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Iran's Response to U.S. Non-Compliance with International Court of Justice Decisions*

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Abstract

After establishing its jurisdiction in the case of the violation of the 1955 Treaty of Amity between Iran and the United States (hereafter U.S.) on February 3, 2021, the International Court of Justice (hereafter ICJ) took a stride towards the Merits stage. In the event of a final judgment and the failure of the U.S. government to comply, the primary question that was raised was the following: What are Iran's options if the U.S. does not act upon the final decision of the ICJ? This article endeavors to address this question. The research methodology employed in this article is descriptive-analytical; through document analysis of the Court's decisions, international treaties, and relevant books and articles, specific findings have been derived. The research results indicate that Iran's options can be within the framework of the United Nations (hereafter UN) or beyond it. Options within the UN framework are predominantly theoretical, lacking effective enforcement mechanisms due to the existing power structures, including the veto power in the Security Council (hereafter UNSC), thereby lacking a guarantee of proper implementation. These options tend to be idealistic. On the other hand, options outside the UN framework, such as bargaining power and countermeasures for Iran, carry a realist aspect, allowing Iran to leverage them for the assertion of its rights.

Keywords: Countermeasures, International Court of Justice Compliance, Realism, Treaty of Amity 1955, UN Security Council

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1. Introduction

The sanctions of the U.S. against Iran started after the hostage crisis at the US Embassy in Tehran by means of Executive Order 12170 (Fayazmanesh, 2003, p. 223), and were continued until 2013 by means of Executive Order 13645 (U.S. Executive Order No. 13645, 2013). After a 5-year delay, due to the Joint Comprehensive Plan of Action (hereafter JCPOA), which was signed at the time of President Barak Obama, the sanctions were suspended and cancelled (U.S. Executive Order No. 13716, 2016).

Once the JCPOA was signed and approved by the UNSC through Resolution 2231 (hereafter RES2231) and as sanctions related to Iran's nuclear program were suspended, Iran witnessed a certain amount progress in its economy (Versailles, 2016, p. 3). The JCPOA provided the grounds for signing commercial agreements for purchase of passenger aircrafts and rebuilding the aged airline fleets of the nation, launching of mega projects in petroleum, petrochemistry, automotive industries; in addition, sanctions relief facilitated Iran's participation in international and financial markets. However, once the Republican Party took hold of the office in the U.S. under the presidency of Donald Trump, the sanctions were resumed, and have continued to this day (U.S. Executive Order No. 13846, 2018).

After the Executive Order 13846 and the violation of various elements in the Treaty of Amity and JCPOA, Iran decided to take legal action. With the issuance of the final judgment by the court in favor of Iran, the U.S. may adopt two different approaches. The first and simpler approach is for the U.S. to accept the judgment and comply with it. The second approach, which is the subject of this article, is for the U.S. not to accept the judgment and refrain from its enforcement. Therefore, the question that this article

endeavors to answer is what options are conceivable for the Iranian government within and outside the framework of the UN in the event of non-compliance by the U.S., following the issuance of a potential final judgment by the court in favor of Iran.

The objective of this article is to analyze the enforcement mechanisms of judgments issued by the International Court, both within the framework of the UN and beyond. The assumption of this paper is based on the understanding that, given that judgments issued by the ICJ are not subject to objection and are endowed with a weaker enforcement mechanism compared to domestic courts of countries, the ICJ, as the primary judicial organ of the UN, seeks to issue judgments from a position of eminence by adhering to the principle of impartiality. It enjoys a high standing among governments and especially public opinion, compelling governments to commit to adhering to its judgments.

However, since at the international societal level, we cannot deny the existence of power structures, especially in the UNSC (Veto Rights), in this article, we aim to meticulously examine the existing solutions for ensuring the enforcement of the judgments of the court both within the framework of the UNSC and the General Assembly (hereafter UNGA), as well as beyond it (outside the UN).

It is possible that the U.S., within the framework of power, may not comply with the execution of the court judgment. In this scenario, options for Iran exist both within and outside the UN framework. The options within the UN, particularly in the UNSC and the UNGA, are more theoretical and idealistic, and given the existence of power structures, they are unrealistic. However, the practical implementation of Iran's options outside the framework of the UN is more effective and feasible.

2. Research Methodology

The research methodology employed in this article is analytical-descriptive. The information utilized in this article has been gathered through a systematic review of academic books and articles, as well as primary sources, such as reports from ICJ and judgments of the aforementioned court in previous and similar cases. Additionally, international documents, such as executive orders, resolutions, reports, as well as international treaties and resolutions of the UN have been employed to test and substantiate the hypotheses.

3. Literature Review

Numerous articles have been written on the enforcement of judgments by the ICJ. The following section examines these works and highlights their distinguishing features compared to the present article: In an article titled *'Recourse to the UN Security Council for the Purpose of Implementing the International Court of Justice judgments'*, published in the *Iranian Research Letter of Politics*, the authors introduce the enforcement of judgments issued by the ICJ as reliant on the executive arm of the UN, namely the UNSC. However, the authors do not deem this mechanism effective and suggest that the Court, in accordance with Article 78 of the Rules of the court, should seek provisional measures from the addressee to present its actions towards implementing the provisional measures to the Court (Mohebi & Bazzar, 1399 [2020 A.D.], pp. 289-290).

In another article titled *'Enforcement of the Decisions of the International Court of Justice'*, published in the *Journal of Comparative Law*, the authors have proposed a solution for the

non-enforcement of judgments by the ICJ against the convicted party. They advocate the recourse of the prevailing party to the UNSC in accordance with Article 94, paragraph 2 (Najafi Asfad & Hadi, 1384 [2006 A. D.], p. 47).

In another article titled '*Jurisdiction and Compliance in Recent Decisions of the International Court of Justice*', published in the *European Journal of International Law*, the author emphasizes the significance of consent as a factor for the Court to adjudicate disputes. The author states that the lower the level of consent, the higher the risk of non-compliance with the decisions and judgments of the Court. The article examines five cases where disputing parties resisted the enforcement of judgments. Furthermore, the author concludes by emphasizing that what holds paramount importance in the implementation of judgments is the consent and agreement of the parties (Llamzon, 2007, pp. 815, 825, 852).

In another article entitled 'The Role of the International Court of Justice in the Enforcement of Its Judicial Decisions', published in the *Leiden Journal of International Law*, the author underscores the significance of ensuring the implementation of ICJ judgments. However, the author designates the Court itself, along with the UNSC and the UNGA of the UN, as responsible entities for the enforcement of these judgments. Furthermore, it refers to Articles 41, 57, 60, and 61 (paragraph 3) of the Statute of the Court as the legal provisions delineating the Court's responsibilities with regard to the enforcement of its decisions (Al-Qahtani, 2002, p. 804).

