

## **DECLARATION**

I, Daniella GIRIMBABAZI, hereby declare that, this dissertation entitled “critically analyze on the challenges of enforcing international law in sovereign states” is my original work. I affirm that I have not copy and pasted or used any previously published or written material by another person without proper attribution. Furthermore, the dissertation does not contain content that has been substantially accepted for any other degree or diploma at ULK or any other educational institution. I confirm that I carefully reviewed the dissertation and ensured that all references to the work of other authors are properly cited in both footnotes and bibliography. Additionally, I declare that the intellectual content of the dissertation is solely the product of my own research and analysis.

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Signed.....

Date.....

**APPROVAL**

This certifies that the work incorporated in this dissertation entitled “critically analyze on the challenges of enforcing international law in sovereign states” submitted by Miss Daniella GIRIMBABAZI, is presented in partial fulfillment of the requirements for the Bachelor's degree in Law (LLB) at Kigali Independent University (ULK).

**SUPERVISOR: LECTURER BAHATI VEDASTE**

Signature: .....

Date:     /     /2024

## **DEDICATION**

I dedicate this thesis to my lovely parents who supported me in different ways for achieving the success of this study. I dedicate this thesis to my lovely brothers, sibling and friend who support my academic journey financially ,advice, and motivation, which had help me in my successful and i can't forget my classmates thank you all.

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Daniella GIRIMBABAZI

## **LIST OF ABBREVIATIONS**

Art : Article

Chap : Chapter

Ed : Edition

Http : hypertext transfer protocol

ICC : International criminal court

ICJ : International courts of justice

ICT : International criminal tribunals for yugoslavia

ICTR : international criminal tribunals for Rwanda

ILC : International law Committee

MINIJUST : Ministry of Justice

N : number

NGO : Non governmental organization

Op.cit : opera citato . It means work cited.

P : Page

Para : Paragraph

ULK :Kigali Independent University

UN : United Nations

UNSC : United Nations security Council

WWW : World Web Wide

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## GENERAL INTRODUCTION

The enforcement of international law within the realm of sovereign states presents a complex and multifaceted challenge in international jurisprudence. International law, comprising treaties, customary international law, general principles recognized by civilized nations, and judicial decisions, is designed to govern the conduct of states and other international actors, promoting peace, security, justice, and cooperation on a global scale. However, the decentralized nature of the international legal system, coupled with the fundamental principle of state sovereignty, often impedes the effective enforcement of these legal norms.

State sovereignty, a bedrock principle established since the Peace of Westphalia in 1648, grants states supreme authority over their internal affairs, shielding them from external interference. This principle is deeply embedded in the Charter of the United Nations and various other international legal instruments, reinforcing the autonomy and equality of states in the international order. While sovereignty is essential for maintaining international order and respecting the diversity of states, it also poses significant barriers to the enforcement of international law. States may resist external pressures or interventions that seek to compel compliance with international legal obligations, especially when such obligations conflict with national interests or policies.<sup>1</sup>

The international legal system lacks a centralized enforcement authority analogous to those found in domestic legal systems. Instead, it relies on a variety of mechanisms, including diplomatic efforts, economic sanctions, and the actions of international organizations such as the United Nations. The United Nations Security Council, endowed with the authority to maintain international peace and security under Chapter VII of the UN Charter, can authorize coercive measures, including sanctions and the use of force. However, the effectiveness of the Security Council is often compromised by the political dynamics among its permanent members, each wielding veto power.

Judicial bodies, such as the International Court of Justice (ICJ) and the International Criminal Court (ICC), play crucial roles in adjudicating disputes and prosecuting international crimes. The ICJ resolves disputes between states and provides advisory opinions, while the ICC prosecutes individuals for crimes such as genocide, war crimes, and crimes against humanity. Despite their significance, these courts face considerable challenges, including jurisdictional limitations, the requirement of state consent, and difficulties in enforcing their decisions.

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Malcolm N. Shaw, *International Law* (Cambridge: Cambridge University Press, 2017), 45.

Louis Henkin, "International Law: Politics, Values and Functions," *Collected Courses of the Hague Academy of International Law* 216 (1989): 25.

The principle of complementarity in the ICC, which mandates that national courts have primary jurisdiction over international crimes, further complicates the enforcement landscape, often leading to issues of selective justice and impunity.<sup>2</sup>

The principle of non-intervention, which prohibits states from intervening in the domestic affairs of other states, is another major impediment to enforcement. This principle, rooted in the doctrine of state sovereignty, restricts the ability of external actors to ensure compliance with international legal norms within sovereign jurisdictions. Additionally, the heterogeneity of legal systems, cultural contexts, and levels of development among states contributes to varying interpretations and applications of international law, resulting in inconsistencies and challenges in enforcement.

This study aims to critically analyze the myriad challenges of enforcing international law within sovereign states. It will explore the structural limitations of the international legal system, the role and efficacy of international organizations and judicial bodies, the impact of political dynamics, and the ongoing efforts to reconcile the principles of state sovereignty with the imperatives of international legal order.

## **1.BACKGROUND OF THE STUDY**

The enforcement of international law within sovereign states represents a profound challenge in the realm of international jurisprudence. International law, which includes treaties, customary international law, general principles, and judicial decisions, seeks to regulate the conduct of states and other international actors.

However, the decentralized nature of the international legal system and the principle of state sovereignty complicate enforcement efforts.

The concept of state sovereignty, which emerged from the Peace of Westphalia in 1648, underpins the modern international legal order. Sovereignty confers upon states supreme authority within their territories and protects them from external interference. This principle is enshrined in key international legal instruments, including the Charter of the United Nations (UN), which affirms the sovereign equality of all its members.

However, sovereignty also poses significant obstacles to the enforcement of international law, as states may prioritize their national interests and resist external pressures to comply with international obligations.<sup>3</sup>

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<sup>2</sup> Malcolm N. Shaw, *International Law* (Cambridge: Cambridge University Press, 2017), 45.  
United Nations, *Charter of the United Nations and Statute of the International Court of Justice*, San Francisco, 1945, Article 2(1).

The international legal framework comprises various sources, including treaties such as the Vienna Convention on the Law of Treaties (1969), customary international law as evidenced by state practice and *opinio juris*, and judicial decisions from international courts and tribunals. Despite this robust legal architecture, enforcement mechanisms remain weak and fragmented. Unlike domestic legal systems with centralized authorities and enforcement agencies, the international legal system relies on the voluntary compliance of states, diplomatic negotiations, and the activities of international organizations.

The UN, particularly through its Security Council and General Assembly, plays a pivotal role in promoting and enforcing international law. The Security Council, empowered under Chapter VII of the UN Charter, can take measures to address threats to international peace and security, including the imposition of sanctions and authorization of the use of force. However, the effectiveness of the Security Council is often hampered by the veto power of its permanent members, leading to selective enforcement and political deadlock. International judicial bodies, such as the International Court of Justice (ICJ) and the International Criminal Court (ICC), are crucial for the adjudication and enforcement of international law.

The ICJ settles disputes between states and provides advisory opinions on legal questions, while the ICC prosecutes individuals for serious international crimes, including genocide, war crimes, and crimes against humanity. Nonetheless, these courts face significant challenges, including issues of jurisdiction, the requirement of state consent, and the enforcement of their judgments. The principle of complementarity, particularly in the context of the ICC, emphasizes the primary responsibility of national jurisdictions to prosecute international crimes, which can lead to issues of impunity and inconsistent enforcement.

Moreover, the diversity of legal systems, cultural contexts, and levels of development among states contribute to varying interpretations and applications of international norms. These differences complicate the establishment of a uniform and effective enforcement regime. Additionally, the principle of non-intervention, a fundamental aspect of state sovereignty, restricts the ability of external actors to enforce international law within the domestic jurisdiction of states.<sup>4</sup>

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<sup>3</sup> United Nations, "International Law," accessed July 29, 2024, <https://www.un.org/en/sections/legal/international-law/>.  
International Criminal Court, "About the Court," accessed July 29, 2024, <https://www.icc-cpi.int/about>.  
United Nations, Charter of the United Nations and Statute of the International Court of Justice, San Francisco, 1945, Article 2(4).

<sup>4</sup> Stephen D. Krasner, *Sovereignty: Organized Hypocrisy* (Princeton: Princeton University Press, 1999), 20.  
United Nations, Charter of the United Nations and Statute of the International Court of Justice, San Francisco, 1945, Article 2(4).

This study aims to critically analyze the challenges on enforcing international law in sovereign states. It will examine the structural limitations of the international legal system, the role of international organizations and judicial bodies, the impact of political dynamics, and ongoing efforts to enhance compliance and enforcement in a world where the principle of state sovereignty remains a central concern.

## **2.SCOPE OF THE STUDY**

As detailed in the terms of reference of this research, the assessment is always limited in domain, in space, in time. Which will be considered in this study as follows

### **2.1 Delimitation in Domain**

This study is focused on critical analyze the challenges of enforcing international law in sovereign states and focus on private law.

### **2.2 Delimitation in space**

In space my research will cover regional diversity, and the prominence of international law.

### **2.3 Delimitation in time**

To tackle each area of my assessment, I have taken the time from 2020-present

## **3. PROBLEM STATEMENT**

The enforcement of international law within sovereign states represents a significant and enduring challenge in international jurisprudence. Despite the existence of a comprehensive legal framework comprising treaties, customary international law, and judicial decisions, the efficacy of international law is frequently undermined by the principle of state sovereignty. This principle, which grants states supreme authority over their internal affairs and shields

The United Nations Security Council, which has the authority to enforce international law under Chapter VII of the UN Charter, is often hampered by the political interests of its permanent members, leading to selective enforcement and political gridlock. Similarly, international judicial bodies such as the International Court of Justice (ICJ) and the International Criminal Court (ICC) face significant challenges, including limited jurisdiction, the need for state consent, and difficulties in enforcing their rulings.

Moreover, the principle of non-intervention, rooted in the doctrine of state sovereignty, restricts external actors' ability to ensure compliance with international legal norms within sovereign jurisdictions. This principle poses a particular challenge in cases of human rights violations, environmental protection, and international crimes, where state actions or inactions can have profound global implications. Additionally, the diversity of legal systems, cultural contexts, and levels of development among states leads to varying interpretations and applications of international law, further complicating enforcement efforts.

The problem at the heart of this study is the inherent tension between the need for effective enforcement of international law and the principle of state sovereignty, which often impedes such enforcement. This study aims to critically analyze the structural limitations of the international legal system, the role of international organizations and judicial bodies, the impact of political dynamics, and the ongoing efforts to enhance the enforcement of international law in a world where state sovereignty remains a paramount concern.

#### **4. RESEARCH QUESTION**

1. How do conflicting national laws and the principle of state sovereignty impede the enforcement of international law in sovereign states?
2. Examine specific instances where international law has been successfully enforced or resisted in sovereign states. Identify common factors that led to success or failure

#### **5. RESEARCH HYPOTHESIS**

1. The effectiveness of enforcing international law in sovereign states is significantly hindered by the conflicts between national legal systems and international obligations, leading to inconsistent compliance and enforcement mechanisms.
2. Encouraging states to incorporate international obligations directly into their domestic legal frameworks can enable individuals and organizations to seek enforcement through national courts and Providing training for domestic judges and legal professionals on international law

can improve the application and enforcement of international norms within national legal systems.

## **6. RESEARCH OBJECTIVES**

Research objections refer to the specific issues, concerns, or limitations that arise during the research process. These objections can stem from various sources, including ethical considerations, methodological flaws, or biases in data collection and analysis. They highlight potential weaknesses in the study's design or execution that could affect the validity and reliability of the research findings.

### **6.1 General Objectives**

The general objective in addressing the challenge of enforcing international law on sovereign states is to strengthen mechanisms for ensuring compliance with international legal standards while respecting state sovereignty. This involves balancing the protection of human rights and global norms with the principle of non-interference in domestic affairs. The goal is to develop cooperative frameworks that encourage state participation in international law enforcement, enhance accountability for violations, and promote a more unified global legal order.

### **6.2 Specific Objectives**

1. To analyse the extend to which international law is enforced by sovereign states.
2. To evaluate challenges faced by states in enforcement of international law.

## **7. RESEARCH METHODOLOGY AND TECHNIQUES**

Methodology implies not only the procedure involved to collect data but also how to analyze and interpret it. The methodology is comprehensive term and is wider than the method. It is a compass that determines the direction of the research. Two prominent methodologies that are employed in legal research are doctrinal and non-doctrinal. The formal one is more inclined towards theoretical aspects and academics, hence also known as library research. While the latter is more practical and takes an interdisciplinary approach to observation. Hence it is called empirical research. In this dissertation, researchers used doctrinal research.



## **7.1 RESEARCH TECHNIQUES**

it's crucial to start by defining my research questions clearly. Consider exploring how conflicts between state sovereignty and international legal obligations impact the enforcement of global laws within sovereign states. To gather relevant information, I can review case studies, analyze legal frameworks, examine international treaties, and study the role of international organizations in enforcing these laws. Utilizing legal databases, academic journals, and consulting legal experts can also provide valuable insights for my critical analysis. And to maintain a structured approach and cite my sources meticulously to ensure the academic rigor of my research.

## **7.2 RESEARCH METHOD**

I collect the necessary data and information by using different sources such as books, online, platform, some reports related to my topic of critical analysis on the challenges of enforcing international law in sovereign states.

### **7.2.1 Analytic method**

The analytical method is a systematic approach used to break down complex problems or information into smaller, more manageable parts. It involves identifying the problem, collecting relevant data, decomposing the information into its components, evaluating each part, and then synthesizing the insights to draw conclusions or make recommendations. This method is widely applied in various fields to enhance understanding and facilitate informed decision-making.

### **7.2.2 Synthetic method**

The synthetic method is an approach that involves combining various elements or pieces of information to form a coherent whole. Unlike the analytical method, which breaks down components, the synthetic method focuses on integrating data, concepts, or theories to create new insights or understanding. This method is often used in research and problem-solving to generate comprehensive conclusions or innovative solutions by looking at the bigger picture and how different parts interact with one another.

### **7.2.3 Exegetic method**

The exegetic method is not a widely recognized term in research or analytical contexts. However, if you meant "exemptive method," it typically refers to approaches that allow certain exceptions or exclusions from a general rule or principle. This method can be applied

in various fields, including law and ethics, where specific circumstances might warrant deviation from standard practices or regulations.

