study of the Court's compliance record found that the overwhelming majority of judgments attract at least partial compliance, and Paulson's subsequent study of the post-1987 period reached a similar conclusion, finding that outright, sustained non-compliance of the kind examined in Part IV is the exception rather than the rule. The cases examined in this article were deliberately selected for their illustrative value in exposing structural weaknesses, and should not be read as representative of the ordinary run of the Court's docket.

Legal and Institutional Framework Governing ICJ Judgments

1. The Statute, Jurisdiction, and the Limits of Consent

The Statute is the Court's constitutive legal instrument, annexed to the UN Charter; every UN member becomes, ipso facto, a party to it upon admission. Contentious jurisdiction may be established by special agreement, by a compromiser treaty clause, or by a declaration under the optional clause of Article 36(2), by which a state accepts in advance the Court's compulsory jurisdiction reciprocally with any other declarant state. In every case jurisdiction rests entirely on consent; the Court possesses no inherent or compulsory jurisdiction of the kind domestic courts exercise, and where jurisdiction is contested, the Court determines the question itself under the principle of *compétence de la compétence*.

The Court also exercises a distinct advisory jurisdiction under Articles 65 to 68 of the Statute, at the request of the General Assembly, the Security Council, or other authorised UN organs and agencies. Because advisory opinions fall outside Article 94 altogether, they carry no binding force, yet some have proved highly consequential: in 2004 the Court found the construction of Israel's separation wall in the Occupied Palestinian Territory unlawful, and in 2019 it found the United Kingdom's continued administration of the Chagos Archipelago unlawful and called for the decolonisation of Mauritius to be completed. Israel has not complied with the Wall opinion; the United Kingdom initially resisted the Chagos opinion before reversing its position and signing a treaty with Mauritius in May 2025 ceding sovereignty over the archipelago while retaining a 99-year lease over the Diego Garcia base. The divergent fates of these two opinions illustrate that the absence of binding force does not necessarily determine an opinion's ultimate political weight.

This structure remains only partially subscribed to: as of 2026, only 75 of 193 UN member states maintain a declaration, and of the five permanent Security Council members, only the United Kingdom currently does so. Declarations may also be withdrawn, as the Nicaragua case starkly illustrated: the United States attempted to modify its declaration on three days' notice immediately before Nicaragua filed its application, and the Court held the modification ineffective, good faith requiring a reasonable notice period. France similarly withdrew its declaration in 1974 after the Nuclear Tests cases. This pattern generates a chilling effect on the wider system of compulsory jurisdiction.

2. The Binding Force of Judgments: Articles 59, 60, and 41

Article 59 provides that a decision 'has no binding force except between the parties and in respect of that particular case', and Article 60 confirms that judgments are final and without appeal. The practical weight of this guarantee is illustrated by Corfu Channel, the Court's first contentious case: Albania was found liable for mine-laying that killed forty-five British sailors and ordered to pay £844,000, yet the judgment went unsatisfied for over four decades until a bilateral settlement in 1992.

Article 41 empowers the Court to indicate provisional measures. The Court confirmed their binding character in *LaGrand*, after the United States executed Walter LaGrand notwithstanding an order to 'take all measures at its disposal' to prevent it. That holding was tested again in *Avena*, where the Court ordered 'review and reconsideration' of fifty-two Mexican nationals' convictions for want of consular notification; the US Supreme Court held in *Medellin v Texas* that neither the judgment nor an executive memorandum implementing it constituted domestic law absent congressional legislation, and Texas executed José Medellin notwithstanding a further ICJ order.

3. The United Nations Charter and Article 94

Article 94(1) provides that every member 'undertakes to comply' with a judgment to which it is a party, an obligation underpinned by *pacta sunt servanda* and good faith. This

obligation does not stand in isolation from customary international law: the Court has identified good faith as 'one of the basic principles governing the creation and performance of legal obligations', and a state that disregards a judgment rendered against it accordingly commits not merely a breach of Article 94(1) but an internationally wrongful act under the customary law of state responsibility, giving rise to further obligations of cessation and reparation. Article 94(2) supplies the only express institutional enforcement mechanism: a party may have recourse to the Security Council, which 'may, if it deems necessary, make recommendations or decide upon measures'. This mechanism is critically undermined by the veto under Article 27(3). In Nicaragua, the United States vetoed a resolution that would otherwise have passed by eleven votes to one, calling for compliance; recourse to the General Assembly produced only a non-binding condemnatory resolution, and the case was discontinued in 1992 with no reparation ever paid. Under Article 25, a binding Chapter VII decision would bind all members independently of the underlying judgment, yet the Council has never exercised this power for the specific purpose of enforcing an ICJ judgment.