In another article titled 'Problems of Enforcement of Decisions of the International Court of Justice and the Law of the United Nations', published in the *European Journal of International Law*, the author addresses the issue of ensuring the execution of decisions by the UN. The author considers resorting to the UNSC

as an enforcement solution for the decisions of the Court. The author, by referencing Articles 39 and 94, scrutinizes the role of the UNSC and deems its self-restraint role crucial in preventing the presentation of dissenting opinions that could undermine the judgments of the Court (Tanzi, 1995, p. 572).

Apart from the first two articles, which are in Persian and authored by Iranian writers, no other article has been produced in Iran regarding the enforcement of Contentious Decision (Judgment) issued by the ICJ. Furthermore, the aforementioned English articles have focused on examining the enforcement guarantee of the Court's decisions within the framework of the UN, particularly through the UNSC. In this article, we do not only consider the solutions presented within the framework of the UN, which, due to the presence of a power structure, carries a theoretical and idealistic state, but also seek to present realist approaches and options that Iran can utilize to better attain its rights beyond the UN framework.

4. Theoretical Framework

4.1. Realist Theory of International Relations

In the assumptions of realist theory, human nature is deemed malevolent and enduring, with malevolence manifesting in one's pursuit of power. Consequently, the pursuit of power is considered a natural aspect of international relations. However, states are not equal in terms of possessing power; rather, power disparities among states lead to the establishment of a hierarchy (Firoozabadian et al., (1394a [2015 A. D.], p. 75). From the perspective of realists thinkers and theorists such as Morgenthau, power, politics, and interest are intertwined (Williams, 2004, p. 637).

Morgenthau emphasizes the possibility of perpetual occurrence of war, listing five primary factors essential for the preservation of international peace and security: balance of power, international law, international organizations, world government, and diplomacy (Morgenthau & Thompson, 1951, p. 50). Given that a thorough investigation of Morgenthau's theories suggests a leaning towards the importance of balance of power and diplomacy, it can be concluded that his theories stand in contrast to liberal theorists, who emphasize the role of international institutions in creating international peace and order (Moshirzadeh, 1388 [2010 A.D.], p. 105).

According to Morgenthau, international organizations and institutions are only effective to the extent that they align with the national interests of governments (Pham, 2015, p. 187). In this article, we examine the roles of the UN organs, including the UNSC (the executive arm of the UN) and the ICJ (the legal arm of the UN), in resolving legal and political disputes and maintaining international peace and security. It is true that realists like Morgenthau acknowledge elements such as international law and international organizations, but their primary emphasis lies on the balance of power, the bargaining power of nations, and countermeasures. Therefore, realists consider power as the most crucial guarantee of enforcement.

4.2. The Concept of Hegemony

The root of hegemony traces back to Greek words meaning leadership. In international relations, a hegemon is a leader among a group of states. The primary concept of hegemony in the literature of international relations signifies an imbalance of power in the international system, where one state is so powerful that it

can assume leadership in that system (Firozabadian et al., 1394b [2015 A. D.], p. 113).

4.3. Hegemonic Stability

The theory of hegemonic stability contends that the establishment, preservation, enforcement, and sustainability of regimes are directly linked to a dominant power. The theorists of hegemonic stability argue that the concentration of power in a state implies that the hegemonic state can leverage its power to establish institutions. Furthermore, the hegemon employs a mix of carrot and stick policies to cooperate with its surroundings and create order, all in the pursuit of maintaining its hegemony (Firozabadian et al., 1394b [2015 A. D.], p. 116).

According to proponents of the theory of hegemonic stability, the global order has been established by a dominant singular power, which creates and manages international organizations. This organization secures the interests of the hegemon and legitimizes its dominant position in a timely manner. The hegemon bears the costs of maintaining international organizations. The hegemon will sustain and support international organizations to the extent that the benefits outweigh the costs. On the other hand, although these organizations secure the interests of the hegemon, other states join them, as the hegemon, through its power, can provide incentives and positive motivations (Pease, 2011, p. 35).

In this article, within the framework of realist theory, such as Morgenthau's, and considering realists' belief in the stability of hegemony, we endeavor to highlight the inefficiency of the UN organization, particularly the UNSC, in relation to the subject at hand. Ultimately, we aim to bring attention to the guarantee of the enforcement of the ICJ judgments through the leverage of countries

like bargaining power and countermeasures. In this regard, we will propose practical solutions for Iran in confronting the U.S. non-compliance with the final judgment of the court.

5. The Treaty of Amity and Why It Was Used by Iran to Make A Case Against the US

The Treaty of Amity was signed on August 15, 1955 in Tehran, and once its copies were signed and exchanged in Tehran, it entered into force phase as of May 16, 1957. The treaty consists of an introduction and 23 articles. The goal of making such treaties is to solidify the amicable relations of the two nations and facilitate trade between them. Once the Law of Attracting and Supporting Foreign Investments was passed in Iran in 1955, the Iranian government tried to create a safe environment for foreign investors. As for the US side, the goal was to facilitate investments of US citizens in Iran, and generally facilitate and develop trade and foreign relations (Devere, 2014, p. 182). In addition, in view of the atmosphere in which this treaty was signed, i.e. the cold war era and the bipolar world order and the lineups of eastern and western countries, signing amity treaties provided the parties with numerous advantages. It can thus be said that eventually the purpose of such treaties is to guarantee international peace and security.

After the U.S. withdrew from the JCPOA, on July 16, 2018, Iran decided to file a complaint against the United States in the International Court of Justice under the Treaty of Amity. Iran has submitted its request to the Court under Article 21(2) of the Treaty of Amity (1955). Additionally, Iran has included in its request the lifting of unilateral sanctions and the payment of reparations to Iran

for the withdrawal from the Treaty of Amity and the economic damages resulting from the sanctions. Furthermore, due to the existence of emergency conditions and based on Article 41 of the Charter, as well as Articles 73 and 75 of the Rules of Court, Iran has requested the issuance of a provisional measures.

On October 3, 2018, the Court, in response to Iran's request for the issuance of a provisional measures under Article 41 of the Court's Statute, proceeded to issue this order. Iran's grounds for this request were the existence of emergency conditions resulting from the sanctions imposed by the United States, which were exacerbating the situation for the people and the economy of Iran¹ (International Court of Justice, 1946).