### **7.2.1 Documentary techniques**<sup>5</sup>

This research will focus on documenting and presenting a comprehensive overview of the challenges faced in enforcing international laws in sovereign states . It will also imply a methodological approach involving gathering and analyzing existing documentation, reports, treaties, case studies, and other relevant sources to elucidate the complexities and obstacles in enforcement efforts

## **8. STRUCTURE OF THE STUDY**

This research is divided into three chapters preceded by general introduction and ending with general conclusion and recommendations. chapter one look at key concept and theoretical framework surrounding the key concept and theoretical framework of enforcing international law in sovereign states. Chapter two look at the challenge enforcing international law in sovereign states. Chapter three cover the strategies to overcome the challenges enforcing international law in sovereign states.

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<sup>5</sup> Ian Brownlie, *Principles of Public International Law*, 7th ed. (Oxford: Oxford University Press, 2008), 13

## **CHAPTER 1: THE CONCEPTUAL AND THEORETICAL FRAMEWORK**

Enforcing international law in sovereign states is an intricate process due to the interplay between the principles of sovereignty and the global need for a cohesive international order. The key concepts and frameworks involved in this process are rooted in both legal and political theories. Enforcing international law within the context of sovereign states presents a unique challenge due to the absence of a central governing authority at the international level and the principle of state sovereignty.<sup>6</sup> Several theoretical frameworks in international relations offer insights into how and why states comply with or resist international legal norms. Understanding these theories is crucial for grasping the complexities of international law enforcement. Here's an in-depth discussion of the theoretical frameworks and here's a detailed discussion;<sup>7</sup>

### **1.1. Definition of key concepts**

Here are definitions of key concepts related to the challenge of enforcing international law on sovereign states:

#### **1.1.1 Sovereignty**

Sovereignty refers to full right and power of a governing body over itself, without any interference from outside sources or bodies. In the context of international law, sovereignty implies that a state has the authority to govern its territory and people without external interference.

#### **1.1.2. International Law**

International law consists of rules and principles that govern relations between states and other international actors. It includes treaties, conventions, customary international law, and general principles recognized by civilized nations.

#### **Types of International law**

- Treaties: Formal agreements between states that are legally binding.

Customary International Law: Practices that are generally accepted as law, even if not codified in treaties.<sup>8</sup>

- General Principles: Legal principles that are recognized by civilized nations and can be applied in international contexts.

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<sup>6</sup> L. Henkin, *How Nations Behave : Law and Foreign Policy*, 2<sup>nd</sup> ed.p 47

B. Kingsbury, "The Concept of Compliance as a Function of Competing Concepting o International Law.

<sup>7</sup> D..(2010)<https://doi.org/10.1017/S1537592704370374> Ferreira-Snyman, M. P.. (2006). <https://www.researchgate.net/deref/https%3A%2F%2Fdoi.org%2F10.1080%2F10361146.2010>

<sup>8</sup> Koh, H. H. (1997). "Why Do Nations Obey International Law?" *The Yale Law Journal*, 106(8), 2599-2658 : Investigates the role of international norms and the challenge of enforcing compliance among sovereign states.

### **1.1.3. Jurisdiction and Consent**

**Jurisdiction:** International law operates on the principle that states have jurisdiction within their own territories but may be subject to international law in certain contexts.

**Consent:** States must often consent to be bound by international law, especially in treaty-based obligations. This consent is crucial for the enforcement of international law, as states can choose not to ratify or adhere to international agreements.

### **1.1.4. Compliance and Enforcement:**

**Compliance:** Refers to whether states follow the rules of international law. Compliance can be influenced by factors such as domestic legal systems, international pressure, and the state's interest in maintaining a positive international reputation.

**Enforcement:** The process of ensuring states adhere to international law. This can include diplomatic efforts, economic sanctions, military interventions, and judicial proceedings.

### **1.1.5 international Institutions:**

**United Nations (UN):** The UN plays a central role in maintaining international peace and security. The UN Security Council can authorize measures like sanctions or military action to enforce international law.

**International Court of Justice (ICJ):** The ICJ adjudicates disputes between states and gives advisory opinions on legal questions referred to it by the UN.

**International Criminal Court (ICC):** The ICC prosecutes individuals for international crimes such as genocide, war crimes, and crimes against humanity.<sup>9</sup>

**Regional Organizations:** Organizations like the European Union (EU), African Union (AU), and Organization of American States (OAS) also play a role in enforcing regional aspects of international law.

### **1.1.6. Mechanisms of Enforcement**

**Diplomatic Pressure:** States and international organizations may use diplomatic channels to encourage compliance with international law. This can include negotiations, public statements, and resolutions

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<sup>9</sup> Herny Kamen, *Early Modern European Society*, (London: Routledge, discussions on sovereignty, governance, and enforcement of laws. p30 \_65.

**Military Intervention:** In extreme cases, the use of force may be authorized by international bodies like the UN Security Council to enforce international law, particularly in cases involving threats to international peace and security.

**Peacekeeping Operations:** The UN and regional organizations may deploy peacekeeping forces to maintain or restore peace in conflict zones, which can include the enforcement of international law, such as ceasefire agreements.

### **1.1.7. Normative Framework**

**Human Rights Norms:** International human rights law imposes obligations on states to protect and promote fundamental rights. While these norms are universally recognized, enforcement varies widely depending on political will and international support.<sup>10</sup>

**Humanitarian Law:** The Geneva Conventions and other instruments of international humanitarian law set rules for the conduct of armed conflict and the protection of civilians. Enforcement is often through international courts or ad hoc tribunals.

## **1.1. THEORIES**

Here are key theories related to the challenge of enforcing international law on sovereign states:

### **1.2.1. REALISM**

Realism is a prominent theory in international relations that offers a skeptical view of the effectiveness and enforcement of international law in sovereign states. Rooted in the belief that the international system is anarchic and dominated by self-interested states, realism provides a framework for understanding the challenges and limitations of enforcing international law. Here's an in-depth discussion of realism in this context:<sup>11</sup>

#### **1.2.1.1. Anarchy in the International System**

**No Central Authority:** Realism posits that the international system is anarchic, meaning there is no overarching authority or global government to enforce international law. States operate in a self-help system where they must rely on their own capabilities to ensure survival and security.

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<sup>10</sup> Trevor C. Hartley, "The Foundations of European Union Law.

Bruce Broomhall, Towards The Development of an effective system of universal jurisdiction for crimes under International law.

<sup>11</sup>[https://www.researchgate.net/publication/368382555\\_The\\_Enforcement\\_of\\_International\\_Human\\_Rights\\_Law\\_Challenges\\_and\\_Solutions](https://www.researchgate.net/publication/368382555_The_Enforcement_of_International_Human_Rights_Law_Challenges_and_Solutions).

Implication for Enforcement: Without a central authority, the enforcement of international law becomes problematic. States may choose to comply with or ignore international norms based on their own calculations of benefit and risk.

### **1.2.1.2. State Sovereignty and National Interest**

Sovereign Equality: Realism emphasizes the sovereignty of states, which implies that states have the ultimate authority within their borders and are not subject to external interference.<sup>12</sup>

Primacy of National Interest: Realists argue that states prioritize their national interests particularly security, power, and economic welfare over adherence to international law. Compliance with international law occurs when it aligns with these interests, not out of a commitment to legal norms.

### **1.2.1.3. Power Dynamics and Enforcement**

Relative Power: Realists believe that international relations are governed by the distribution of power among states. The enforcement of international law is often contingent on the power dynamics at play; powerful states may enforce international norms when it serves their interests or ignore them when it does not.<sup>13</sup>

Selective Enforcement: Powerful states may influence the enforcement of international law to<sup>14</sup> their advantage, leading to selective enforcement where weaker states are more likely to be held accountable, while powerful states evade consequences for violations.

## **1.2.2 Realism's Perspective on Enforcement Mechanisms**

Realism, as a theoretical framework in international relations, fundamentally views the international system as anarchic and characterized by the absence of a central authority. According to Realist thought, states are the primary actors in this system, driven predominantly by their national interests and the quest for power. This perspective has profound implications for the enforcement of international laws, particularly when dealing with sovereign states.

Realism posits that the international system operates without an overarching global government capable of enforcing laws uniformly across all states. Instead, the enforcement of international laws is seen through the lens of state-centric interests and power dynamics. Realists argue that the effectiveness of international law enforcement is contingent upon the

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<sup>12</sup> Harvard International Law Journal (HILJ): This journal includes articles that critically assess the limitations of international law enforcement, especially in cases where state sovereignty is a significant barrier.

<sup>13</sup> <https://www.tandfonline.com/doi/full/10.3402/egp.v2i1.1973>

willingness and capacity of powerful states to uphold and promote these norms, often driven by their strategic interests.<sup>15</sup>

### **1.2.2.1 Military Force**

**Use of Force:** According to realism, military force is a primary tool for enforcing international law, particularly in cases where a state's actions threaten the balance of power or the security of other states.<sup>16</sup>

**Examples:** The enforcement of international law through military interventions is often seen in the context of collective security measures or humanitarian interventions, though realists would argue that such actions are motivated more by strategic interests than by a genuine commitment to upholding international law.

### **1.2.2.2 Economic Sanctions**

**Instrument of Coercion:** Realists view economic sanctions as a tool of statecraft used by powerful states to coerce weaker states into compliance with international norms. The effectiveness of sanctions depends on the relative power of the imposing state and the target state's vulnerability to economic pressure.

**Strategic Application:** Sanctions are applied selectively, often in cases where the sanctioning state has a strategic interest in altering the behavior of the target state. Realists argue that sanctions are less about enforcing international law per se and more about achieving specific political or strategic goals.

### **1.2.2.3 Diplomacy and Alliances**

**Balance of Power:** Realists emphasize the importance of diplomacy and alliances in managing the balance of power. International law may be enforced through diplomatic pressure or negotiated settlements that align with the interests of powerful states. **Real politic:** Realist diplomacy often involves pragmatic, interest-based negotiations where international law serves as one of many tools that states use to achieve their goals, rather than as a binding force.

### **1.2.2.4 International Institutions**

**Limited Role:** Realists are generally skeptical of the effectiveness of international institutions in enforcing international law. They argue that institutions are often manipulated by powerful

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<sup>15</sup><https://www.ohchr.org/sites/default/files/Documents/Issues/Development/RTDBook/PartIVChapter31.pdf>  
<https://press.un.org/en/2018/gal3570.doc.htm>

<sup>16</sup> Wallerstein, Emmanuel (2004) *World systems Analysis: an introduction*. Duke University Press.

"State Sovereignty as Social Construct" (1996) and "Simulating Sovereignty: Intervention, the State, and the International Community" (2006).

states to serve their interests, and their ability to enforce compliance is limited by the lack of enforcement mechanisms and the need for state consent.

**Instrumental Use:** From a realist perspective, international institutions may be used instrumentally by powerful states to legitimize their actions, but they do not fundamentally alter the anarchic nature of international relations or constrain the behavior of powerful states.

### **1.3 LIBERALISM<sup>1718</sup>**

Liberalism offers a contrasting perspective to realism in international relations, particularly concerning the enforcement of international law in sovereign states. While realism emphasizes power politics and the anarchic nature of the international system, liberalism is more optimistic about the role of international institutions, cooperation, and the potential for states to work together to enforce international law. Here's an in-depth discussion of liberalism's approach to enforcing international law in sovereign states:

#### **1.3.1 Core Tenets of Liberalism**

Liberalism's core tenets suggest that, contrary to the Realist view of a perpetually anarchic and conflict-prone world, international law and institutions can play a significant role in fostering cooperation, promoting peace, and ensuring adherence to legal norms. By focusing on the possibility of progress through collective action, shared interests, and the strengthening of international governance structures, Liberalism presents a framework for understanding and addressing the challenges associated with enforcing international laws within sovereign states.

##### **1.3.1.1 Cooperation and Interdependence**

**Possibility of Cooperation:** Liberalism posits that states are not only motivated by power and security but also by the benefits of cooperation. States recognize that mutual cooperation can lead to greater collective security, economic prosperity, and social welfare.<sup>19</sup>

**Interdependence:** Liberal theorists emphasize the growing interdependence among states, which encourages them to adhere to international law to avoid conflicts and disruptions that could harm their interests.

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<sup>17</sup> coup against Sealand's founding family, the Bates. Achenbach, a dual Sealand-German citizen, and a group of German and Dutch associates seized the platform while Roy Bates, Sealand's founder, was away.

<sup>18</sup> Roberts, A. (1990). Prolonged military occupation: The Israeli-occupied territories since 1967. *The American Journal of International Law*, 84(1), 44-103.

<sup>19</sup> Stephen McGlinchey is Senior Lecturer in International Relations at the University of the West of England, Bristol and Editor-in-Chief of *E-International Relations* : often explores the intersection between international law and international politics, making it a great source for understanding how political factors impact the enforcement of international law.



### **1.3.1.2 Role of International Institutions**

Facilitators of Cooperation: International institutions are central to liberal theory. These institutions help to facilitate cooperation by providing a framework for states to negotiate, resolve disputes, and coordinate their actions.

Enforcement Mechanisms: Institutions like the United Nations (UN), World Trade Organization (WTO), and International Court of Justice (ICJ) are seen as essential for the enforcement of international law, offering platforms for arbitration, dispute resolution, and collective action.

### **1.3.1.3 Democratic Peace Theory**

Peace Among Democracies: Liberalism is closely associated with the Democratic Peace Theory, which argues that democracies are less likely to go to war with one another. This theory suggests that democratic states, which are more likely to respect the rule of law domestically, will also be more inclined to adhere to international law this can create a more peaceful.<sup>20</sup>

### **1.3.2 Liberalism's Perspective on Enforcement Mechanisms**

Liberalism, a major theory in international relations, offers a distinct and optimistic perspective on the enforcement mechanisms of international law within sovereign states. Unlike Realism, which emphasizes the anarchic nature of the international system and the predominance of state power and self-interest, Liberalism focuses on the potential for cooperation, the role of international institutions, and the influence of shared values and norms.<sup>21</sup>

Liberalism posits that despite the challenges posed by state sovereignty and the anarchic international system, effective enforcement of international laws is achievable through the development and strengthening of international institutions and mechanisms. According to this perspective, international laws can be enforced effectively when supported by a robust framework of cooperation, legal norms, and institutional frameworks that promote accountability and compliance.