4. Institutional Architecture and Relations with Other UN Organs

The Court comprises fifteen judges elected for nine-year terms by the General Assembly and Security Council voting independently, a joint electoral requirement giving the Assembly a structural, constitutive role in shaping the Court's composition that its more familiar political functions can obscure. The Statute's independence guarantees are qualified by the ad hoc judge under Article 31, whose voting record has been found to favour the appointing state at a markedly higher rate than the permanent bench, and by the ad hoc chamber under Article 26(2), which permits parties a degree of influence over the composition of the bench deciding their own dispute, a mechanism popular in boundary cases but open to similar criticism. The Registry performs essential administrative functions but has no enforcement role, and a specialised Chamber for Environmental Matters, established in 1993, lapsed in 2006 after no state ever used it, illustrating that institutional design alone cannot guarantee use.

The Court's relationship with the Security Council extends beyond Article 94(2): in *Lockerbie*, the Court declined provisional measures against the UK and US, reasoning that binding Chapter VII obligations prevailed under Article 103 over Libya's other obligations, showing that Council action can displace the Court's judicial function even before judgment is rendered. The episode illustrates that the tension between the Council's political function and the Court's judicial function is not confined to the enforcement of judgments already delivered, but can shape the availability of judicial protection from the very outset of proceedings. The Secretary-General's facilitation, though carrying no formal enforcement authority, proved instrumental in resolving the *Cameroon v Nigeria* boundary dispute discussed below.

Challenges to the Effectiveness of ICJ Judgments

1. Absence of a Direct Coercive Enforcement Mechanism

The most fundamental challenge is structural: the Court has no police force and no independent means of compelling compliance, unlike a domestic court backed by state coercive power. This is not unique to the ICJ; the International Criminal Court's warrant against Sudan's Omar al-Bashir went unexecuted for over a decade for the identical reason. *Corfu Channel* demonstrates the same weakness in the ICJ's own history. Even where a losing state's non-compliance is total and undisputed, no organ of the United Nations, and no organ of the Court itself, possesses any independent power to seize assets, compel appearance, or otherwise give practical effect to a judgment absent the voluntary cooperation of the state concerned; the classical positivist objection that a rule unsupported by a sovereign sanction can scarcely be called binding law captures, whatever its broader merits, this specific predicament with some precision.

2. Political Interference and the Security Council Veto

Distinct from the challenge above, which is universal, the veto is political capture of the one mechanism that does exist. Nicaragua showed this starkly; the 2022 Ukraine proceedings showed it again, Russia's own permanent seat rendering an article 94(2) referral pointless from the outset. The veto structurally embeds a double standard: the five permanent members are, by construction, least exposed to Council enforcement while also being, disproportionately, least likely to accept the Court's compulsory jurisdiction in the first place.

3. Absence of a Standing Compliance-Monitoring Mechanism

A third challenge is the absence of any body monitoring whether a judgment has been complied with once rendered; the Court's own function ends at judgment. This contrasts with the Committee of Ministers of the Council of Europe, which exercises continuing supervisory competence under Article 46(2) ECHR, and the WTO's formal surveillance function. *Corfu Channel*'s four decades of non-payment went unrecorded by any UN body.

4. Domestic Political Fragmentation

A fourth challenge, internal to the losing state and distinct from external interference, is that a state's own constitutionally independent organs may fail to align, defeating compliance even where the executive genuinely intends it. *Avena* illustrates this precisely: the executive's memorandum was struck down for want of legislation Congress never enacted, and Texas, an independent sub-national unit, carried out the execution the judgment was meant to prevent. No organ acted unlawfully by its own domestic standard; the failure arose from the absence of any procedure compelling coordination.