As pointed before, Iran's case against the US was filed after the latter withdrew from the JCPOA; but why was it claimed that the case was based on the Treaty of Amity? As the JCPOA was a simple political agreement and thus not binding by nature (Gini & Sedaghat, 2019, p. 86), the UNSC resolution turned it into a

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1. The provisional measures issued on 3 October 2018 includes the following provisions:
- (1): The prohibition on the export of the following goods to Iran must be lifted:
 - (i) medicines and medical devices
 - (ii) foodstuffs and agricultural commodities; and
 - (iii) Goods and services necessary for air transportation safety, such as spare parts, equipment and associated services (including warranty, maintenance, repair services and inspections) necessary for the safety of civil aviation;
 - (2): The United States of America shall ensure that licences and necessary authorizations are granted and that payments and other transfers of funds are not subject to any restriction in so far as they relate to the goods and services referred to in point (1).
 - (3): Both Parties shall refrain from any action which might aggravate or extend the dispute before the Court or make it more difficult to resolve.

The Court also notes two additional points:

- (a) The provisional measure has binding effects and constitutes an international commitment for the parties.
- (b) The issuance of the provisional measures does not imply a confirmation of the court's jurisdiction in the substantive consideration of the case (Alleged Violations of the 1955 Treaty of Amity b,2018, pp. 7, 8).

binding agreement with legal value. Furthermore, the dispute settlement mechanism of the JCPOA is the joint commission, according to paragraph 36 thereof, and not the international legal authorities (JCPOA, 2015). Therefore, as the steps taken by the U.S. were in violation of the spirit and goals of the 1955 Treaty of Amity, Iran decided to base its case against US on the Treaty of Amity.

It must be noted that during the substantive phase, this issue was exactly one of the objections of the U.S. against the Alleged Violation of the 1955 Treaty of Amity case¹, when requesting the ICJ to reject the case.

The U.S. argues that Iran's petition concerns the national and multilateral sanctions related to its nuclear program, which were removed by means of the JCPOA, and were then returned by the decision of May 8, 2018; and in its two submitted letters (delivered to the US through the Swiss Embassy to Tehran on the 11th and 19th days of June 2019), Iran had only based its petition on those issues, failing to point to sanctions not related to the nuclear program, which existed before and were not removed by the JCPOA (like human rights sanctions), and also the treaty of Amity (International Court of Justice, 2021, p. 17). And since JCPOA was a political agreement with no legally binding nature, in the opinion of the United State the dispute is based only on political issues, and the ICJ therefore lacks jurisdiction in the matter.

The US claims, regarding the fact that Iran did not point to the Treaty of Amity or other non-JCPOA sanctions in its two letters to the Swiss Ambassador in Tehran seem completely baseless; because it is possible that Iran did not see any reasons to sue

1. Objection to Ratione Materiae.

against the U.S based on the Treaty of Amity at different points in the past due to JCPOA talks and the overall positive diplomatic atmosphere, but when US withdrew from the JCPOA and reimposed all of the sanctions that were removed because of it, and when Iran saw the diplomatic path obstructed, it decided to sue not only for JCPOA-related sanctions, but also for the rest of the sanctions based on the Treaty of Amity. The time at which a country takes legal action to protect its rights and interests is a sovereignty issue.

It has to be noted in respect of such claims, i.e. legal or political nature of a dispute, that the ICJ does not view the political nature of a dispute as an obstacle to the handling of a case. Similar to the case of US vs. Nicaragua, and in response to US claims towards the political nature of the matter, the ICJ argued: “The fact that an issue has other aspects does not pose obstacles to it being processed by the court, neither does the fact that negotiations are ongoing” (Bordin, 2018, p. 66). As ICJ said in the judgment of February 3, 2021: “The sole fact that a case has political aspects cannot be a basis for denying ICJ jurisdiction, similar to the case of US consular and diplomatic staff in Tehran, 1980, page 20, para 37, where ICJ provided its opinion about the same induction” (International Court of Justice, 1980, p. 20).

On the other hand, deeming the JCPOA involved in this dispute will, in a way, be advantageous to Iran, as despite the existence of the dispute resolution mechanism in the JCPOA, namely paragraph 36, the U.S., without regard and adherence to this mechanism, unilaterally took action to withdraw from the JCPOA, reimposed sanctions, and violated RES2231. As a result of these actions, that portion of the 1955 Treaty of Amity related to free trade among Iran, the U.S., and third countries, and their affiliated companies, has encountered numerous difficulties.

6. ICJ Judgements Enforcement

The UNSC is one of the main organs of the UN. To date, 193 countries have joined the UN¹. Among the main goals of the UN, and naturally those of the UNSC and the ICJ, is promoting and protecting international peace and security. In order to prevent war, the UN member states condemn and suppress actions that disrupt international peace, through the UNSC (Qadir, 2020, p. 467). The council has to act according to justice and international laws in full compliance with fundamentals and accepted principles of the UN Charter. Iran and the U.S. are both members of the UN and signatories to the statute of the ICJ. They are therefore committed according to article 94 of the UN Charter² to adhere to the ICJ decisions in good faith, and follow the recommendations and decisions of UNSC as required by article 25 of the UN Charter (Paulson, 2004, p. 451).

Basically, countries consider themselves committed to adhere to ICJ decisions in order to protect their political reputation and prestige (Justwan et al., 2021, p. 4). However, in the event that a member of the UN, such as the U.S., were to refrain from complying with the final judgment of the ICJ, what assurances and measures exist for compelling adherence by that country?

In theory and within the framework of the UN, pursuant to Article 94, paragraph 2³, of the UN Charter, in such a scenario, the opposing party, namely Iran, may resort to the UNSC. Unlike the

1. Non-member states are: Taiwan, Vatican, Palestine, Kosovo.
2. Each Member of the United Nations undertakes to comply with the decision of the International Court of Justice in any case to which it is a party.
3. If any party to a case fails to perform the obligations incumbent upon it under a judgment rendered by the Court, the other party may have recourse to the Security Council, which may, if it deems necessary, make recommendations or decide upon measures to be taken to give effect to the judgment.

ICJ, wherein both parties must consent to submission of the file¹, the UNSC has no such terms; even without the parties referring, the UNSC may enter a case as a public prosecutor. Before entering a case, the UNSC should, as required by article 34 of the UN Charter², determine whether or not the international peace and security is endangered. Despite the fact that the dispute between Iran and the U.S. pertains to nuclear issues, it is possible that, due to political considerations and vested interests favoring the U.S., the UNSC may not address the matter, given the influence of the U.S. lobby.