#### **1.3.2.1 International Institutions as Enforcers**

United Nations (UN): The UN plays a key role in enforcing international law, particularly through its Security Council, which can authorize sanctions, peacekeeping missions, and

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<sup>20</sup>[https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=1958&context=faculty\\_scholarship](https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=1958&context=faculty_scholarship)

<sup>21</sup> Immanuel Wallerstein, *The Capitalist World-Economy* (Cambridge: Cambridge University Press, 1979). In this work, Wallerstein expands on the concept of hegemonic states and the unequal enforcement of international norms due to economic and political power imbalances.

military interventions to maintain international peace and security. The General Assembly and various UN agencies also contribute to the development and enforcement of international legal norms.

**International Court of Justice (ICJ):** The ICJ is the principal judicial organ of the UN, tasked with resolving legal disputes between states and offering advisory opinions on legal questions. Liberalism views the ICJ as a crucial mechanism for the peaceful resolution of disputes and the enforcement of international law.

**World Trade Organization (WTO):** The WTO's Dispute Settlement Body (DSB) provides a structured process for resolving trade disputes between member states, with binding decisions that members are expected to implement. This institutional framework is seen as an effective means of enforcing international trade law.

### **1.3.2.2 Economic Interdependence and Trade**

**Economic Incentives for Compliance:** Liberalism emphasizes the role of economic interdependence in enforcing international law. States that are economically interconnected have strong incentives to comply with international trade laws, environmental agreements, and other international norms to maintain stable economic relations.<sup>22</sup>

**Trade Agreements:** Multilateral and bilateral trade agreements often include legal frameworks that require states to comply with specific international standards, with mechanisms in place to address violations. This creates a system where adherence to international law is necessary to sustain economic benefits.

### **1.3.2.3 Collective Security and Multilateralism**

**Collective Security Arrangements:** Liberalism supports the idea of collective security, where states agree to take collective action against threats to peace and security. This is exemplified by NATO and the UN Security Council, where member states work together to enforce international norms, such as prohibitions against aggression or the use of weapons of mass destruction.

**Multilateral Diplomacy:** Liberalism advocates for multilateral diplomacy as a means of enforcing international law. Through international conferences, treaties, and negotiations, states work collectively to establish and enforce global norms, such as the Paris Agreement on climate change or the Nuclear Non-Proliferation Treaty (NPT).

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<sup>22</sup> Immanuel Wallerstein, *The Modern World-System I: Capitalist Agriculture and the Origins of the European World-Economy in the Sixteenth Century* (New York: Academic Press, 1974). Wallerstein's world-systems theory provides insights into how global power dynamics and economic inequalities affect the enforcement of international law, with core states often shaping and resisting international norms to their advantage.

### **1.3.2.4 Human Rights and Humanitarian Intervention**

Promotion of Human Rights: Liberalism places a strong emphasis on human rights, arguing that international law should protect individuals and groups from abuses by their governments. Institutions like the International Criminal Court (ICC) and various human rights treaties are seen as vital tools for enforcing international human rights law.

Humanitarian Intervention: In cases of severe human rights violations, liberalism supports the idea of humanitarian intervention, where the international community may intervene in a sovereign state to prevent atrocities, even if this challenges traditional notions of state sovereignty

## **1.4 CONSTRUCTIVISM**

Constructivism offers a unique approach to understanding the enforcement of international law in sovereign states, focusing on the role of social norms, identities, and the construction of shared meanings in shaping state behavior. Unlike realism and liberalism, which emphasize material power and institutions, constructivism views international law as a social construct influenced by the values, beliefs, and identities of states and other international actors. Here's an in-depth discussion of constructivism in the context of enforcing international law:<sup>23</sup>

### **1.4.1 Social Construction of Reality**

Norms and Ideas: Constructivism posits that international relations are not just governed by material forces (e.g., military power, economic capabilities) but also by social constructs such as norms, values, ideas, and identities. These constructs shape how states perceive their interests and how they interact with international law.

International Law as a Social Norm: From a constructivist perspective, international law is seen as a set of norms that states create, interpret, and internalize over time. The legitimacy and effectiveness of international law depend on the extent to which these norms are accepted and adhered to by the international community.

#### **1.4.1.1 State Identity and Interests**

Identity Formation: Constructivism emphasizes that state identities are not fixed but are constructed through social interaction with other states. These identities influence how states perceive their interests, including their approach to international law.

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<sup>23</sup> Richard Falk, *The Rule of Law in the United Nations: A Critique* (Cambridge: Cambridge University Press, 2004). Falk critiques the UN's role in enforcing international law, noting how sovereignty-related challenges and the political interests of powerful states affect the implementation and effectiveness of international legal norms. Trevor C. Hartley, *International Law and the Enforcement of Human Rights in Domestic Courts* (Oxford: Oxford University Press, 2007). Hartley explores the difficulties of enforcing international human rights norms within domestic legal systems, emphasizing the resistance of national jurisdictions to external legal scrutiny and the impact of sovereignty on compliance.

Norm Internalization: States are more likely to comply with international law when it aligns with their identity and the norms they have internalized. For instance, a state that identifies as a defender of human rights is more likely to adhere to international human rights laws.

#### **1.4.1.2 Socialization and Peer Pressure**

Socialization Processes: States learn and internalize international norms through processes of socialization, where repeated interactions with other states, international institutions, and non-state actors lead to the adoption of shared norms and behaviors.

Peer Pressure: Constructivism highlights the role of peer pressure in enforcing international law. States may comply with international norms due to concerns about their reputation and the desire to be seen as legitimate members of the international community.

### **1.5 INSTITUTIONALIS (NEO INSTITUTIONALISM)**

Institutionalism, particularly Neo-Institutionalism, provides a framework for understanding how institutions shape the behavior of states, including the enforcement of international law. Unlike classical institutionalism, which primarily focuses on the formal structures of institutions, Neo-Institutionalism delves into how institutions influence state behavior through rules, norms, and practices. This theory emphasizes the role of institutions in reducing uncertainty, facilitating cooperation, and promoting the enforcement of international law even among sovereign states that prioritize their autonomy.<sup>24</sup>

#### **1.5.1 Core Tenets of Neo-Institutionalism**

Neo-Institutionalism, a prominent theory in international relations and political science, offers a nuanced perspective on the enforcement of international laws within sovereign states. This theoretical approach builds upon earlier institutionalist thought, emphasizing the role of institutions in shaping state behavior and facilitating cooperation in the international system.

##### **1.5.1.1 Institutions as Rules and Norms**

Beyond Formal Structures: Neo-Institutionalism views institutions not just as formal organizations but as sets of rules, norms, and practices that guide state behavior. These institutions create expectations about what constitutes appropriate behavior, thereby influencing how states interact with international law.

Social and Legal Norms: Institutions embed social and legal norms that states internalize over time. These norms help shape state preferences and make compliance with international law

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<sup>24</sup> Bruce Broomhall, *International Justice and the International Criminal Court: Between Sovereignty and the Rule of Law* (Oxford: Oxford University Press, 2003). Broomhall discusses the principle of universal jurisdiction and the challenges faced by the International Criminal Court (ICC) in enforcing international criminal law due to state sovereignty and political resistance.

more likely, as states seek to conform to established expectations within the international system.

### **1.5.1.2 Path Dependency and Institutional Persistence**

**Historical Context:** Neo-Institutionalism highlights the importance of path dependency, where the choices made by states and institutions in the past shape their current and future behavior. Once institutions and norms are established, they create patterns of behavior that are difficult to change, reinforcing the enforcement of international law.<sup>25</sup>

**Institutional Persistence:** Institutions tend to persist over time, even when they face challenges or opposition. This persistence ensures that international law remains a consistent feature of international relations, providing a stable framework for state interactions.

### **1.5.1.3 Transaction Costs and Uncertainty Reduction**

**Reducing Transaction Costs:** Institutions help reduce the transaction costs associated with international cooperation by providing a structured environment for negotiations, dispute resolution, and enforcement of agreements. This makes it easier for states to comply with international law, as the costs of doing so are lower than they would be in a more anarchic system.<sup>26</sup>

**Uncertainty Reduction:** By establishing clear rules and procedures, institutions reduce uncertainty in international relations. States are more likely to comply with international law when they can predict the behavior of other states and rely on institutional mechanisms to resolve disputes.

## **1.5.2 Neo-Institutionalism's Perspective on Enforcement Mechanisms**

Neo-Institutionalism offers a distinctive approach to understanding the enforcement mechanisms of international laws within sovereign states, focusing on the role of institutions in shaping and facilitating compliance. Unlike Realism, which emphasizes power dynamics, or Liberalism, which highlights cooperation and formal structures, Neo-Institutionalism delves into how both formal and informal institutions create and enforce the rules that govern state behavior.

### **1.5.2.1 Formal and Informal Enforcement**

**Formal Enforcement:** Neo-Institutionalism acknowledges the role of formal enforcement mechanisms within institutions, such as the International Court of Justice (ICJ) or the World Trade Organization (WTO) Dispute Settlement Body. These mechanisms provide legal recourse for states to resolve disputes and enforce compliance with international law.

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<sup>25</sup> International Commission on Intervention and State Sovereignty (2001). *The Responsibility to Protect*.

<sup>26</sup> [https://www.researchgate.net/publication/311581450\\_Sovereignty\\_in\\_International\\_Law](https://www.researchgate.net/publication/311581450_Sovereignty_in_International_Law)

Informal Enforcement: In addition to formal mechanisms, Neo-Institutionalism emphasizes the importance of informal enforcement through norms, peer pressure, and reputational concerns. States may comply with international law not just out of fear of legal consequences but also to maintain their standing within the international community.<sup>27</sup>

### **1.5.2.2 Institutional Design and Compliance**

Incentive Structures: Institutions are designed to create incentives for states to comply with international law. This includes offering rewards for compliance, such as access to markets or political support, and imposing costs for non-compliance, such as sanctions or loss of privileges within the institution.

Monitoring and Reporting: Institutions often have mechanisms for monitoring state behavior and reporting violations of international law. These mechanisms increase transparency and accountability, making it harder for states to violate international norms without facing consequences.

### **1.5.2.3 Norm Diffusion and Socialization**

Spreading Norms: Neo-Institutionalism highlights the role of institutions in diffusing norms across the international system. By promoting specific values, such as human rights or environmental protection, institutions encourage states to adopt and internalize these norms, leading to greater compliance with international law.<sup>28</sup>

Socialization of States: Through participation in international institutions, states undergo a process of socialization, where they learn and adopt the norms and practices of the international community. This socialization process increases the likelihood that states will comply with international law, even in the absence of direct enforcement.

## **1.6 Critical Theories**

Critical theories in international relations and law offer a distinct perspective on the enforcement of international law in sovereign states, challenging traditional views by focusing on power dynamics, inequality, and the role of ideology in shaping global legal norms. These theories often critique the existing international legal system as being

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<sup>27</sup> Richard Falk, *The Rule of Law in the United Nations: A Critique* (Cambridge: Cambridge University Press, 2004). Falk critiques the UN's role in enforcing international law, noting how sovereignty-related challenges and the political interests of powerful states affect the implementation and effectiveness of international legal norms. Trevor C. Hartley, *International Law and the Enforcement of Human Rights in Domestic Courts* (Oxford: Oxford University Press, 2007). Hartley explores the difficulties of enforcing international human rights norms within domestic legal systems, emphasizing the resistance of national jurisdictions to external legal scrutiny and the impact of sovereignty on compliance.

<sup>28</sup> <https://opil.ouplaw.com/display/10.1093/law:epil/9780199231690/law-9780199231690-e714>

[https://www.researchgate.net/publication/324844874\\_International\\_Legal\\_Order\\_and\\_the\\_Problems\\_of\\_State\\_Sovereignty\\_in\\_the\\_21st\\_Century](https://www.researchgate.net/publication/324844874_International_Legal_Order_and_the_Problems_of_State_Sovereignty_in_the_21st_Century)

inherently biased in favor of powerful states and other dominant actors, arguing that international law serves to perpetuate existing inequalities rather than enforce a truly fair and just global order. Below is an exploration of critical theories in the context of enforcing international law in sovereign states:

### **1.6.1 Core Tenets of Critical Theories**

Critical Theories offer a transformative lens through which to examine international relations and the enforcement of international laws, challenging established perspectives like Neo-Institutionalism. While Neo-Institutionalism focuses on the role of institutions, norms, and formal frameworks in shaping state behavior, Critical Theories critique these assumptions by questioning the power structures, hierarchies, and social forces that underlie the international system.

#### **1.6.1.1 Power and Hegemony**

**Power Structures:** Critical theories, such as Marxism and post-colonialism, emphasize that international law is deeply embedded in global power structures. These theories argue that the rules and norms of international law are often created and enforced by the most powerful states, reflecting their interests and maintaining their dominance over weaker states.

**Hegemonic Influence:** According to critical theorists, powerful states and international institutions act as hegemonic forces that shape international law to legitimize and sustain their control. This can result in laws and enforcement mechanisms that reinforce global inequalities rather than challenge them.

#### **1.6.1.2 Inequality and Marginalization**

**Global Inequality:** Critical theories highlight the unequal distribution of power and resources in the international system, arguing that international law often marginalizes less powerful states, as well as non-state actors, such as indigenous peoples and grassroots movements. This marginalization is reflected in the selective enforcement of international law, where the interests of powerful states take precedence over the rights of weaker states and marginalized groups.<sup>29</sup>

**Economic Exploitation:** Marxist approaches, in particular, view international law as a tool of capitalist exploitation, used by wealthy states and multinational corporations to secure access to resources and markets in the Global South. This exploitation is often masked by the rhetoric of legality and development which critical theorists argue serves to legitimize unequal economic relationships.

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<sup>29</sup> <https://doi.org/10.1145/3242093> Chandler, Chandler, D..(2010)<https://doi.org/10.1017/S1537592704370374>  
Ferreira-Snyman, M. P.. (2006).  
<https://www.researchgate.net/deref/https%3A%2F%2Fdoi.org%2F10.1080%2F10361146.2010.546336>:

### **1.6.1.3 Ideology and Cultural Hegemony**

**Western Centric Norms:** Critical theories argue that international law is often based on Western-centric norms and values, which are imposed on non-Western states through processes of legal imperialism and cultural hegemony. This can lead to the imposition of legal standards that do not reflect the cultural and social realities of many states, particularly in the Global South.