5. Power Asymmetry Between Disputing States

A fifth challenge is the asymmetry of power the Statute's formal equality does nothing to correct. The *Armed Activities* case between the Democratic Republic of the Congo and Uganda illustrates this, while also revealing a further, previously underexamined dimension. Uganda was found liable in 2005 for extensive

violations arising from its intervention in the DRC; negotiations failed, and only in 2022, seventeen years later, did the Court itself fix reparations at US\$325 million, barely three per cent of the DRC's original claim. Uganda paid US\$195 million, three of five instalments, largely on schedule by the end of 2024, a genuine compliance success. Yet a Congolese fund established to distribute the award to victims became the subject of a corruption scandal, its former coordinating minister convicted and sentenced to ten years of hard labour for embezzling US\$19 million. Debtor-state compliance is thus a necessary but not sufficient condition for effectiveness: a reparations judgment achieves its purpose only where the receiving state also possesses the institutional capacity to deliver the benefit to its intended beneficiaries, a dimension the mainstream compliance literature has not clearly separated from the question of whether the paying state complies.

6. Selective and Inconsistent Compliance

The combined effect is a pattern of compliance that is markedly selective. Technical or territorial cases, such as *Cameroon v Nigeria*, attract substantially higher compliance than cases touching on the use of force or matters of high political salience. The explanation lies substantially in domestic political cost: ceding a boundary carries limited domestic salience, whereas admitting unlawful use of force carries a cost few governments will bear.

7. The Possibility of Compliance: *Cameroon v Nigeria*

Not every case illustrates non-compliance, and a balanced account requires examination of at least one instance in which a powerful and initially reluctant state ultimately complied in full. The Land and Maritime Boundary dispute concerned sovereignty over the Bakassi Peninsula; the Court's 2002 judgment favoured Cameroon, and Nigeria's initial reaction was one of open reluctance, its government publicly questioning the judgment's validity and giving no early indication that it would withdraw its administration and military presence from the peninsula. Rather than the matter being pursued through the Security Council under Article 94(2), the two states, facilitated by the UN Secretary-General, concluded the Greentree Agreement of June 2006, under which Nigeria agreed to a phased withdrawal from Bakassi over a two-year transitional period. Nigeria completed its withdrawal in August 2008, and authority over Bakassi passed to Cameroon without any resort to coercive measures. The case demonstrates that voluntary compliance, even by a regionally powerful and initially reluctant state, is achievable where sustained diplomatic engagement is deployed, and that the pathway to compliance frequently lies not within the formal Article 94 framework, which was never invoked in this dispute, but through precisely this kind of facilitated bilateral diplomacy.

Prospects for Strengthening Effectiveness

None of the challenges identified above admits of an easy solution, but six prospects merit consideration.

1. Formal reform could extend the 2015 Code of Conduct proposed by the Accountability, Coherence and Transparency Group, under which permanent members undertake to refrain from vetoing resolutions

responding to mass atrocity crimes, specifically to Article 94(2) referrals.

2. A more structural proposal would adapt the WTO's countermeasures-authorisation mechanism, letting the Court itself authorise proportionate countermeasures after a defined period of non-compliance. Both face the same obstacle: Charter amendment under Article 108 requires ratification by all five permanent members, so any change perceived as diminishing the veto can be blocked by the same member's refusal to ratify.
3. A more immediately achievable prospect is a standing body, whether within the Secretariat or as a General Assembly subsidiary organ, monitoring and periodically reporting on compliance, modelled on the Committee of Ministers' role under Article 46(2) ECHR. This would require no Charter amendment, though it would possess only the soft power of publicity, not compulsion.
4. States with federal or dualist constitutional structures could adopt, in advance of any dispute, general implementing legislation authorising domestic courts to give direct effect to future ICJ judgments, avoiding the fragmentation that defeated compliance in *Avena*. The limitation is evident: it depends on states most likely to lose politically sensitive cases legislating against their own future interest, and the US Congress has enacted no such legislation since *Medellin*. The General Assembly's dormant 'Uniting for Peace' procedure was invoked repeatedly from 2022 in response to the Ukraine invasion, demonstrating institutional capacity to fill a vacuum left by Council paralysis, though the resulting resolutions carry no more binding force than any other Assembly resolution.
5. The gradual accumulation of reputational pressure, facilitated by civil society mobilisation and open-source monitoring, has plausibly raised the cost of non-compliance beyond what existed in 1986, though it operates most powerfully at the margin and is least effective against a state already subject to comprehensive international condemnation for the underlying conduct itself.
6. Finally, the proliferation of specialised tribunals since the 1990s, including ITLOS, the WTO, and regional courts, has normalised recourse to international adjudication generally, reinforcing, diffusely but genuinely, the expectation that judicial settlement is an ordinary and legitimate means of resolving disputes. The WTO's comparatively higher compliance rate, in particular, has been attributed less to any greater underlying willingness of its members to respect international judicial decisions than to its self-contained countermeasures-authorisation mechanism, a difference of institutional design rather than of political culture, and one which reinforces the case for the analogous ICJ-specific mechanism considered above.