Yet, assuming that the UNSC validates its legitimacy to engage in the matter, what ensuing events shall transpire? Once the jurisdiction is made clear, the UNSC should, according to paragraph 2 of article 33 or paragraph 1 of article 36³ ask the parties to settle their disputes by peaceful means. The implementation of this provision, considering the current circumstances and the actions of the parties involved, such as the U.S.' measures against Iran (withdrawal from the JCPOA and the 1955 Treaty of Amity, extensive sanctions on the economy and people of Iran), and Iran's countermeasures, such as reducing nuclear commitments, faces serious obstacles. Although it is not impossible, the existing (cold and unfriendly) atmosphere between the parties will pose a challenge.

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1. Optional jurisdiction and Compulsory jurisdiction of the International Court of Justice.
 2. The Security Council may investigate any dispute, or any situation which might lead to international friction or give rise to a dispute, in order to determine whether the continuance of the dispute or situation is likely to endanger the maintenance of international peace and security.
 3. paragraph 2 of Article 33: The Security Council shall, when it deems necessary, call upon the parties to settle their dispute by such means. Paragraph 1 of article 36: The Security Council may, at any stage of a dispute of the nature referred to in Article 33 or of a situation of like nature, recommend appropriate procedures or methods of adjustment.

Nevertheless, in the next stage, according to chapter VII and article 39 of the UN Charter¹, the UNSC shall provide “recommendations” or make “decisions” on the execution of the terms of the ICJ judgment, which shall be according to article 41 or 42 of the Charter (1945)².

Given the power structure in the UNSC, and the fact that the U.S. is a permanent member of this council, it has the right and authority to exercise its veto power. As a result, if these recommendations lead to the issuance of resolutions, the U.S. will have the Veto Rights (Fremuth & Stavrou, 2022, p. 172). Regarding decisions, the U.S., in general, will be endowed with veto power, and assuming Iran's request reaches this stage, if the UNSC intends to issue a resolution, the U.S. will exercise its right to veto.

In case of such circumstances, when the UNSC cannot function effectively and Iran would receive no support in favor of its prosecution, assuming Iran's claim regarding the entanglement of this dispute is accepted while preserving international peace and security, Iran will be able to take its case to the UNGA of the UN (Talmon, 2014, p. 123). According to articles 11 (paragraphs 2 and

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1. The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security.
 2. Article 41: The Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures. These may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations. Article 42: Should the Security Council consider that measures provided for in Article 41 would be inadequate or have proved to be inadequate, it may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations.

3), and 14 of the Un Charter¹, and also the consultative judgment of ICJ in the case of “some expenses of the UN”, the power has been given to the UNGA to proceed to pass a “uniting for peace resolution” with the purpose of breaking the deadlock (Volger, 2010, p. 742).

As mentioned, this solution is more theoretically and ideologically plausible due to its idealistic nature, and is subject to discussion within theoretical frameworks. However, given the power structure in the UNSC (Veto Rights), it is far from practical reality. For a more realistic analysis, a similar case will be examined in the context below.

7. Review of A Case Between U.S. And Nicaragua

On April 9, 1984 the government of Nicaragua filed a petition at the ICJ against military and para-military operations of the U.S. against its country. Claiming that Nicaragua had become a military state, the U.S. proceeded to operate a series of military operations against this country, such as mining its ports and imposing sanctions. Nicaragua took a lawsuit to the ICJ based on a 1956 treaty (Military and Paramilitary Activities in and against Nicaragua, 1984).

In objection to the legal action of the Nicaraguan government, the U.S. said that since diplomatic measures had not been used to settle the disputes, as required by the text of that treaty, Nicaragua

1. Article XI, paragraph II: The General Assembly may discuss any questions relating to the maintenance of international peace and security brought before it by any Member of the United Nations, or by the Security Council, or by a state which is not a Member of the United Nations in accordance with Article 35, paragraph 2, and, except as provided in Article XII, may make recommendations with regard to any such questions to the state or states concerned or to the Security Council or to both. Any such question on which action is necessary shall be referred to the Security Council by the General Assembly either before or after discussion. paragraph III: The General Assembly may call the attention of the Security Council to situations which are likely to endanger international peace and security.

was not entitled to refer to ICJ at first place.¹ Furthermore, because Nicaragua's petition was based on the violation of its national independence, the US claimed that it was a political issue and under jurisdiction of the UNSC, and not the ICJ. In response, the ICJ argued: "The fact that an issue has other aspects does not pose obstacles to it being processed by the court, neither does the fact that negotiations are ongoing" (Briggs, 1985, p. 375). Therefore, negotiation or not negotiation, and legal and political aspects of a case do not undermine the jurisdiction of the ICJ.

The ICJ argued, regarding the claim of Nicaragua turning into a military state: "There is no principle by which the U.S. is allowed to find such rights to take action against a government whenever that government follows a particular ideology or policy" (Mirzaie Yengejeh, 1366 [1987 A.D.], p. 825). "Also, there is no principle in international law to limit the amount of armaments of governments" (Mirzaie Yengejeh, 1366 [1987 A.D.], p. 826).

The military operations of the U.S., such as mining the ports and imposing economic sanctions, were therefore violation of article 19 of the 1956 treaty and freedom of commerce between the two countries. The other claim of the U.S. was based on article 21 of the 1956 treaty,² according to which the US claimed that its actions

1. Like paragraph 2 of article XXI of the 1955 Treaty of Amity between Iran and United States according to which settlement of dispute by diplomatic means has precedence over other means.

2. In the 1955 Treaty of Amity too, according to article XX and paragraph I: governments are free in 4 cases to make decision and the treaty shall not preclude such measures: (a) regulating the importation or exportation of gold or silver; (b) relating to fissionable materials, the radio-active by-products thereof, or the sources thereof; (c) regulating the production of or traffic in arms, ammunition and implements of war, or traffic in other materials carried on directly or indirectly for the purpose of supplying a military establishment; and (d) necessary to fulfill the obligations of a High Contracting Party for the maintenance or restoration of international peace and security, or necessary to protect its essential security interests.

were aimed at protecting its national interests and security and cleared itself of any international responsibility.

However, the court believes that the direct invasion of ports and oil facilities and full economic sanctions cannot be considered legitimate vital measures to protect national interests (Leigh, 1987, p. 210). In fact the U.S. has violated not only the 1956 treaty, but also its obligations towards the UN Charter. Among such obligations is the prohibition of the use of force and the principle of not interfering in the independence and sovereignty of other countries¹. Ultimately, based on the aforementioned factors, the court rendered its judgment on June 27, 1986, declaring the actions of the U.S. to be condemned and imposing an obligation on the said country to pay reparations to Nicaragua.