**Cultural Imperialism:** Post-colonial theorists, in particular, critique how international law often enforces Western legal norms, reinforcing a cultural imperialism that disregards indigenous and non-Western legal traditions. This enforcement perpetuates the dominance of Western states and their legal systems at the expense of diverse global perspectives.

### **1.6.1.4 Resistance and Alternative Visions**

**Subaltern Voices:** Critical theories emphasize the importance of amplifying subaltern voices those of marginalized groups and states that are often excluded from the creation and enforcement of international law. These theories advocate for a more inclusive approach to international law that recognizes the diversity of legal traditions and challenges the dominance of Western legal norms.<sup>30</sup>

**Alternative Legal Frameworks:** Critical theorists often propose alternative legal frameworks that prioritize social justice, equality, and the rights of marginalized communities. These frameworks challenge the existing international legal order and seek to create a more equitable

## **1.7. Legal Positivism**

**Core Idea:** Legal positivism is a theory that emphasizes the importance of written laws and treaties as the primary sources of international law. It focuses on the formal processes through which laws are created and enforced.<sup>31</sup>

**Enforcement Perspective:** Legal positivists argue that international law is enforced through formal mechanisms, such as courts and arbitration bodies, which interpret and apply legal texts. Compliance is seen as a legal obligation, and enforcement is achieved through legal procedures and sanctions.

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<sup>30</sup> Joan Fitzpatrick, *Human Rights Protection for Refugees: The Role of International Law* (Cambridge: Cambridge University Press, 1994). Fitzpatrick analyzes the application of international human rights law in the context of refugee protection, addressing the difficulties in enforcing these protections within sovereign states that may adopt restrictive policies.

<sup>31</sup> Shaw, M. N. *International Law* (8th ed.). Cambridge University Press, 2017. ↵

Bosco, D. *Rough Justice: The International Criminal Court in a World of Power Politics*. Oxford University Press, 2014.



**In Conclusion.** the effective enforcement of international law requires balancing respect for sovereignty with global legal obligations. Strong international institutions, cooperative frameworks, and shared norms can encourage compliance, while acknowledging that power dynamics and national interests often limit the reach of international law. Ultimately, a multi-faceted approach combining legal, diplomatic, and normative tools is necessary to address this challenge.

## **CHAPTER 2: THE CHALLENGES IN ENFORCING INTERNATIONAL LAW IN SOVEREIGN STATES.**

The enforcement of international law in sovereign states presents several significant challenges due to the inherent tension between state sovereignty and the obligations imposed by international norms. Here are some of the key challenges:<sup>32</sup>

### **2.1 Principle of State Sovereignty**

The fundamental concept in international relations and law, referring to the right of states to govern themselves without external interference. This principle, while central to the structure of the modern international system, also poses significant challenges to the enforcement of

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<sup>32</sup> Sikkink, K. *The Justice Cascade: How Human Rights Prosecutions Are Changing World Politics*. W.W. Norton, 2011.

international law within sovereign states. Here's a discussion of how the Principle of State Sovereignty creates challenges for enforcing international law

### **2.1.1 Autonomy and Self-Governance<sup>33</sup>**

Autonomy refers to the ability or right of an individual, group, or state to make independent decisions and govern itself without external control. In political and legal contexts, autonomy implies the freedom to regulate internal affairs and determine policies or actions according to one's own preferences or laws.

Self-Governance is the practice of governing oneself or a community through locally derived and implemented rules, laws, or systems. It often refers to the capacity of a state, region, or organization to govern without external authority, making decisions about policies, administration, and day-to-day functions based on the community's own interests and needs.

While both terms involve independence, autonomy emphasizes the right or condition of being self-directed, while self-governance refers to the actual process of managing and making decisions independently.<sup>34</sup>

#### **2.1.1.1 PROBLEM RELATED TO AUTONOMY AND SELF GOVERNANCE**

- **Conflicts with Central Authority:** In situations where a region or group seeks autonomy or self-governance within a larger state, there can be tension or conflict with the central government. For example, demands for autonomy may be seen as a threat to national unity or territorial integrity, leading to political disputes or even violent conflict.

- **Limited Resources and Capacity:** Regions or communities exercising self-governance may face difficulties if they lack the economic resources, administrative capacity, or infrastructure to effectively manage their own affairs. This can lead to inefficiency, poor governance, or reliance on external support, undermining the benefits of autonomy.<sup>35</sup>

- **International Recognition:** In cases of autonomy or self-governance at the international level, such as regions seeking independence or more control over their affairs, gaining recognition from other states or international organizations can be a significant challenge. Without recognition, autonomous entities may face difficulties in trade, diplomacy, and security.

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<sup>33</sup> Keohane, R., & Victor, D. *The Regime Complex for Climate Change. Perspectives on Politics*, 2011. Cassese, A. (2005). *International Law*. Oxford University Press.

<sup>34</sup> Nogué, J., & Vicente, J. (2004). Landscape and national identity in Catalonia. *Political Geography*, 23(2), 113-132.

<sup>35</sup> Wunsch, J. S. (2001). Decentralization, local governance, and 'recentralization' in Africa. *Public Administration and Development*, 21(4), 277-288.

- Cultural and Ethnic Tensions: Autonomy and self-governance are often sought by ethnic or cultural minorities to preserve their identity. However, this can create tensions with other groups within the same state or region, especially if autonomy is seen as exclusive or leads to unequal distribution of resources or rights.

- Corruption and Accountability: While autonomy and self-governance can empower local leaders, there is also the risk of poor governance, corruption, or a lack of accountability. Without strong oversight mechanisms, autonomous regions may suffer from mismanagement or authoritarian rule by local elites.

### **2.1.2 Non-Intervention**

Respect for Territorial Integrity: The principle of non-intervention is closely linked to state sovereignty and emphasizes that no state or international body has the right to intervene in the internal affairs of another state. This principle can obstruct the enforcement of international law, especially in cases where intervention is deemed necessary to address issues like human rights violations or breaches of peace.

Resistance to External Jurisdiction: Sovereign states are often resistant to submitting to the jurisdiction of international courts or tribunals, seeing this as an infringement on their sovereignty. Even when states are parties to international treaties, they may be reluctant to allow external bodies to enforce those treaties within their borders.<sup>36</sup>

### **2.1.3 Selective Compliance and Enforcement**

Prioritization of National Interests: States often prioritize their national interests over international obligations, leading to selective enforcement of international law. For example, a state may comply with trade agreements that benefit its economy but ignore international human rights obligations that it finds politically or culturally challenging.

Political and Economic Power: Powerful states can leverage their sovereignty to avoid enforcement of international law, using their political or economic influence to resist external pressure. This can create a double standard, where weaker states are held accountable, while more powerful states evade compliance.

### **2.1.4 Geopolitical Implications<sup>37</sup>**

International Relations and Sovereignty: The principle of state sovereignty can complicate international relations, particularly in regions with significant geopolitical tensions. States may use sovereignty as a shield to protect themselves from international scrutiny or intervention, making it difficult to address issues like regional conflicts, transnational crimes, or environmental degradation that require cooperative enforcement of international law.

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<sup>36</sup> .Franck, T. M. (1990). *The Power of Legitimacy Among Nations*. Oxford University Press.

## **2.2 Conflicting National Laws<sup>38</sup>**

Conflicting national laws pose significant challenges to the enforcement of international law. When sovereign states have laws that contradict international agreements or norms, it can create tensions and complications in various areas:

Conflicting national laws arise when different legal frameworks within a country or between countries clash, leading to challenges in governance, enforcement, and compliance. In federal systems, such as the United States, regional laws may contradict national laws, causing jurisdictional disputes and legal uncertainty, as seen in cases like marijuana legalization. Autonomous regions, such as Catalonia or Quebec, often face tension with central governments over control of local matters like language, culture, or even secession, leading to constitutional conflicts. On a global scale, cross-border legal conflicts in areas like trade, human rights, and environmental regulations can create challenges for businesses, international relations, and law enforcement. These conflicts are often resolved through legal reforms, judicial rulings, or international treaties, though political, cultural, and economic factors complicate the process, making harmonization of laws difficult.

### **2.2.1 Sovereignty vs. International Obligations**

Sovereign states prioritize their national interests, which can lead to laws that conflict with international treaties or conventions they've signed. For example, a country might have domestic laws that contradict international human rights standards. This can undermine the effectiveness of international agreements and create challenges in holding states accountable.

### **2.2.2. Jurisdictional Issues**

Conflicts arise when national laws address issues that fall under international jurisdiction, such as crimes against humanity or environmental protection. States may have different legal standards or procedures, making it difficult to coordinate enforcement or cooperate on international cases.<sup>39</sup>

Jurisdictional issues arise when there is uncertainty about which court or legal authority has the power to make decisions in a given case, often leading to conflicts in enforcement and interpretation of laws. This complexity is particularly pronounced in federal systems, where both national and state or regional courts may claim jurisdiction over the same legal matter, creating a patchwork of legal authority that can confuse citizens and businesses alike. For

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<sup>38</sup> 6. International Court of Justice (ICJ). (1986). Judgment in the Case Concerning Military and Paramilitary Activities in and Against Nicaragua (Nicaragua v. United States of America).

<sup>39</sup> International Court of Justice (ICJ), Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory (2004), Advisory Opinion.

instance, in cases involving interstate commerce, conflicting interpretations of law by different state courts can lead to inconsistent rulings, impacting businesses operating across state lines.

### **2.2.3 Legal Frameworks and Interpretations**

Different countries may interpret international law differently or have varying legal frameworks. This can lead to inconsistent application of international standards, making it challenging to achieve uniform enforcement or resolution of disputes.

Legal frameworks and interpretations are critical in shaping how laws are applied and enforced, impacting everything from individual rights to broader governance structures. A legal framework encompasses the formal laws, regulations, and legal precedents that define the rights and responsibilities of individuals and entities within a jurisdiction, serving as the foundation for legal order. However, the interpretation of these laws can vary significantly based on jurisdiction, the political climate, and the judicial philosophy of the courts involved. For example, differing interpretations of constitutional provisions can lead to starkly contrasting outcomes in cases related to civil liberties, such as freedom of speech or the right to privacy, as seen in landmark U.S. Supreme Court decisions. Moreover, in areas where international law intersects with national legislation such as human rights or environmental protection interpretations may vary even more dramatically, leading to conflicts between domestic laws and international obligations. These variations can create uncertainty, foster litigation, and impact the effectiveness of legal protections. As such, ongoing debates about legal interpretation, including approaches like textualism, originalism, or purposivism, are essential in shaping how laws are understood and applied, highlighting the dynamic nature of legal systems and the importance of context in legal analysis.<sup>40</sup>

### **2.2.4 Diplomatic and Political Tensions<sup>41</sup>**

Discrepancies between national laws and international agreements can lead to diplomatic disputes or political friction. States may resist complying with international rulings or obligations if they perceive them as infringing on their sovereignty or conflicting with national interests.

Diplomatic and political tensions frequently arise from conflicting national laws, particularly when issues of sovereignty and human rights intersect. For instance, if one country adopts stringent immigration policies or engages in practices deemed human rights violations by

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<sup>40</sup> United Nations Security Council Resolution 242 (1967), which emphasizes the inadmissibility of acquiring territory by war and calls for withdrawal from territories occupied in the conflict.

<sup>41</sup> Indyk, M. (2013). *Brokering Peace: The Secret History of the Oslo Accords*. Simon & Schuster.

another, it can lead to condemnation, sanctions, or strained diplomatic relations. Furthermore, disparities in trade regulations can create barriers, prompting accusations of protectionism and unfair practices, which can escalate tensions during negotiations. Ultimately, these conflicts underscore the intricate dynamics of international relations, where national interests must be navigated alongside legal obligations and ethical considerations to foster cooperation and resolve disputes.

### **2.2.5 Enforcement Mechanisms<sup>42</sup>**

International law often relies on states to implement and enforce its provisions. If national laws are inconsistent with international obligations, it can hinder the effectiveness of enforcement mechanisms and lead to selective compliance.

Enforcement mechanisms are critical tools used to ensure compliance with laws and regulations at both national and international levels. At the national level, these mechanisms include judicial systems, law enforcement agencies, and regulatory bodies that investigate violations and impose penalties to uphold legal standards. In the international arena, enforcement can be more complex, often relying on diplomatic pressure, economic sanctions, or collective action through organizations like the United Nations, especially when states resist external intervention. However, the effectiveness of these mechanisms is often hampered by issues of sovereignty and political will, as states may prioritize national interests over adherence to international norms, leading to challenges in achieving consistent and equitable enforcement.

## **2.3 Weak Enforcement Mechanisms**

Weak enforcement mechanisms can significantly undermine the effectiveness of laws and regulations, leading to widespread non-compliance and a lack of accountability. In many national contexts, insufficient resources, inadequate training for law enforcement, and lack of political will can hinder the ability to enforce laws effectively, resulting in rampant violations and erosion of public trust in legal institutions. Similarly, on the international stage, enforcement mechanisms often rely on voluntary compliance, diplomatic negotiations, and sanctions, which may lack the power to compel states to adhere to international agreements, especially when they prioritize sovereignty over global commitments. Consequently, the

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<sup>42</sup> The ICJ ruling in this case is a key example of the challenges in enforcing international law when powerful states, such as the United States, choose to ignore international legal decisions.

International Criminal Court (ICC). (2009). Warrant of Arrest for Omar Hassan Ahmad Al Bashir.

inability to enforce laws consistently not only undermines legal frameworks but also poses challenges to maintaining order, protecting human rights, and fostering cooperation among nations.

Enforcing international law in sovereign states often encounters significant challenges, with weak enforcement mechanisms being a major issue. Here are some key points to consider:

### **2.3.1 Sovereignty vs. International Authority**

**Sovereignty:** Sovereign states have supreme authority within their own borders. This means that international laws or decisions made by international bodies can be difficult to enforce if they conflict with national interests or policies.

**International Authority:** Bodies like the United Nations (UN) or the International Criminal Court (ICC) can issue resolutions or judgments, but their ability to enforce these decisions relies heavily on the cooperation of member states.

### **2.3.2 Lack of Binding Enforcement Mechanisms**

**Non-Binding Resolutions:** Many international resolutions or recommendations are non-binding, meaning that states are not legally required to comply. This limits their effectiveness and the ability to enforce compliance.