The Way Forward

In light of the challenges examined above, this article recommends action on two fronts.

1. In response to the structural absence of an independent coercive enforcement mechanism and the vulnerability

of Security Council enforcement under Article 94(2) to the veto, demonstrated by Nicaragua and the 2022 Ukraine proceedings thirty-six years apart, the permanent members should adopt a voluntary restraint on the veto specifically for Article 94(2) referrals, and the General Assembly should establish a standing compliance-monitoring body modelled on the Committee of Ministers of the Council of Europe.

2. In response to the risk that institutional weaknesses on either side of a dispute, whether in a losing state's capacity to coordinate compliance across its own constitutionally independent organs, as Avena illustrates, or in a receiving state's capacity to administer an award, as the Armed Activities case illustrates, can independently undermine effectiveness even where the paying state complies, states with federal or dualist structures should adopt implementing legislation in advance of any dispute, and reparations awards should be accompanied by independently audited distribution mechanisms so that compliance by a paying state translates into genuine benefit for its intended beneficiaries.

These recommendations carry implications beyond the ICJ specifically. Any international court that depends for its enforcement on a politically constituted body subject to a veto, or that renders judgments capable of being defeated by any single organ within a losing state's own constitutional order, faces a structurally analogous risk. The specific institutional responses proposed here, extending an existing Security Council code of conduct and adapting an existing regional supervisory model, illustrate that workable, low-cost reforms already exist elsewhere in the international legal order and require only the political will to be adapted. Future empirical research on ICJ compliance should, in parallel, treat debtor-state compliance and a receiving state's institutional capacity to deliver a judgment's practical benefit as analytically separate variables.

These recommendations are not of equal urgency, nor do they depend on one another for their individual value. The standing compliance-monitoring body and the recommendation on audited reparations-distribution mechanisms require no international agreement beyond the General Assembly's own procedural competence and could be implemented within a single budgetary cycle. The voluntary veto restraint and advance domestic implementing legislation depend on the willingness of individual states, and particularly of the permanent members, to constrain their own future conduct, and are accordingly better understood as standing invitations than as reforms capable of being negotiated or imposed collectively. A sequenced approach, beginning with the measures requiring no state-specific consent and building outward toward those that do, offers the most realistic path by which the recommendations advanced in this article might, over time, be adopted.

Conclusion

This research set out to examine the effectiveness, or otherwise, of ICJ judgments. The answer is neither straightforwardly affirmative nor negative. The legal framework is coherent and beyond serious doctrinal dispute,

and the institutional framework is carefully constructed; judged by design alone, the Court compares favourably with almost any other international judicial body in existence.

Yet this coherent design does not translate reliably into compliance where it matters most. The Court's judgments are, in the great majority of cases, complied with; but in the comparatively small number of cases involving the use of force, the gravest international crimes, or a permanent Security Council member, precisely where effective adjudication carries the greatest stakes for international peace and security, the framework has repeatedly failed, from Nicaragua to Ukraine. *Cameroon v Nigeria* shows that this is not an inevitable outcome: where political will and sustained diplomatic engagement are present, even a materially powerful and initially reluctant state can be brought to comply in full, and can do so entirely outside the formal enforcement architecture examined in this article. Effectiveness is not a fixed property of the Court's design but a contingent outcome dependent on political will, domestic institutional coherence, and the receiving state's own institutional capacity. Strengthening it requires coordinated reform at the international, institutional, and domestic levels alike; no single measure examined here can, on its own, close the gap between legal obligation and practical enforceability that has defined the Court's operation since Corfu Channel in 1949.

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