The U.S., from the outset, contested the jurisdiction of the ICJ and, subsequent to the issuance of the court's decision, failed to adhere to it and refrained from its enforcement. Nicaragua, seeing no remedy other than resorting to the UNSC, brought its complaint before the UNSC. When the UNSC intended to adopt a resolution mandating compliance with and implementation of decisions of the ICJ, the U.S. vetoed it, thereby blocking the UNSC's action to a certain extent. As a result, Nicaragua, by referring to the UNGA, sought assistance from this body. The UNGA issued a non-binding resolution² regarding the necessity of complying with the decisions of the court. The U.S. never heeded this resolution or the court's decision (Hight, 1987, p. 1095). Therefore, Iran, in the pursuit of such a strategy, which seems theoretically effective, will not achieve any practical results.

1. Paragraph IV, article II, UN Charter, 1945

2. GA resolution: A/RES/41/31

8. Enforcement Mechanisms in International Law

After examining theoretical solutions, it is time to explore practical solutions for Iran. In this section, we will investigate the various forms of enforcement mechanisms in international law, assess the feasibility of Iran utilizing these mechanisms, and proceed to present recommendations.

8.1. Types of Enforcement Mechanisms

In the international system, due to the lack of an international enforcement force on the one hand, and shortage of international legal rules on the other, one cannot expect the sanctions of international law to be as organized and perfected as in the domestic laws of countries. The international law is nonetheless not without any kind of enforcing measures, but that same mandate is only enforceable when the international responsibilities of the country committing violation of international obligations is already made clear and obvious (Ziai Bigdeli, 1398 [2020 A. D.], pp. 19, 20). Ziai Bigdeli contends that, there are three types of Enforcement Mechanisms or sanctions in the international law: (a) legal sanctions, (b) non-legal sanctions, and (c) UN enforcing measures (Ziai Bigdeli, 1398 [2020 A. D.], pp. 21, 22). However, based on whether Iran can utilize them to assert its rights or not, we categorize them into two types: realistic sanctions and idealistic sanctions.

8.1.1. Realistic Sanctions

1. Civil Sanctions: Unlike penal sanctions, civil sanctions are much more complete. In international law the first priority is civil

sanctions (repair and compensation of damages) (Paulsson, 2005, p. 208), such as ICJ judgment requiring compensation of US losses by Iran in the case of consular staff taken hostage in Tehran

2. Non-Military Operations: These are legitimate measures, such as seizing of assets, blocking of properties, arresting or deporting aliens, embargo, angary, boycott, etc. which have to be exercised according to principles of emergency and proportion (Wallensteen et al., 2003, pp. 97, 109, 119,123).
3. Global Public Opinions: Attracting the global public opinion to violation of rules of international law and its influence on performance of countries (Chilton & Linos, 2021, p. 247).
4. Countermeasures: One of the most important sanctions in international law. Countries may take countermeasures against other offending countries, including: legitimate defense, retaliation, or reciprocal actions (White & Abass, 2018, p. 521), such as the measures taken by Iran regarding the reduction of its nuclear commitments in the JCPOA (such as enrichment and storage of uranium beyond the limits allowed in the JCPOA) against violations of commitments by the U.S.

Another countermeasure that Iran threatened to take was closure of the Strait of Hormuz to counter unilateral US sanctions. The next chapter will focus on legitimacy and a legal analysis of such countermeasures.

Violation of any legal obligation brings international responsibilities for the violating country. The victim country will be able to use its own capacities (measures) against the violating country in order to protect its undermined rights, and those measures or actions are in fact the executive sanction of

international responsibilities (Krivenkova, 2018, p. 147). Such a rule is rooted in customary law, because the “Responsibility of States for Internationally Wrongful Acts”, that was prepared and passed by the International Law Commission in November 2001, has not yet been turned into a binding treaty and is enforceable only through customary law. The basis for determining such responsibilities is judgements of the ICJ for the case of Chorzow Factory¹. The ICJ says in this judgment: “One of the principles of international law is that violation of obligations brings about a duty to compensate damages in a balance manner” (Mbengue, 2016, p. 293).

By violation of an obligation and creation of relevant international responsibility there will be a discussion of incurred damages. The amount and manner of compensation shall be determined by the parties to the dispute; otherwise, the case shall be referred to international legal or arbitration authorities (Mbengue, 2016, p. 295). The UNSC too has such power and jurisdiction in some cases according to chapter VII of the UN Charter. Damage compensation shall be done in the following manners:

1. Returning the conditions to their previous state
2. Satisfying the damaged party
3. Stopping and not repeating the international offenses
4. Paying compensation
5. Countermeasure

It is self-evident, according to the responsibility of states for internationally wrongful acts plan of the International Law

1. Between Germany and Poland, July 26, 1927, see: Case Concerning the Factory at Chorzow, 1927

Commission adopted in November 2001¹, countermeasures remove responsibilities; they are in fact a series of actions that a harmed party may take or apply against another country or an international organization with the goal of compelling them to compensate the inflicted damages. To execute such sanction of international law, as required by articles 49 to 54 of the draft articles, certain elements have to be observed to ensure that such countermeasures are legitimate and remove responsibilities²:

1. see: United Nations, 2005.

2. Article 49: 1. An injured State may only take countermeasures against a State which is responsible for an internationally wrongful act in order to induce that State to comply with its obligations under part two. 2. Countermeasures are limited to the non-performance for the time being of international obligations of the State taking the measures towards the responsible State. 3. Countermeasures shall, as far as possible, be taken in such a way as to permit the resumption of performance of the obligations in question. Article 50: 1. Countermeasures shall not affect:

(a) the obligation to refrain from the threat or use of force as embodied in the Charter of the United Nations (1945); (b) obligations for the protection of fundamental human rights; (c) obligations of a humanitarian character prohibiting reprisals; (d) other obligations under peremptory norms of general international law. 2. A State taking countermeasures is not relieved from fulfilling its obligations: (a) under any dispute settlement procedure applicable between it and the responsible State; (b) to respect the inviolability of diplomatic or consular agents, premises, archives and documents.

Article 51: Countermeasures must be commensurate with the injury suffered, taking into account the gravity of the internationally wrongful act and the rights in question.