**Limited Jurisdiction:** International courts, such as the International Court of Justice (ICJ), often have limited jurisdiction and can only adjudicate cases if both parties consent to their jurisdiction.

### **2.3.3 Political Will and Selective Enforcement**

**Political Will:** Enforcement often depends on the political will of powerful states or coalitions. If major powers are not interested in enforcing a particular law or resolution, it may not be pursued vigorously.

**Selective Enforcement:** There is sometimes selective enforcement of international laws based on political, economic, or strategic interests. This can lead to inconsistencies and perceptions of unfairness.

### **2.3.4 Enforcement Mechanisms**

**Sanctions:** Economic or diplomatic sanctions are tools that can pressure states into compliance, but their effectiveness varies and can sometimes have unintended consequences on civilian populations.<sup>43</sup>

**Diplomatic Pressure:** International pressure from other states or organizations can encourage compliance, but this relies on diplomatic channels and may not always yield results.<sup>44</sup>

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<sup>43</sup> Brinkerhoff, D. W. (2000). Assessing political will for anti-corruption efforts: An analytical framework. *Public Administration and Development*, 20(3), 239-252.

**Military Intervention:** In extreme cases, military intervention might be considered, but this raises ethical and legal concerns and can lead to further conflict.

## **2.4 Political Considerations**

Enforcing international law in sovereign states presents numerous challenges, largely due to the tension between state sovereignty and the principles of international law. Here are some key political considerations:

### **2.4.1 Sovereignty vs. International Law**

**State Sovereignty:** Sovereignty is a fundamental principle of international relations, giving states the authority to govern themselves without external interference. This often clashes with international law, especially when laws require states to act against their interests or intervene in their internal affairs.

**Non-Interference Principle:** Many states resist enforcement mechanisms that could be seen as violating their sovereignty. They argue that international law should not dictate internal matters, leading to selective adherence or outright rejection of certain international laws.

### **2.4.2 National Interests**

**Economic and Strategic Interests:** States may prioritize their economic and strategic interests over international legal obligations. For instance, a state might ignore international environmental agreements if they conflict with economic growth or energy needs.

**Diplomatic Relations:** States often balance their compliance with international law against maintaining diplomatic relationships. They might avoid enforcing laws that could harm alliances or provoke conflicts with key partners.<sup>45</sup>

### **2.4.3 Cultural and Legal Pluralism**

**Diverse Legal Systems:** International law must contend with the diversity of legal traditions and cultural values across states. Some states may find certain international legal norms incompatible with their domestic laws or cultural practices, leading to resistance or reinterpretation of these norms.

**Human Rights vs. Cultural Norms:** The enforcement of international human rights law often encounters resistance when it is perceived to conflict with local traditions or religious beliefs.

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<sup>44</sup> Hafner-Burton, E. M. (2008). Sticks and stones: Naming and shaming the human rights enforcement problem. *International Organization*, 62(4), 689-716.

<sup>45</sup> Orford, A. (2003). *Reading Humanitarian Intervention: Human Rights and the Use of Force in International Law*. Cambridge University Press.



## **2.4.4 Global Governance and Reform**

Global governance and the enforcement of international laws within sovereign states present a complex array of challenges that stem from the interplay between state sovereignty and the growing need for cooperative global solutions. Here's a breakdown of these challenges and the need for reform:

### **2.4.4.1 International Institutions and Their Limitations**

**UN and its Agencies:** The United Nations and its agencies are central to global governance, yet they often face limitations due to the political dynamics of their member states. The Security Council, for instance, can be paralyzed by the veto power of its permanent members, limiting its ability to respond effectively to global crises.

**International Courts:** The International Court of Justice (ICJ) and the International Criminal Court (ICC) are critical in enforcing international law, but their jurisdiction is often limited. Many states do not recognize the compulsory jurisdiction of the ICJ, and the ICC faces challenges in securing arrests and cooperation from non-member states.

### **2.4.4.2 Global Power Dynamics<sup>46</sup>**

**Power Imbalances:** Global governance structures are often criticized for reflecting the interests of powerful states over weaker ones. This can lead to selective enforcement of international laws, where powerful states might evade accountability, while weaker states are more susceptible to international pressure.

**Geopolitical Interests:** Enforcement of international laws is often influenced by geopolitical considerations. For instance, powerful states might prioritize their strategic interests over legal obligations, undermining the impartiality of international law enforcement.

### **2.4.4.3 Non-State Actors and Global Challenges**

**Rise of Non-State Actors:** Global challenges such as terrorism, climate change, and cyber threats involve non-state actors that operate beyond the control of any single state. International law traditionally focuses on state actors, making it difficult to address issues posed by non-state entities effectively.

**Globalization and Interdependence:** The interconnectedness brought by globalization has created new challenges for enforcement, as actions in one state can have significant repercussions globally. This interdependence requires more robust mechanisms for

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<sup>46</sup> Klabbers, J. (2013). *International Law*. Cambridge University Press. Klabbers provides an accessible introduction to international law, focusing on the enforcement challenges posed by state sovereignty and power dynamics in international relations

international cooperation and enforcement, which current governance structures struggle to provide.

## **2.5 Variability in National Commitment**

significant factor that complicates the enforcement of international laws within sovereign states. This variability stems from differences in political, economic, and cultural contexts, as well as varying levels of interest and willingness among states to adhere to international norms and agreements. Here's a closer look at how this variability impacts the enforcement of international laws:<sup>47</sup>

### **2.5.1 Diverse National Interests and Priorities**

**Political and Economic Interests:** States have different national interests based on their political and economic situations. A powerful nation with significant global influence might prioritize its geopolitical or economic interests over strict adherence to international law, especially if compliance could undermine its strategic goals. For instance, a state might resist international environmental regulations if it perceives them as detrimental to its economic growth.

**Cultural and Ideological Differences:** Cultural and ideological perspectives also play a role in national commitment to international laws. Some states may view certain international norms, particularly those related to human rights or social policies, as incompatible with their domestic values and legal traditions. This can lead to selective commitment or outright rejection of international legal obligations.

### **2.5.3 Political Will and Leadership Changes**

**Shifts in Political Leadership:** Changes in political leadership can significantly impact a state's commitment to international law. A new government might prioritize different policies, leading to a shift in how international obligations are viewed and enforced. For instance, a government that was previously committed to international climate agreements might withdraw or reduce its commitments if a new administration prioritizes domestic economic growth over environmental concerns.

**Populism and Nationalism:** The rise of populist and nationalist movements in various countries has often led to a retreat from international cooperation and a reduced commitment to international law. Leaders who promote "sovereignty first" policies may view international

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<sup>47</sup> O. (1989). Sovereignty and Threats to Peace. In R. B. Lillich & J. S. Downs (Eds.), *International Law and International Security: Military and Political Dimensions* (pp. 7-22). Routledge.

laws as constraints on their ability to govern according to national interests, leading to a more selective or dismissive approach to international obligations.

#### **2.5.4 Impact of Domestic Politics**

**Public Opinion and Pressure:** Domestic public opinion can influence a state's commitment to international law. In democracies, governments may face pressure from voters who are either supportive or skeptical of international agreements. This can lead to fluctuating levels of commitment depending on the prevailing public sentiment. For example, public opposition to military interventions might influence a state's decision to participate in or comply with international peacekeeping efforts.<sup>48</sup>

**Institutional Capacity:** The ability of a state to enforce international laws domestically depends on its institutional capacity. States with weak legal and political institutions may struggle to meet their international obligations, not necessarily due to a lack of commitment but due to practical challenges in governance.

#### **2.5.5 External Pressures and Incentives**

**International Pressure:** States may face external pressure from other countries, international organizations, or global public opinion to comply with international laws. However, the effectiveness of such pressure varies. Powerful states or those with strategic importance may resist external pressures with little consequence, while weaker states may be more susceptible to coercion.

**Incentives for Compliance:** Variability in national commitment can also be influenced by the presence of incentives for compliance or penalties for non-compliance. For example, states might be more willing to adhere to international trade laws if doing so grants them access to lucrative markets or trade agreements. Conversely, the threat of sanctions or diplomatic isolation may compel states to comply with international laws they might otherwise disregard.

### **2.6 Lack of Global Governance Structures**

The lack of robust global governance structures significantly impacts the enforcement of international laws within sovereign states. Here's an exploration of the key challenges arising from this deficiency:

#### **2.6.1 Fragmented Global Institutions**

**Multiple, Uncoordinated Bodies:** The international system comprises various institutions such as the United Nations, World Trade Organization (WTO), International Criminal Court

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<sup>48</sup> .Brierly, J. L. (1963). *The Law of Nations: An Introduction to the International Law of Peace*. Clarendon Press.

(ICC), and others, each with its own mandate and jurisdiction. This fragmentation leads to a lack of coordination and coherence in enforcing international laws.<sup>49</sup>

**Overlapping Mandates:** Institutions with overlapping mandates can create confusion and inefficiencies. For instance, both the UN Security Council and regional organizations like the African Union might be involved in addressing a conflict, but their efforts might not always be synchronized, leading to fragmented responses.

### **2.6.2 Dependence on State Sovereignty**

**Respect for Sovereignty:** The principle of state sovereignty is deeply ingrained in international law, and many global governance structures are designed to respect this principle. However, this respect can limit the ability of international institutions to enforce laws effectively. For example, the UN Security Council requires consensus among its permanent members to take action, and political disagreements can stymie enforcement efforts.

**Voluntary Compliance:** Enforcement often depends on states' willingness to comply with international norms. States may choose to ignore or circumvent international laws if they perceive them as contrary to their national interests or if they believe there will be no significant consequences for non-compliance.<sup>50</sup>

### **2.6.3 Insufficient Representation and Inclusivity**

**Inequitable Influence:** Global governance structures can reflect the interests of powerful states more than those of smaller or less influential ones. For example, the veto power of the permanent members of the UN Security Council can lead to situations where international laws are not enforced due to the political interests of these powerful states.

**Lack of Representation:** Many global institutions struggle with issues of representativeness and inclusivity. States with significant influence can dominate decision-making processes, potentially marginalizing the voices and interests of less powerful countries. This can lead to biased enforcement of international laws and create perceptions of unfairness.

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<sup>49</sup> .D. 1958, University of Kiel; LL.M. 1960, Indiana University School of Law at Bloomington. Professor of International and Constitutional Law and Director of the Institute of International Law at the Christian-Albrechts University, Kiel, Federal Republic of Germany. Visiting Scholar 1981-82, Harvard University School of Law.

<sup>50</sup> Sovereign-State System, International Law and Institutions, and Environmental Protection: Present Incompatibilities and Future Possibilities \*

## **2.6.6 Limited Resources and Capacities**

**Financial and Human Resources:** Many global institutions face constraints related to funding and human resources, which limit their ability to enforce international laws effectively.

For example, international organizations may lack the financial means or personnel to carry out comprehensive monitoring and enforcement activities.

**Capacity Building:** Developing countries may lack the capacity to engage fully with global governance structures or to comply with international laws due to resource limitations. This disparity can lead to uneven enforcement and hinder global efforts to address international legal issues.

### **CASE**

#### **1. UNITED STATES V. IRAN (1980) - INTERNATIONAL COURT OF JUSTICE (ICJ)**

##### **Background**

The United States v. Iran case arose from the Iranian Hostage Crisis, a diplomatic standoff between the United States and Iran that began on November 4, 1979. On this day, Iranian<sup>51</sup> revolutionaries seized the U.S. Embassy in Tehran and took 52 American diplomats and citizens hostage. The hostage-taking was a response to the U.S.'s long-standing support of the recently ousted Shah of Iran, Mohammad Reza Pahlavi, who had been allowed to enter the U.S. for medical treatment. The revolutionary government of Iran, led by Ayatollah Khomeini, demanded the Shah's return to face trial in Iran.

The U.S. brought the case before the International Court of Justice (ICJ), claiming that Iran had violated international law, particularly the Vienna Convention on Diplomatic Relations (1961) and the Vienna Convention on Consular Relations (1963), which require host states to protect diplomatic missions and their staff. The U.S. argued that Iran had failed in its obligation to protect the U.S. Embassy and its personnel, and that the actions of the Iranian government in supporting the seizure of the embassy were unlawful.

##### **ICJ Ruling**

On May 24, 1980, the ICJ issued its ruling in favor of the United States. The court found that Iran had violated its international obligations under the Vienna Conventions by failing to protect the U.S. Embassy and its personnel from attack. The ICJ ordered Iran to immediately release the hostages, restore the U.S. Embassy to its rightful authorities, and provide reparations for the damages suffered.

##### **Key points from the ruling**

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<sup>51</sup> <https://www.jomswsge.com/pdf-79753-15801?filename=Problem%20of%20enforcementof.pdf>

**Violation of Diplomatic Immunity:** The ICJ confirmed that the seizure of the embassy and the taking of hostages were clear violations of diplomatic immunity and the principles of international law governing the treatment of diplomatic missions.

**State Responsibility:** The court held Iran responsible not only for failing to prevent the attack<sup>52</sup> but also for its active endorsement of the actions taken by the revolutionaries. The court emphasized that states have a duty to protect foreign diplomatic missions within their territory.

**Obligations to Release Hostages:** The ICJ ordered Iran to immediately release the hostages and restore full control of the embassy to the U.S.

### **Enforcement Challenge**

Despite the ICJ's ruling, Iran ignored the decision and did not release the hostages. This non-compliance highlighted the limitations of the ICJ and international law in enforcing judgments, particularly when dealing with sovereign states that prioritize national interests or revolutionary principles over international legal obligations.

The hostages were eventually released on January 20, 1981, after 444 days in captivity, but this occurred not as a result of the ICJ's ruling but through diplomatic negotiations known as the Algiers Accords. These negotiations were facilitated by Algeria, which acted as an intermediary between the U.S. and Iran. The accords included provisions for the release of the hostages, the unfreezing of Iranian assets in the U.S., and the establishment of a claims tribunal to handle disputes between the two countries.

### **Implications and Significance**

**Limitations of the ICJ:** The *United States v. Iran* case demonstrates the limitations of the ICJ's ability to enforce its rulings, particularly when the state in question refuses to comply. The ICJ does not have its own enforcement mechanism and relies on the cooperation of states or the United Nations Security Council to implement its judgments. However, in cases involving major geopolitical conflicts, such enforcement is often lacking.

**Sovereignty and Non-Compliance:** Iran's refusal to comply with the ICJ ruling underscored the challenges of enforcing international law in situations where a state's sovereignty and political interests are at odds with international legal norms. The case illustrated how states can ignore international legal obligations when they conflict with domestic political objectives or revolutionary ideals.

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<sup>52</sup> [https://www.researchgate.net/publication/311581450\\_Sovereignty\\_in\\_International\\_Law](https://www.researchgate.net/publication/311581450_Sovereignty_in_International_Law)

Diplomacy vs. Legal Enforcement: The resolution of the hostage crisis through diplomatic negotiations rather than legal enforcement highlights the complex interplay between diplomacy and international law. While the ICJ provided a legal framework for resolving the dispute, it was ultimately diplomacy that led to the hostages' release.<sup>53</sup>

In summary, the *United States v. Iran* case is a pivotal example of the difficulties in enforcing international law against sovereign states, particularly in politically charged situations. It serves as a reminder of the limitations of international legal institutions and the importance of diplomacy in resolving international disputes.

## **2. ISRAEL AND UNITED NATIONS**

### **ISRAEL AND UNITED NATIONS (ISRAEL SETTLEMENTS IN OCCUPIED PALESTINIAN TERRITORIES).**

The issue of Israeli settlements in the Occupied Palestinian Territories (OPT), particularly in the West Bank and East Jerusalem, has been a major point of contention in the Israeli-Palestinian conflict. These settlements are communities established by Israel in territories captured during the Six-Day War of 1967, which include the West Bank, East Jerusalem, and the Golan Heights. The international community, particularly the United Nations (UN), has consistently condemned the settlements as a violation of international law, but Israel disputes this interpretation. This controversy touches upon issues of territorial sovereignty, human rights, international law, and the ability of international bodies to enforce norms and resolutions.

#### **1. Historical Background**

The origins of the settlement issue go back to the Six-Day War of 1967, when Israel captured the West Bank and East Jerusalem from Jordan, the Golan Heights from Syria, and the Gaza Strip from Egypt. Shortly after the war, Israel began establishing civilian settlements in these territories. The Israeli government argued that the areas captured in the war, particularly the West Bank and East Jerusalem, were part of the historic Jewish homeland. Over time, Israel built and expanded settlements, despite objections from the international community.

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<sup>53</sup> [https://scholarship.law.pitt.edu/cgi/viewcontent.cgi?article=1040&context=fac\\_articles](https://scholarship.law.pitt.edu/cgi/viewcontent.cgi?article=1040&context=fac_articles)

As of 2024, there are over 450,000 Israeli settlers living in the West Bank, with an additional 220,000 in East Jerusalem. The settlements are widely considered one of the biggest obstacles to peace in the Israeli-Palestinian conflict.

## **2. International Legal Context**

The legal status of Israeli settlements in the Occupied Palestinian Territories has been a matter of international dispute for decades. The Fourth Geneva Convention of 1949, which governs the protection of civilians during times of war, is frequently cited as the primary legal basis for declaring the settlements illegal. Article 49 of the Convention states that “the Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies.” The United Nations Security Council (UNSC), the International Court of Justice (ICJ), and various human rights organizations have interpreted this provision as prohibiting Israeli settlement activity in the occupied <sup>54</sup>territories.

### **Key UN Resolutions:**

UN Security Council Resolution 242 (1967): This resolution, passed after the Six-Day War, called for the "withdrawal of Israeli armed forces from territories occupied in the recent conflict" and emphasized the inadmissibility of acquiring territory by war. Though it did not explicitly mention settlements, it laid the groundwork for future international discussions on Israel's occupation of the territories.

UN Security Council Resolution 446 (1979): This resolution explicitly declared that Israeli settlements have "no legal validity" and constitute a "serious obstruction" to peace in the Middle East. It called on Israel to halt settlement activities and to respect the Fourth Geneva Convention.

UN Security Council Resolution 2334 (2016): Passed in December 2016, this resolution condemned Israeli settlement activity as a "flagrant violation" of international law and called for an immediate cessation of all settlement activities. The resolution was notable because the United States, a traditional ally of Israel, abstained from using its veto power, allowing the resolution to pass.

Israel has rejected these resolutions, arguing that they are politically motivated and do not reflect the realities on the ground. Israel also disputes the application of the Fourth Geneva Convention to the territories, claiming that these areas were not recognized as sovereign

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<sup>54</sup> Sikkink, K. *The Justice Cascade: How Human Rights Prosecutions Are Changing World Politics*. W.W. Norton, 2011. ↩



territories of any state before 1967 and thus cannot be considered "occupied" in the legal sense.

### **3. UN Security Council and General Assembly Involvement**

The United Nations, particularly through its Security Council and General Assembly, has been at the forefront of efforts to address the issue of Israeli settlements. The Security Council has passed numerous resolutions condemning the settlements and calling for Israel to halt expansion, but enforcement has been limited due to political dynamics within the Council, particularly the role of the United States.

**U.S. Veto Power:** The United States, a permanent member of the UNSC, has historically been a staunch ally of Israel and has used its veto power to block many resolutions critical of Israeli actions. For example, in 2011, the U.S. vetoed a Security Council resolution that condemned Israeli settlement expansion, even though all other members of the Council voted in favor. This has resulted in frustration among Palestinian leaders and other member states who argue that the U.S. veto undermines the effectiveness of the UNSC.

**General Assembly Resolutions:** Unlike Security Council resolutions, General Assembly resolutions are not legally binding. However, they have symbolic importance and reflect the consensus of the international community. The General Assembly has passed many resolutions condemning Israeli settlement activities, emphasizing the illegality of the settlements and the right of Palestinians to self-determination. Despite the overwhelming support for such resolutions, they have had little practical impact on Israel's policies.

### **4. International Court of Justice (ICJ) Advisory Opinion (2004)**

In 2004, the International Court of Justice issued an advisory opinion on the legal consequences of the construction of a separation barrier by Israel in the West Bank. While the primary focus of the opinion was on the barrier, the ICJ also addressed the issue of settlements. The court concluded that the Israeli settlements in the Occupied Palestinian Territories, including East Jerusalem, were established in breach of international law, specifically the Fourth Geneva Convention. The court's <sup>55</sup>opinion reinforced the stance that the settlements are illegal and called on Israel to comply with international obligations.

However, like General Assembly resolutions, ICJ advisory opinions are not binding, and Israel rejected the court's findings, claiming that the ICJ had overstepped its authority and was biased against Israel.

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<sup>55</sup> International Court of Justice (ICJ). (1986). Judgment in the Case Concerning Military and Paramilitary Activities in and Against Nicaragua (Nicaragua v. United States of America).

## **5. Israel's Position on Settlements**

Israel argues that the West Bank and East Jerusalem are disputed, not occupied, territories. The Israeli government views these areas as historically and biblically significant to the Jewish people and asserts that Jewish communities in these regions have a right to exist. Successive Israeli governments have maintained that the borders of a future Palestinian state should be determined through negotiations rather than imposed by external forces or international law.

Israel also challenges the applicability of the Fourth Geneva Convention, claiming that the West Bank and East Jerusalem were not under the recognized sovereignty of any state prior to the 1967 war.

Israel argues that the convention's prohibition on transferring civilians to occupied territories does not apply in this case, as these territories were not legally recognized as belonging to any sovereign state when Israel took control.

Moreover, Israel justifies the expansion of settlements on security grounds, stating that they provide a buffer against potential threats. Many Israeli political leaders have also argued that settlements will eventually be incorporated into Israel through land swaps in any future peace agreement.

## **6. Impact of Settlements on Peace Process**

The continued expansion of settlements has been a major obstacle in the Israeli-Palestinian peace process. Palestinians view the settlements as a direct violation of their right to self-determination and a major barrier to the establishment of a viable, contiguous Palestinian state. Settlements fragment the West Bank, making it difficult to create a Palestinian state with territorial integrity.

Efforts to negotiate a two-state solution, such as the Oslo Accords (1993) and the Camp David Summit (2000), have been undermined by ongoing settlement expansion. The growth of settlements has led to the creation of a network of Israeli-only roads and military checkpoints, further complicating the daily lives of Palestinians and stoking tensions.

## **7. Recent Developments**

- **Normalization Agreements:** In recent years, Israel has signed normalization agreements with several Arab states, including the United Arab Emirates (UAE) and Bahrain (the Abraham Accords, 2020), and more recently Saudi Arabia. These agreements did not directly address the issue of Israeli settlements but have shifted the focus away from the Israeli-Palestinian conflict in some regional diplomatic efforts.

- International Response: The international community, particularly the European Union (EU), continues to oppose settlement expansion, with some countries threatening sanctions or boycotts of products originating from the settlements. However, without a unified and enforceable international strategy, Israel's settlement policy remains largely unchecked.<sup>56</sup>

In conclusion

The issue of Israeli settlements in the Occupied Palestinian Territories remains one of the most significant obstacles to peace in the Israeli-Palestinian conflict. Despite repeated condemnations by the United Nations and the International Court of Justice, Israel has continued to expand settlements, citing security concerns, historical claims, and legal disputes over the applicability of international law. The lack of enforcement mechanisms within the international legal system, combined with the influence of powerful states like the United States, has made it difficult to resolve the issue. As long as settlement expansion continues, the prospects for a negotiated peace settlement and the establishment of a viable Palestinian state remain uncertain.<sup>57</sup>

The challenges in enforcing international law in sovereign states stem from the inherent tension between state sovereignty and the need for global legal norms. Sovereign states often prioritize their national interests and legal frameworks, making them resistant to external interference, particularly when international laws conflict with domestic policies. Issues such as selective enforcement, lack of political will, weak enforcement mechanisms, and conflicting national laws further complicate the ability to ensure compliance. While international institutions, diplomatic engagement, and economic incentives can promote adherence, enforcement remains inconsistent, particularly in cases where powerful states are involved. To address these challenges, a balanced approach that respects sovereignty while promoting international cooperation and compliance is essential. Strengthening regional integration efforts, building trust, and offering incentives are crucial strategies for enhancing the effectiveness of international law enforcement in sovereign states.

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<sup>56</sup> Chomsky, N. (1999). *Fateful Triangle: The United States, Israel, and the Palestinians*. South End Press.  
B'Tselem. (2020). *The Israeli Settlements in the West Bank*. Israel Information Center for Human Rights in the Occupied Territories.

<sup>57</sup> United Nations Security Council Resolution 2334 (2016), condemning Israeli settlements in the West Bank and East Jerusalem as illegal under international law.

### **CHAPTER 3: THE STRATEGIES TO OVERCOME THE CHALLENGES ENFORCING INTERNATIONAL LAW IN SOVEREIGN STATES.**

Enhancing the enforcement of international law in sovereign states requires a multi-faceted approach that balances respect for state sovereignty with the need for global compliance. Strengthening international institutions like the UN and ICC, promoting multilateral cooperation, and using diplomatic and economic incentives can encourage adherence to international norms. Integrating international law into domestic legal frameworks helps embed these norms locally, while empowering civil society and media ensures greater accountability. Soft law agreements and reinforcing customary international law offer

flexible, non-binding pathways for states to align with global standards. These strategies, collectively, promote more effective and consistent enforcement without infringing on national sovereignty.

### **3.1 Diplomatic Engagement and Dialogue**

Strengthening diplomatic engagement and dialogue is essential for resolving international disputes and enhancing compliance with international law, particularly in sovereign states that may resist external pressure. Through open communication channels, states can negotiate peaceful solutions to conflicts, build trust, and address concerns over sovereignty while finding common ground on global issues such as human rights, security, and trade. Diplomatic dialogue fosters mutual understanding, allowing nations to reconcile differing legal and political priorities without resorting to coercion. By promoting cooperation through diplomatic means—such as bilateral talks, regional forums, and international conferences—states can create lasting partnerships that encourage voluntary compliance with international norms, reducing the likelihood of conflict and enhancing global stability.

#### **3.1.1 Building Trust and Cooperation**

Building trust and cooperation is crucial for addressing the challenge of enforcing international law in sovereign states, as states are often resistant to external legal mandates that they perceive as infringing on their sovereignty. Trust can be established through transparent and consistent diplomatic engagement, where states feel their concerns and national interests are acknowledged. Cooperation can be fostered by creating mechanisms for dialogue, such as international forums or regional organizations, where states work together to address shared issues like human rights or environmental protection. Providing technical assistance, capacity-building initiatives, and promoting legal harmonization through voluntary frameworks can further enhance cooperation. When states trust that international legal enforcement is not a threat to their sovereignty but a pathway to collective security and prosperity, they are more likely to comply with international obligations. This cooperative approach reduces resistance and builds long-term partnerships for sustaining global legal norms.

### **3.1.2 Mediation and Conflict Resolution**

When disputes arise over the interpretation or application of international law, diplomatic<sup>58</sup> dialogue serves as a vital tool for mediation and conflict resolution. By providing a platform for negotiation, diplomacy can prevent conflicts from escalating and encourage peaceful settlements.

### **3.1.3 Incentivizing Compliance**

Diplomatic strategies can also include offering incentives for compliance with international law. Incentivizing compliance is a key strategy to overcome the challenge of enforcing international law in sovereign states, as it offers a non-coercive way to encourage states to align with global legal standards while respecting their sovereignty. By providing positive incentives, such as economic benefits, trade agreements, or access to international aid, states can be motivated to adhere to international obligations. These incentives can make compliance more attractive by linking adherence to tangible rewards like increased foreign investment or preferential treatment in global markets. Additionally, political incentives, such as enhanced diplomatic relations or leadership roles in international organizations, can encourage states to maintain good standing by complying with international norms. Conversely, the threat of losing these benefits such as sanctions, trade restrictions, or exclusion from global institutions can further push states toward compliance. This approach shifts the focus from punitive measures to constructive engagement, reducing resistance and fostering voluntary compliance while maintaining international legal integrity.

### **3.1.4 Addressing Concerns of Sovereignty**

One of the major challenges in enforcing international law is the concern over sovereignty. States are often reluctant to accept international oversight or intervention that they perceive as undermining their independence. Diplomatic dialogue provides a means to address these concerns by ensuring that the enforcement of international law is perceived as a cooperative effort rather than an imposition. Through dialogue, states can negotiate the terms of their participation in international agreements and retain a sense of ownership over the processes, thus reducing the likelihood of resistance.