Article 52: 1. Before taking countermeasures, an injured State shall: (a) call upon the responsible State, in accordance with article 43, to fulfil its obligations under part two; (b) notify the responsible State of any decision to take countermeasures and offer to negotiate with that State. 2. Notwithstanding paragraph 1 (b), the injured State may take such urgent countermeasures as are necessary to preserve its rights. 3. Countermeasures may not be taken, and if already taken must be suspended without undue delay if: (a) the internationally wrongful act has ceased; and (b) the dispute is pending before a court or tribunal which has the authority to make decisions binding on the parties. 4. Paragraph 3 does not apply if the responsible State fails to implement the dispute settlement procedures in good faith. Article 53: Countermeasures shall be terminated as soon as the responsible State has complied with its obligations under part two in relation to the internationally wrongful act. Article 54: This chapter does not prejudice the right of any State, entitled under article 48, paragraph 1, to invoke the responsibility of another State, to take lawful measures against that State to ensure cessation of the breach and reparation in the interest of the injured State or of the beneficiaries of the obligation breached.

1. Before such measure there must be negotiations.
2. Countermeasures have to be proportionate to the violations of commitments.
3. Countermeasures shall not contradict the jus cogens.
4. Countermeasures shall not themselves cause violation of charter obligations, such as prohibition of threats or use of force.
5. Countermeasures shall not harm the human rights commitments.
6. Countermeasures shall always be the final stage.
7. Countermeasures shall stop as soon as the violation actions are ceased.
8. Countermeasures shall not be taken against a country or organization that is not a party to the dispute, and any violation of commitments before third parties is unacceptable.
9. Countermeasures shall not harm the sovereignty, territorial integrity, or political independence of a country.
10. Countermeasures shall not harm diplomatic and consular immunities.

The questions raised here is: Can Iran use international law and the principle of taking countermeasures to continue to reduce its nuclear obligations under the JCPOA?

With regard to this question, it must be noted that Iran is inclined to reduce its nuclear obligations and has taken the same path at present. However, in accordance with paragraph 36 of the JCPOA, if Iran has concerns regarding non-compliance by the parties, it must resort to the JCPOA dispute resolution mechanism. Referring the matter to the Joint Commission, this commission is

obligated to address the issue within a period of 15 days. If during the aforementioned period, a resolution is not reached, the matter shall be forwarded to the Council of Ministers of Foreign Affairs and/or simultaneously to the Advisory Board. The Advisory Board shall, within a period of 15 days, issue a non-binding opinion regarding the adherence of the parties. In the event of unresolved differences, the Joint Commission shall, within 5 days, examine the opinion of the Advisory Board. If the complaining party, which may be Iran, believes that a breach of commitment has occurred, signifying a fundamental non-compliance, Iran may suspend all or part of its obligations.

Iran, without completing the entire process, took the first step on May 8, 2019 regarding the reduction of nuclear commitments. Therefore, Iran has since not adhered to the restrictions related to enriched uranium stockpiles and heavy water. The second step was taken on July 5, 2019, and at this stage, Iran abandoned restrictions related to the level of uranium enrichment and modernization activities for the Arak heavy-water reactor.

With the commencement of the third step on September 6, 2019, nuclear research and development activities accelerated on the basis of Iran's technical needs, without adhering to the commitments of the JCPOA. On November 6, 2019, in the fourth step of reducing its nuclear commitments, Iran initiated the injection of gas into the centrifuges located at the Fordow site (Tabnak News Agency, 1398 [2019 A.D.]).

The fifth step of these measures was announced on January 5, 2020, and Iran, after this date, has taken no restrictions in the operational domain, including capacity, percentage, and enrichment level. There are no limitations on the number of centrifuges and

research and development activities (Islamic Republic News Agency, 1398 [2019 A.D.]).

On December 2020, the Iranian Parliament ratified a law titled "Strategic Action for the Repeal of Sanctions and Safeguarding the Interests of the Iranian Nation" According to this law, the initiation of enrichment above 20 percent is envisaged as a measure for the resumption (Islamic Parliament Research Center (IPRC, 1399 [2020 A.D])

Following these steps, a resolution was issued by the International Atomic Energy Agency (hereafter IAEA) Board of Governors against Iran on June 8, 2022. The resolution called on Iran to provide explanations regarding the human-origin enriched uranium at three sites: Torqozabad, Varamin, and Marivan, and to take steps to resolve the dispute by providing documentation and transparency (IAEA, 2022a, p. 1).

However, Iran decided to cut off the equipment and cameras of the IAEA. By discontinuing the Fordow cameras, Iran took steps to modify and connect two cascades of advanced enrichment machines to achieve a purity of 60% enriched uranium. Additionally, the Agency expressed concerns in its report on June 10, 2022 about the increase in the number of IR-6 centrifuges, which intensifies the enrichment process (IAEA, 2022b, p. 1).

It is worth noting that, similar to Iran's ability to reference Paragraph 36 of the JCPOA, the other countries remaining in the agreement can also invoke this paragraph. Therefore, if the other states remaining in the JCPOA or the IAEA reach the conclusion that the JCPOA has been fundamentally violated by Iran and ceased to exist, articles 8 to 13 of

RES2231¹, or the trigger mechanism, will be put into action, bringing back all previous sanctions and resolutions against Iran.

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1. Paragraph 8. Decides, acting under Article 41 of the Charter of the United Nations, that on the date ten years after the JCPOA Adoption Day, as defined in the JCPOA, all the provisions of this resolution shall be terminated, and none of the previous resolutions described in paragraph 7 (a) shall be applied, the Security Council will have concluded its consideration of the Iranian nuclear issue, and the item “Non-proliferation” will be removed from the list of matters of which the Council is seized; paragraph 9. Decides, acting under Article 41 of the Charter of the United Nations, that the terminations described in Annex B and paragraph 8 of this resolution shall not occur if the provisions of previous resolutions have been applied pursuant to paragraph 12; S/RES/2231 (2015) Application of Provisions of Previous Resolutions. paragraph 10. Encourages China, France, Germany, the Russian Federation, the United Kingdom, the United States, the European Union (EU), and Iran (the “JCPOA participants”) to resolve any issues arising with respect to implementation of JCPOA commitments through the procedures specified in the JCPOA, and expresses its intention to address possible complaints by JCPOA participants about significant non-performance by another JCPOA participant; paragraph 11. Decides, acting under Article 41 of the Charter of the United Nations, that, within 30 days of receiving a notification by a JCPOA participant State of an issue that the JCPOA participant State believes constitutes significant non-performance of commitments under the JCPOA, it shall vote on a draft resolution to continue in effect the terminations in paragraph 7 (a) of this resolution, decides further that if, within 10 days of the notification referred to above, no Member of the Security Council has submitted such a draft resolution for a vote, then the President of the Security Council shall submit such a draft resolution and put it to a vote within 30 days of the notification referred to above, and expresses its intention to take into account the views of the States involved in the issue and any opinion on the issue by the Advisory Board established in the JCPOA; paragraph 12. Decides, acting under Article 41 of the Charter of the United Nations, that, if the Security Council does not adopt a resolution under paragraph 11 to continue in effect the terminations in paragraph 7 (a), then effective midnight Greenwich Mean Time after the thirtieth day after the notification to the Security Council described in paragraph 11, all of the provisions of resolutions 1696 (2006), 1737 (2006), 1747 (2007), 1803 (2008), 1835 (2008), and 1929 (2010) that have been terminated pursuant to paragraph 7 (a) shall apply in the same manner as they applied before the adoption of this resolution, and the measures contained in paragraphs 7, 8 and 16 to 20 of this resolution shall be terminated, unless the Security Council decides otherwise; paragraph 13. Underscores that, in the event of a notification to the Security Council described in paragraph 11, Iran and the other JCPOA participants should strive to resolve the issue giving rise to the notification, expresses its intention to prevent the reapplication of the provisions if the issue giving rise to the notification is resolved, decides, acting under Article 41 of the Charter of the United Nations, that if the notifying JCPOA participant State informs the Security Council that such an issue has been resolved before the end of the 30-day period specified in paragraph 12 above, then the provisions of this resolution, including the terminations in paragraph 7 (a), shall remain in effect notwithstanding paragraph 12 above, and notes Iran’s statement that if the provisions of previous resolutions are applied pursuant to paragraph 12 in whole or in part, Iran will treat this as grounds to cease performing its commitments under the JCPOA.