### **3.1.5 Building Regional and International Consensus**

Diplomatic engagement plays a critical role in building regional and international consensus on the application of international law. By engaging with multiple stakeholders, including regional organizations, non-governmental organizations, and other states, diplomats can help

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<sup>58</sup>The ICJ ruling in this case is a key example of the challenges in enforcing international law when powerful states, such as the United States, choose to ignore international legal decisions. International Criminal Court (ICC). (2009). Warrant of Arrest for Omar Hassan Ahmad Al Bashir.

to create a unified approach to enforcement. This consensus-building process can enhance the legitimacy and effectiveness of international law by ensuring that it reflects the interests and concerns of a broad range of actors.

### **3.1.6 Promoting Legal Reforms**

Through diplomatic dialogue, states can be encouraged to undertake legal reforms that align their domestic laws with international standards. This approach is particularly effective in areas where domestic laws are inconsistent with international obligations. By engaging in dialogue, states can receive technical assistance, capacity-building support, and expert advice on how to reform their legal systems in a way that supports international law.

## **3.2 Technical Assistance and Capacity Building<sup>59</sup>**

Technical assistance and capacity building are crucial strategies in addressing the challenges of enforcing international law in sovereign states. These strategies focus on enhancing the ability of states to comply with and implement international legal obligations by providing the necessary resources, expertise, and institutional support. Here's how they play a vital role:

### **3.2.1 Building Institutional Capacity<sup>60</sup>**

The enforcement of international law often requires robust institutions capable of upholding the law, monitoring compliance, and addressing violations. Capacity-building initiatives aim to strengthen these institutions, such as courts, regulatory bodies, and enforcement agencies. This can involve providing training for judges, lawyers, and law enforcement officials, improving the infrastructure of legal institutions, and enhancing the administrative capabilities of the state. Strengthened institutions are better equipped to enforce international law and respond to challenges such as corruption, inefficiency, or lack of resources.

### **3.2.2 Training and Education**

Education and training programs are essential components of capacity building. These programs help legal professionals, government officials, and civil society actors understand international law and its implications for domestic governance. Training can cover a wide range of topics, including human rights law, environmental law, trade law, and humanitarian law. By increasing the knowledge and skills of those responsible for implementing and enforcing international law, states can improve compliance and reduce the likelihood of violations.

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<sup>59</sup> .Klabbers, J. (2013). *International Law*. Cambridge University Press.

Klabbers provides an accessible introduction to international law, focusing on the enforcement challenges posed by state sovereignty and power dynamics in international relations.

<sup>60</sup> <https://www.tandfonline.com/doi/full/10.3402/egp.v2i1.1973>

### **3.2.3 Providing Resources and Technology**

Many states face challenges in enforcing international law due to a lack of resources or technological capacity. Technical assistance can include the provision of financial resources, technological tools, and infrastructure necessary for effective law enforcement. For example, in combating transnational crimes like human trafficking or environmental crimes, states may require advanced technologies for surveillance, data collection, and forensic analysis. By supplying these resources, international partners can help states overcome the practical challenges of enforcing the law.

### **3.2.4 Promoting Good Governance<sup>6162</sup>**

Capacity-building efforts often focus on promoting good governance practices, which are essential for the effective enforcement of international law. Good governance includes transparency, accountability, and the rule of law. Technical assistance can help states implement governance reforms that reduce corruption, improve public administration, and ensure that the legal system functions fairly and efficiently. When states adopt good governance practices, they create an environment conducive to the consistent and impartial enforcement of international law.

### **3.2.5 Supporting Compliance Monitoring**

Monitoring compliance with international law is a complex task that requires specialized knowledge and tools. Capacity-building initiatives can support states in establishing and maintaining effective compliance monitoring systems. This might involve setting up independent oversight bodies, developing reporting mechanisms, and enhancing data collection and analysis capabilities. By improving their ability to monitor compliance, states can more effectively identify and address violations of international law.

### **3.2.6 Fostering Regional and International Cooperation**

Technical assistance and capacity building can also enhance regional and international cooperation in enforcing international law. Many legal challenges, such as transnational crime, terrorism, and environmental degradation, require coordinated efforts across borders. Capacity-building programs can help states develop the skills and mechanisms needed to collaborate with international organizations, neighboring countries, and other stakeholders. This cooperation is essential for addressing challenges that no single state can tackle alone.

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<sup>61</sup> Orford, A. (2003). *Reading Humanitarian Intervention: Human Rights and the Use of Force in International Law*. Cambridge University Press.

<sup>62</sup> [https://www.researchgate.net/publication/311581450\\_Sovereignty\\_in\\_International\\_Law](https://www.researchgate.net/publication/311581450_Sovereignty_in_International_Law)



### **3.3 Incentivizing Compliance**

Enforcing international law within sovereign states is a complex endeavor due to the fundamental principle of state sovereignty. Sovereign states, by their nature, are reluctant to cede authority to external bodies, making the enforcement of international law challenging. However, incentivizing compliance can be a powerful strategy to overcome these challenges.

#### **3.3.1 Economic Incentives**

Economic incentives are one of the most effective tools in encouraging states to comply with international law. These incentives can take various forms, such as trade agreements, financial aid, or favorable loan terms. By offering economic benefits, international organizations or powerful states can create a tangible motivation for compliance. For example, membership in trade organizations like the World Trade Organization (WTO) comes with significant economic advantages, but it also requires adherence to international trade laws. States are thus motivated to comply with these laws to maintain their economic benefits.

#### **3.3.2 Diplomatic Incentives<sup>6364</sup>**

Diplomatic incentives involve using political and diplomatic rewards to encourage compliance. This can include offering support for a state's position in international forums, providing technical assistance, or enhancing bilateral relations. States may comply with international law to gain favor or avoid diplomatic isolation. For instance, during the negotiations for the Paris Agreement, several developing countries were offered technological and financial support to help them meet their climate goals, incentivizing their participation and compliance.

#### **3.3.3 Security Guarantees**

Security is a fundamental concern for states, and offering security guarantees can be a powerful incentive for compliance. This can include defense pacts, security alliances, or assurances against external aggression. For example, during the Cold War, smaller states often aligned with either the United States or the Soviet Union in exchange for security guarantees, which sometimes required adherence to international norms dictated by their allies.

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<sup>63</sup>, O. (1989). Sovereignty and Threats to Peace. In R. B. Lillich & J. S. Downs (Eds.), *International Law and International Security: Military and Political Dimensions* (pp. 7-22). Routledge. Zahar, A., & Sluiter, G. (2007). *International Criminal Law: A Critical Introduction*. Oxford University Press.

<sup>64</sup> Brierly, J. L. (1963). *The Law of Nations: An Introduction to the International Law of Peace*. Clarendon Press.

### **3.3.4 Reputation and Prestige**

States are also motivated by their desire for a positive international reputation. Being perceived as a responsible member of the international community can bring numerous benefits, including enhanced soft power, greater influence in international organizations, and increased foreign investment. Incentivizing compliance through the promise of improved standing in international rankings, or recognition by international bodies, can be effective. For instance, states that adhere to human rights laws may be more likely to be elected to prestigious international positions or receive foreign direct investment.

### **3.3.5 Legal and Institutional Support<sup>6566</sup>**

Providing legal and institutional support can help states comply with international law by building their capacity to do so. This can include offering training for legal professionals, helping to establish or reform judicial systems, or providing expertise in drafting legislation. By enhancing a state's ability to comply, these forms of support can make compliance more feasible and attractive. International organizations like the United Nations often provide such assistance to states transitioning to democracy or emerging from conflict.

### **3.3.6 Conditional Membership in International Organizations**

Many international organizations require states to comply with certain legal norms as a condition of membership. This creates a powerful incentive for compliance, as membership often comes with significant benefits, such as access to resources, political support, and economic opportunities. The European Union (EU) is a prime example, where candidate countries must meet strict legal and governance criteria before they can join, thus incentivizing legal reforms and compliance with international law.

## **3.4 Supporting Regional Integration Efforts**

One of the most effective ways to address the challenges of enforcing international law in sovereign states is through supporting regional integration efforts. Regional organizations, due to their proximity and shared interests among member states, can play a crucial role in enhancing compliance with international law. Here's how supporting these efforts can contribute to overcoming enforcement challenges:<sup>67</sup>

### **3.4.1 Strengthening Regional Legal Frameworks**

Regional integration efforts often involve the creation of regional legal frameworks that complement or reinforce international law. By supporting the development and strengthening

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<sup>65</sup> .Sovereign-State System, International Law and Institutions, and Environmental Protection: Present Incompatibilities and Future Possibilities \*

<sup>66</sup> Gray, C. (2018). International Law and the Use of Force. Oxford University Press.

<sup>67</sup> de Búrca, G. (2010). The evolution of EU human rights law. In The evolution of EU law (pp. 465-497). Oxford University Press.

of these frameworks, states can be encouraged to adopt and adhere to international legal norms. Regional organizations like the European Union (EU), the African Union (AU), and the Association of Southeast Asian Nations (ASEAN) have developed legal systems that their member states are required to follow. These regional laws often incorporate international norms, making it easier to enforce them at the regional level.<sup>68</sup>

### **3.4.2 Promoting Peer Pressure and Accountability**

Regional organizations can foster a sense of community and mutual accountability among member states. Through mechanisms like peer reviews, states can be encouraged to comply with international law to avoid criticism or sanctions from neighboring countries. For example, the African Peer Review Mechanism (APRM) under the AU encourages states to adhere to good governance practices, human rights, and the rule of law by subjecting them to reviews by their peers. This form of peer pressure can be a powerful motivator for compliance, as states often seek to avoid being singled out for non-compliance within their region.

### **3.4.3 Facilitating Collective Enforcement Actions**

Regional organizations are often better positioned to enforce compliance collectively than the international community at large. When states act together through a regional body, they can exert more significant pressure on non-compliant states. This can include sanctions, diplomatic isolation, or even collective security measures. The EU, for example, has a robust mechanism for imposing sanctions on member states that violate EU laws, including international law incorporated into the EU legal framework. These collective enforcement actions can be more effective because they come from states with shared interests and closer ties.

### **3.4.4 Enhancing Regional Judicial Bodies<sup>69</sup>**

Supporting the development of regional judicial bodies can significantly enhance the enforcement of international law. These bodies, such as the European Court of Justice (ECJ), the Inter-American Court of Human Rights (IACHR), and the East African Court of Justice (EACJ), provide legal recourse for states and individuals seeking to enforce international legal norms. By strengthening these courts through funding, capacity-building, and ensuring their decisions are respected, the international community can improve the enforcement of international law within regions. These courts can issue binding judgments that compel states

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<sup>68</sup> Börzel, T. A., & Risse, T. (2009). The transformative power of Europe: The European Union and the diffusion of ideas. KFG Working Paper Series, No. 1, Freie Universität Berlin.

<sup>69</sup> Sovereign-State System, International Law and Institutions, and Environmental Protection: Present Incompatibilities and Future Possibilities \*

to comply with international obligations, thereby overcoming the challenge of state sovereignty.

### **3.4.5 Encouraging Regional Economic Integration**

Economic integration within regions can create interdependencies among states, making compliance with international law more attractive. When states are economically integrated, non-compliance by one state can have significant economic repercussions for others, leading to internal pressure to adhere to international norms. For instance, within the EU, the single market creates strong economic ties among member states, making it in their best interest to comply with EU laws, including those derived from international law. Supporting regional economic integration can thus indirectly foster compliance with international legal standards.

### **3.4.6 Building Regional Capacity for Law Enforcement**

Many regions face challenges in enforcing international law due to limited resources and capacity. By supporting regional integration efforts that focus on building capacity such as training law enforcement officials, improving judicial systems, and enhancing border security international actors can help states better enforce international law. The AU, for example, has benefited from international support in building its peacekeeping and conflict resolution capacities, which has, in turn, improved the enforcement of international humanitarian law in conflict zones within Africa.

### **3.4.7 Promoting Regional Norms and Standards**

Regional organizations often develop their norms and standards, which can be aligned with international law. Supporting the promotion and adoption of these norms within regions can lead to better compliance with international law. For example, ASEAN has developed regional norms on issues like human rights and environmental protection, which are consistent with broader international standards. By promoting these regional norms, the international community can create a more cohesive legal environment where compliance with international law is the norm rather than the exception.

## **3.5 Strategic Use of Soft Law and Norm Diffusion**

**Promoting Soft Law Instruments:** Soft law, such as non-binding resolutions, declarations, or codes of conduct, can influence national legal systems without the direct imposition of hard law. These instruments often serve as stepping stones towards binding legal reforms and can be more palatable for states wary of external interference.

**Norm Diffusion through Advocacy:** International organizations can work with civil society, NGOs, and the media to promote international norms within states. By raising awareness and

building domestic support for these norms, they can create a bottom-up demand for legal harmonization.

### **3.6 Judicial and Quasi-Judicial Mechanisms<sup>70</sup>**

**International Courts and Tribunals:** Leveraging international judicial bodies, such as the International Court of Justice (ICJ) or regional human rights courts, can help resolve disputes and encourage states to align their laws with international norms through binding rulings or advisory opinions.

**Peer Review Mechanisms:** Institutions like the Universal Periodic Review (UPR) at the UN Human Rights Council allow states to review each other's human rights practices, including legal reforms. This peer pressure can motivate states to conform to international standards.

### **3.7 Engagement with Civil Society and Local Stakeholders<sup>71</sup>**

**Partnerships with NGOs and Academia:** International organizations can partner with local non-governmental organizations (NGOs), academic institutions, and think tanks to advocate for legal reforms and promote awareness of international norms. These partnerships can help bridge the gap between international standards and national contexts.

**Public Awareness Campaigns:** Raising public awareness about the benefits of aligning national laws with international norms can create internal pressure on governments to reform. Public support can be a powerful force in pushing for legal harmonization.

### **3.8 Respecting State Sovereignty and Contextual Sensitivity**

**Tailored Approaches:** Recognizing the unique legal, cultural, and historical contexts of each state is essential. International organizations should avoid a one size fits all approach and instead work collaboratively with states to develop reforms that respect their sovereignty while promoting international norms.

**Gradual Implementation:** Legal harmonization should be approached as a gradual process, allowing states to adapt their national laws incrementally. This approach helps mitigate resistance and ensures that reforms are sustainable in the long term.

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<sup>70</sup> . J.D. 1958, University of Kiel; LL.M. 1960, Indiana University School of Law at Bloomington. Professor of International and Constitutional Law and Director of the Institute of International Law at the Christian-Albrechts University, Kiel, Federal Republic of Germany. Visiting Scholar 1981-82, Harvard University School of Law.

<sup>71</sup> For a very pertinent discussion of the concert of Europe as a power relationship based on the balance of power concept which was envisaged as a restraint on the sovereign states, see I. CLAUDE, JR., *SWORDS INTO PLOWSHARES* 21-39 (4th ed. 1971). 21 U.N. CHARTER art. 2, para. 1. See U.N. CHARTER, ch. VII. = U.N. CHARTER art. 1, para. 3; id at art. 13, para. 1; id. at art. 55, para. 1. 4 As to the United Nations practice with regard to U.N. CHARTER art. 2, para. 7

## **CONCLUSION**

Enforcing international law within sovereign states presents a complex and multifaceted challenge, reflecting a delicate balance between state sovereignty and the imperative of upholding universal human rights and legal standards. This critical analysis underscores several key issues in this context.

Firstly, the principle of state sovereignty remains a formidable barrier to effective enforcement. Sovereign states often prioritize national interests and autonomy over international obligations, leading to selective compliance with international norms. This reluctance is frequently observed in areas such as human rights, where governments may

resist external pressures or interventions that are perceived as infringing upon their sovereignty.

Furthermore, the lack of a centralized enforcement mechanism within the international legal system exacerbates these challenges. Unlike domestic legal systems, which have established courts and enforcement agencies, international law relies heavily on the voluntary compliance of states and the diplomatic efforts of international organizations. While institutions like the International Criminal Court (ICC) and various human rights treaty bodies play crucial roles, their authority is limited by issues of jurisdiction, political will, and the practicalities of enforcement. For instance, the ICC's effectiveness is often hampered by the reluctance of some states to cooperate with its investigations or arrest warrants.

Additionally, the implementation of international legal norms is frequently inconsistent. States with differing political, economic, and cultural contexts may interpret and apply international standards in ways that align with their national interests, leading to varied outcomes and uneven enforcement. This inconsistency undermines the universality of international law and poses significant challenges to its credibility and effectiveness.

Moreover, the interplay between international law and domestic legal systems introduces further complexity. States must often reconcile their international obligations with national laws and practices, which can lead to conflicts or delays in the adoption of international standards. In some cases, domestic political and legal frameworks may obstruct or dilute the impact of international legal norms.

To address these challenges, a multifaceted approach is required. Strengthening international institutions and mechanisms, promoting greater state commitment to international norms, and fostering robust mechanisms for accountability are essential. Enhanced cooperation between states, international organizations, and civil society can also play a pivotal role in bridging gaps and ensuring more effective enforcement.

enforcement of international law within sovereign states faces significant obstacles, ongoing efforts to address these challenges are crucial. By enhancing international cooperation, reinforcing institutional frameworks, and promoting consistent application of international norms, the global community can work towards more effective enforcement of international law and the protection of human rights across borders.

## **RECOMMENDATION**

- To the government refers to address the ongoing challenges in enforcing international law within sovereign states, it is essential to consider the following recommendations. These suggestions aim to strengthen legal frameworks, enhance institutional support, and promote effective implementation strategies. By adopting these measures, we can work towards more robust enforcement mechanisms and greater adherence to international legal standards.



- primarily to legal educators, law schools, and educational institutions, One of the fundamental challenges in enforcing international law is the lack of comprehensive understanding among legal practitioners and policymakers. To address this, it is crucial to enhance legal education by integrating robust modules on international law into law school curricula. Educational programs should cover the practical aspects of international legal frameworks, including human rights law, international humanitarian law, and the mechanisms for enforcing these standards. By equipping future legal professionals with a thorough understanding of international law, we can ensure that they are better prepared to navigate and implement these norms in their professional roles. This will foster a more informed and capable legal community that can contribute to the effective enforcement of international legal principles.
- International treaties and conventions are often adopted by states but may not be fully integrated into domestic legal systems. To improve enforcement, it is essential to advocate for the incorporation of these treaties into national legislation. Legal reforms should focus on aligning domestic laws with international obligations and ensuring that there are clear mechanisms for enforcing these laws at the national level. Integration of international treaties into domestic law bridges the gap between international standards and national implementation. This alignment ensures that states can be held accountable for violations and that domestic legal systems support the enforcement of international norms.
- International legal institutions such as the International Criminal Court (ICC) and various United Nations treaty bodies play a critical role in enforcing international law. However, these institutions often face challenges related to resources and political support. To enhance their effectiveness, it is important to advocate for increased funding, political backing, and reforms that strengthen their operational capacities. Strong international institutions are crucial for investigating and addressing violations of international law. By ensuring that these bodies have the necessary resources and support, we can improve their ability to uphold international legal standards and deliver justice.
- Effective enforcement of international law requires coordination between international bodies and domestic legal systems. Promoting collaboration involves facilitating dialogue and cooperation between international organizations, national governments, and local legal practitioners. This collaboration can address conflicts between international obligations and national laws and foster more cohesive legal

practices.: Collaboration between international and domestic legal systems ensures that international norms are effectively implemented and enforced at the national level. It also helps to resolve conflicts and promote a more unified approach to legal enforcement.

- Policy and legislative reforms are necessary to address systemic issues and align national laws with international standards. Engaging in policy advocacy and supporting legal reforms can help remove barriers to human rights protection and ensure that national policies are consistent with international obligations. Reforming policies and laws can address gaps in enforcement and improve the effectiveness of legal frameworks. Advocacy for these reforms is crucial for aligning national practices with international human rights norms.
- At the end I suggest or encourage other researchers to be Interested in this domain or matters and develop this issue by suggesting some more solution

## **REFERENCES**

### **INTERNATIONAL LEGISLATIONS**

1.Aust, A. (2013). *Modern Treaty Law and Practice*. Cambridge University Press: This book provides an in-depth examination of national legislations and their interaction with international treaties, offering insights into how states incorporate international agreements into domestic law.

2. Kelsen, H. (2008). *Pure Theory of Law*. Lawbook Exchange, Ltd: Kelsen's theory addresses the hierarchy of legal norms, explaining the relationship between international law and national law, as well as the mechanisms for harmonizing them within sovereign states.
3. Sloss, D. (2009). *The Role of Domestic Courts in Treaty Enforcement: A Comparative Study*. Cambridge University Press: This comparative study explores how different national legislations incorporate and enforce international treaties, highlighting the challenges faced by domestic courts in sovereign states when reconciling national and international legal obligations.
4. Shaw, M. N. (2017). *International Law* (8th ed.). Cambridge University Press: Shaw's comprehensive text discusses the impact of national legislation on the enforcement of international law, examining the tension between state sovereignty and international legal obligations.
5. Cassese, A. (2005). *International Law*. Oxford University Press: Cassese's work provides an analysis of how sovereign states implement international law within their domestic legal systems, addressing issues of compliance, enforcement, and national legislation.

## **II. INTERNATIONAL INSTRUMENTS**

1. Charter of the United Nations, 24 October 1945, 1 UNTSXVI
2. Montevideo conventions of 1933
3. The Vienna Convention the law of treaties 1969
4. The Rome Statute of international criminal courts 1998
5. Brussels I regulations of 2012

## **II. BOOKS**

1. Brownlie, I. (2008). *Principles of Public International Law*. Oxford University Press : Discusses the principles of international law, including the tension between sovereignty and human rights enforcement.
2. Cassese, A. (2005). *International Law*. Oxford University Press : Provides a comprehensive overview of international law, including challenges related to enforcement in sovereign states.
3. Henkin, L. (1999). *How Nations Behave: Law and Foreign Policy*. Columbia University Press : Explores the relationship between state behavior, international law, and enforcement challenges.
4. Koskeniemi, M. (2005). *From Apology to Utopia: The Structure of International Legal Argument*. Cambridge University Press : A critical analysis of the limitations of international law, including the issues posed by state sovereignty.

5. Schabas, W. A. (2011). *An Introduction to the International Criminal Court*. Cambridge University Press : Discusses the role of the ICC in enforcing international law and the challenges it faces from sovereign states.
6. Malcolm Shaw, *International Law, 1977–2014 Comment* by Richard Mackenzie-Gray Scott, Research Fellow, BIICL
7. John Austin: *Enforcement and International Law* Published online by Cambridge University Press: 10 October 2020
8. Here are ten books that offer critical analysis on the enforcement of international law within sovereign states:
9. *International Law and the Use of Force*: Michael J. Glennon Examines the legal frameworks and enforcement mechanisms concerning the use of force in international relations.
10. M. J. Bowman and D. J. Harris - Offers a comparative analysis of how sovereign immunity is applied and enforced across different jurisdictions.
11. *Enforcing International Law: A Handbook for Practitioners*\* edited by Peter D. Trooboff A practical guide for understanding and addressing enforcement issues in international law.
12. Anthony D'Amato and James R. McKeown (2006) Provides case studies and materials related to the enforcement of international law within sovereign states.
13. Karen Alter : "Understanding the Court's Limited Influence" [2021] *MelbJInt Law* 9; (2021) 21(3) *Melbourne Journal of International Law* 676

### **III. CASES**

1. UNITED STATES V. IRAN
2. ISRAEL AND UNITED NATIONS

### **IV. JOURNALS**

1. Hathaway, O. A. (2005). "Why Do Nations Obey International Law?" *The Yale Law Journal*, 106(8), 2599-2658 : Examines the reasons states may or may not comply with international law, including sovereignty issues.
2. Koh, H. H. (1997). "Why Do Nations Obey International Law?" *The Yale Law Journal*, 106(8), 2599-2658 : Investigates the role of international norms and the challenge of enforcing compliance among sovereign states.
3. Ratner, S. R. (2000). "Does International Law Matter in Preventing Ethnic Conflict?" *NYU Journal of International Law and Politics*, 32(3), 591-698 : Looks at enforcement challenges in the context of state sovereignty, particularly during internal conflicts.

4. Alter, K. J. (2014). "The New Terrain of International Law: Courts, Politics, Rights." Princeton University Press : Discusses the emerging role of international courts and the complex interplay with state sovereignty.
5. Posner, E. A., & Yoo, J. C. (2005). "Judicial Independence in International Tribunals." *California Law Review*, 93(1), 1-72 : Critiques the independence and enforcement power of international tribunals in sovereign states
6. *American Journal of International Law (AJIL) 1907* : This journal frequently publishes articles on the enforcement of international law, including issues related to state sovereignty, human rights, and the role of international courts and organizations.
7. Robert Cryer 2005 : known for his critical perspectives on international law, *EJIL* offers analyses on sovereignty-related challenges and the complexities of enforcing international law within sovereign states./
8. Stephen McGlinchey is Senior Lecturer in International Relations at the University of the West of England, Bristol and Editor-in-Chief of *E-International Relations* : often explores the intersection between international law and international politics, making it a great source for understanding how political factors impact the enforcement of international law.
9. *Harvard International Law Journal (HILJ)*: This journal includes articles that critically assess the limitations of international law enforcement, especially in cases where state sovereignty is a significant barrier.

## **V. REPORTS and PAPERS**

1. International Commission on Intervention and State Sovereignty (2001). *The Responsibility to Protect*.
2. Explores the conflict between state sovereignty and the international community's responsibility to protect human rights.
3. United Nations (2020). *Strengthening the Rule of Law and the Reform of Criminal Justice Institutions*.
4. Analyzes the enforcement of international law and challenges related to state sovereignty. Amnesty International (2022). *Global Human Rights Report*. Offers case studies on the enforcement of international law and the resistance of sovereign states.

## **VI. ELECTRONIC SOURCES**

- <https://doi.org/10.1145/3242093> Chandler, Chandler,  
D..(2010)<https://doi.org/10.1017/S1537592704370374> Ferreira-Snyman, M. P.. (2006).  
<https://www.researchgate.net/deref/https%3A%2F%2Fdoi.org%2F10.1080%2F10361146.20>

10.546336: <https://www.jomswsge.com/pdf-79753-15801?filename=Problem%20of%20enforcementof.pdf>  
[https://www.researchgate.net/publication/311581450\\_Sovereignty\\_in\\_International\\_Law](https://www.researchgate.net/publication/311581450_Sovereignty_in_International_Law)  
<https://www.e-ir.info/2016/04/01/to-what-extent-does-international-law-reflect-the-sovereign-will-of-states/> <https://core.ac.uk/download/pdf/83928173.pdf> <https://www.icc-cpi.int/sites/default/files/NR/rdonlyres/DAADE05D-2DDE-4FBB-86AE-755386509DED/283889/TeitelBeyondCompliance.pdf>  
[https://openyls.law.yale.edu/bitstream/handle/20.500.13051/5282/Sovereignty\\_and\\_Human\\_Rights\\_in\\_Contemporary\\_International\\_Law.pdf?sequence=2](https://openyls.law.yale.edu/bitstream/handle/20.500.13051/5282/Sovereignty_and_Human_Rights_in_Contemporary_International_Law.pdf?sequence=2)  
[https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=1958&context=faculty\\_scholarship](https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=1958&context=faculty_scholarship)  
<https://www.ohchr.org/sites/default/files/Documents/Issues/Development/RTDBook/PartIVChapter31.pdf> <https://press.un.org/en/2018/gal3570.doc.htm>  
<https://opil.ouplaw.com/display/10.1093/law:epil/9780199231690/law-9780199231690-e714>  
[https://www.researchgate.net/publication/324844874\\_International\\_Legal\\_Order\\_and\\_the\\_Problems\\_of\\_State\\_Sovereignty\\_in\\_the\\_21st\\_Century](https://www.researchgate.net/publication/324844874_International_Legal_Order_and_the_Problems_of_State_Sovereignty_in_the_21st_Century)  
<https://www.tandfonline.com/doi/full/10.3402/egp.v2i1.1973>  
<https://scholar.harvard.edu/files/bsimmons/files/Simmons1998.pdf>  
<https://www.rgsl.edu.lv/uploads/research-papers-list/17/rp-6-zenovic-final.pdf>  
<https://international-review.icrc.org/sites/default/files/irrc-867-10.pdf>  
[https://www.researchgate.net/publication/368382555\\_The\\_Enforcement\\_of\\_International\\_Human\\_Rights\\_Law\\_Challenges\\_and\\_Solutions](https://www.researchgate.net/publication/368382555_The_Enforcement_of_International_Human_Rights_Law_Challenges_and_Solutions).