The trigger mechanism serves as a contingency plan intended for use in the event of a significant breach of the JCPOA. If the trigger mechanism is invoked in accordance with articles 8 to 13 of RES2231, and considering that the stipulated 10-year period from the JCPOA signing has not elapsed, Iran's case will remain open at the UNSC. Activation of the trigger mechanism by any participant in the JCPOA will result in the reinstatement of all prior UN and UNSC sanctions against Iran, in addition to potential new sanctions. Given the international implications for peace and security, the possibility of implementing other measures pursuant to Articles 41 and 42 of the UN Charter cannot be ruled out. Such measures may involve imposing further sanctions and an increased likelihood of military strikes targeting Iran's nuclear and military facilities. Therefore, opting for a reduction in nuclear commitments, the suspension of obligations by Iran, and non-cooperation with the IAEA would not constitute an appropriate response. This is because the activation of the trigger mechanism, triggered by a reduction in commitments and a major violation of the JCPOA, would essentially revert Iran to its pre-ReES2231 status (Yadegarian, 2019, p. 99).

Therefore, it is advisable that the reduction of nuclear commitments be suspended as countermeasures, and postponed until after the expiration of the ten-year period mentioned in RES2231 or following the issuance of a judgment by the court and its non-compliance by the U.S., all within the framework of Article 36 of JCPOA, to acquire legal-international legitimacy without conflicting with the national interests of Iran.

In lieu thereof, at the present, it is suggested that Iran, through the enactment of laws such as the "The Judiciary Competence Act of the Islamic Republic of Iran for the adjudication of civil lawsuits

against foreign governments", ratified in March 2012¹, could condemn the U.S. for its violation of judicial immunities, as occurred in the case of Certain Iranian Assets, and seek compensation for the damages. Alternatively, the compensation will be awarded by the ICJ based on the violation of the 1955 Treaty of Amity (Civil Sanctions). Then, based on non-military operations as mentioned previously, and following the implementation of these judgments at the domestic and international levels, Iran should seek to seize and block the assets of the U.S.

Iran can also, in response to the misconduct of the U.S. after the issuance of a court judgment and to increase leverage, withdraw from the Treaty on the Non-Proliferation of Nuclear Weapons (hereafter NPT) within the framework of countermeasures. By invoking Article X, paragraph 1² of this treaty, Iran can easily withdraw from it, citing the misconduct and hostilities of the U.S., which undoubtedly will be a devastating blow to the vulnerable regime of NPT (Evans, 2021, pp. 32, 33).

The UNSC may decide to impose sanctions or take actions in accordance with Chapter VII of the UN Charter against a country intending to withdraw from this treaty. However, since this treaty does not provide for the UNSC to assess the validity of claims by a country intending to exit the treaty, and considering Iran's national interests in relation to the breaches of the U.S. fully in line with the

1. Islamic Parliament Research Center (IPRC), 1391 [2012 A.D].

2. Each Party shall in exercising its national sovereignty have the right to withdraw from the Treaty if it decides that extraordinary events, related to the subject matter of this Treaty, have jeopardized the supreme interests of its country. It shall give notice of such withdrawal to all other Parties to the Treaty and to the United Nations Security Council three months in advance. Such notice shall include a statement of the extraordinary events it regards as having jeopardized its supreme interests.

mentioned article, the UNSC will not have the capability to counter Iran's withdrawal. Furthermore, if Iran's withdrawal occurs after the specified ten-year period mentioned in Resolution 2231, the Iranian nuclear issue will be excluded from matters within the purview of the Security Council, and therefore, no action pursuant to Chapter VII of the Charter regarding Iran's withdrawal from this treaty will be enforceable.

Certainly, considering the heightened sensitivity of global public opinion regarding the violation of the U.S.' commitments, the President of this country will take action to preserve the political credibility of his nation by accepting and implementing the aforementioned judgment. Otherwise, the U.S. will face countermeasures, such as Iran's withdrawal from the NPT, reduction of nuclear commitments, and an increase in the enrichment percentage and quantity. This matter, framing Iran's actions as a response to the unlawful behavior of the U.S., will exert significant psychological pressure and burden on public opinion, compelling the U.S. to comply with the court's judgment. It is advisable for Iran to pursue this option during the mentioned periods, as previously indicated, to persuade the U.S. to cease its unlawful actions.

8. 1. 2. Idealistic Sanctions

1. Penal Sanctions: They concern international crimes (violation of special and particular rules). Authorities to determined penal sanctions include countries in some cases, the ICJ, or provisional international criminal courts, such as those held after the world wars to punish those accused of genocide and similar crimes (Abels, 2014, p. 27).

2. **Economic Sanctions:** Economic blockade or sanctions of the offending country (Wallensteen et al., 2003, p. 8). The use of it is conditioned on the observance of the rules of international law, such UN sanctions against Iran's nuclear program due to lack of transparency on its peaceful nature, which were finally cancelled by RES2231.
3. **Diplomatic or Consular Sanctions:** Cutting off diplomatic or consular relations with the offending country. In addition, cancelling the credentials of the chief consular officer of the dispatching country and calling back own agents from different countries (Wallensteen et al., 2003, p. 85).
4. **Moral Sanctions:** Such as commiseration or apology of offending country before nations fallen victim to violation of international law (Daase et al., 2015, p. 1).
5. **Political Sanctions:** Includes disclosure of documents and papers showing violation of international laws and official objection of countries about them, a clear example would be disclosure of information about military and nuclear sites of Iran by the Israeli President Benjamin Netanyahu. The validity of that information was never confirmed by expert intelligent organizations affiliated to the UN (Télez Núñez, 2005, p. 466).
6. **Shared and Opposite Interests:** In the international system, the interests of all nations are tied to the interest of all nations. As a result, if in one case the interests of one nation are in violation of the international law, it would better to avoid such actions in view of its greater future interests at the international scale. Thus, the interests of a nation lie in its adherence to the international law (Coicaud & Wheeler, 2008, p. 3).
7. **Tension Prevention:** Strain of relationships, start or cold war, or war (Wallensteen et al., 2003, p. 15.).

8. Disciplinary Measures: Temporary restriction of rights and advantages of membership in the UN, being fired from the UN, suspension of voting rights¹.
9. Recommendation Measures: These kinds of recommendations are not actually binding, such as resolutions of the UNGA². These resolutions have the support of all or most of the member nations; as a result, they can get out of the "recommendation" form and become "decisions". In parallel to the UNGA, the UNSC (as noted earlier) and the Economic and Social Council are in some cases allowed to make recommendation resolutions.
10. Denouncing Measures: These are political judgements without any tangible condemnation or penal consequence. Statements such as, "is sorry" or "condemns" are examples of these measures (Johansson & Amer, 2009, p. 50).
11. Binding Measures: In order to make nations stop violating the international law, the UN makes decisions according to chapter VII of its charter³. Furthermore, the decisions of the UNGA, which are made according to a uniting for peace resolution, have a binding nature, and all member states are obligated to accept and execute them⁴.

1 Article V of Chapter II of United Nations Charter: A Member of the United Nations against which preventive or enforcement action has been taken by the Security Council may be suspended from the exercise of the rights and privileges of membership by the General Assembly upon the recommendation of the Security Council. The exercise of these rights and privileges may be restored by the Security Council.

2 Article XIV of Chapter IV of United Nations Charter: Subject to the provisions of Article XII, the General Assembly may recommend measures for the peaceful adjustment of any situation, regardless of origin, which it deems likely to impair the general welfare or friendly relations among nations, including situations resulting from a violation of the provisions of the present Charter setting forth the Purposes and Principles of the United Nations.

3 Articles 41 and 42.

4 The mention of this point is necessary, as not all international law experts agree on the mandatory nature of the 'Uniting for Peace Resolution'.

12. Military Operations: Such actions cannot be taken in connection with an ICJ judgment or decision, because the threat or use of force have been expressly forbidden in paragraph IV of Article II of the UN Charter. Such measures can only be used in 2 exceptional cases:

- A) collective security system (article 45 of UN Charter, 1945¹)
- B) Self-defense (article 51 of UN Charter, 1945).²

The penal sanctions are excluded from our discussion on the grounds that the actions of the U.S. lack a criminal description. Military operations will also be negated in light of the absence of the principles of necessity and proportionality, as well as lack of international legitimacy. Concerning economic sanctions, the effectiveness of U.S. sanctions against Iran is doubtful. As for the severance of consular and diplomatic relations, this incident occurred following the hostage crisis involving American embassy personnel in Tehran, leading to the cessation of diplomatic relations between the two countries. Other aspects, such as moral and political sanctions, as well as the disciplinary measures and those

1. Article 45: In order to enable the United Nations to take urgent military measures, Members shall hold immediately available national air-force contingents for combined international enforcement action. The strength and degree of readiness of these contingents and plans for their combined action shall be determined within the limits laid down in the special agreement or agreements referred to in Article 43, by the Security Council with the assistance of the Military Staff Committee.

2. Article 51: Nothing in the present Charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defense shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.

related to the UN, because of the presence of power structures and the pursuit of self-interest by international organizations, as previously examined, are idealistic in nature and lack realistic and practical application.

9. Conclusion

Inspired by liberal theories, and even realists such as Morgenthau, who, alongside their primary emphasis on power and politics, consider international law and international organizations as among the five main factors for the preservation of international peace and security, the UN and its affiliated agencies have been established to realize the humanitarian ideal of maintaining global peace and security and preventing the recurrence of bitter experiences of world wars.

However, as examined in this article, due to the intertwining of power structures and rights in the society as well as international organizations, justice does not have the full capacity for implementation. Within the framework of realist theory and in accordance with proponents of the theory of hegemonic stability, the global order is established by a dominant single power that creates and manages international organizations.

Governments become members of international organizations and utilize them when their interests demand. Nevertheless, if their personal interests dictate, they may undermine or even disregard international organizations. Within this framework, the UNSC will fulfill its duty as an enforcement mechanism or assurance of the implementation of the judgments of the ICJ when the non-execution of the court's judgments by the condemned state is perceived as a threat to peace, even if such a condemned state is among the powerful governments.

Otherwise, upon a simple deviation from this, the political nature of the UNSC and the dominance of might over right will impede the Council's function in sanctioning the judgments of the court. Therefore, Iran's options within the framework of the UN, such as resorting to the UNSC to address the failure to implement the judgment by the U.S., can be analyzed within the framework of the theory of hegemonic stability, leading to the non-realization of the court's judgment. This is because the U.S. itself is one of the permanent members of the UNSC, and despite the rule of law, Iran's efforts may reach an impasse similar to Nicaragua.

Therefore, it is recommended that in the face of the U.S.' non-compliance with the judgment issued by the court, Iran, by taking actions outside the framework of the UN, steers the US toward implementing the provisions of the final judgement. These action may include:

- Leveraging its influence and engaging in countermeasures, including invoking the Judiciary Competence Act of the Islamic Republic of Iran for the adjudication of civil lawsuits against foreign governments ratified on 6 March 2012
- Pursuing condemnation of the U.S. in domestic courts and the seizure of the assets of the United States based on these judgments
- Reducing nuclear commitments in accordance with paragraph 36 of the JCPOA
- Withdrawing from the NPT as the ultimate solution with engaging global public opinion,

It is worth mentioning that it is preferable for the intensity of the reduction in commitments and the increase in the level and percentage of enrichment to occur in a more balanced manner, in a

way that these measures are not designated as major violations of the fundamental principles of the JCPOA by Iran. In such a scenario, Iran's case will be reopened at the UNSC, and all previous sanctions and resolutions of the UN against Iran, in accordance with articles 8 to 13 of Resolution 2231, will be reimposed.

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