

Failure Of International Law In Case Settlement International

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ABSTRACT

This study examines the failure of international law in resolving international disputes caused by weak enforcement mechanisms, political dominance of powerful states, and ineffective sanction systems within international organizations. In principle, international law aims to maintain global order and provide peaceful dispute settlement mechanisms. However, in practice, its effectiveness is often undermined by national interests and political considerations of states. Additionally, limitations in the jurisdiction of international courts and the non-compliance of states with international rulings further weaken the effectiveness of international law. This research employs a literature study approach by analyzing relevant academic sources. The findings indicate that the effectiveness of international law largely depends on the political commitment of states and the strengthening of global enforcement mechanisms.

Keywords: international law, dispute resolution, law enforcement, resolving, international disputes

INTRODUCTION

International law was established to regulate relations between states in order to create global order and peace. However, in practice, the application of international law often faces various obstacles, rendering international dispute resolution ineffective. This demonstrates a gap between international legal theory and the reality of global politics (Gea et al., 2024). The increasingly complex development of international relations makes disputes between countries increasingly difficult to resolve. Many conflicts involve conflicting political, economic, and security interests. This situation means that international law is not always the primary option for conflict resolution (Rijal et al., 2024).

International institutions such as the International Court of Justice play a crucial role in resolving disputes between nations. However, their authority is very limited because they rely on the consent of the disputing states. This is a major factor in the weak enforcement of international law (Rusli & Lie, 2025). Furthermore, the principle of state sovereignty often hinders the implementation of international law. States have the full right to reject the jurisdiction of international institutions if they deem it contrary to their national interests.

This strengthens a state's position in the international system but weakens the effectiveness of international law (Wagian & Fathoni, 2015).

Political factors also significantly influence the process of resolving international disputes. Large powers wield significant influence in international institutions, so legal decisions are often influenced by particular political interests. As a result, international law does not always operate neutrally (Winata, 2023). Therefore, studying the failure of international law is crucial for understanding the weaknesses of the global legal system. This analysis is expected to provide insight into the factors influencing the ineffectiveness of international dispute resolution and provide a basis for future improvements to the international legal system (Siahaan, 2024).

METHODOLOGY

This research uses a literature review method aimed at examining various scientific sources related to the failure of international law in resolving international disputes. The sources used include scientific journals, academic articles, and relevant legislation.

Data collection was conducted by reviewing and analyzing various literature related to international law, particularly those discussing dispute resolution mechanisms and the factors influencing their effectiveness. The data obtained was then classified based on the discussion themes.

Data analysis was conducted descriptively and qualitatively by interpreting the collected literature. This approach was used to provide a comprehensive picture of the failure of international law without resorting to statistical calculations.

DISCUSSION AND ANALYSIS

A. Failure of International Law in Settling International Disputes

International law was originally established to create order in relations between states and provide a mechanism for peaceful dispute resolution. However, in practice, the effectiveness of law often faces various obstacles, leading to failure in resolving international disputes. One key factor is the nature of international law, which lacks the strong executive authority found in national legal systems. The absence of a "world government" makes the implementation of international legal decisions highly dependent on the willingness of states to comply (Gea et al., 2024).

In this context, institutions like the International Court of Justice have limited ability to compel states to implement their decisions. Although decisions are legally binding, their implementation still depends on the good faith of the disputing states. This demonstrates a gap between international legal norms and global political realities. Many states prioritize national interests over international obligations, resulting in legal decisions often being ignored or their implementation delayed (Gea et al., 2024).

Furthermore, the failure of international law is also influenced by state sovereignty. The principle of sovereignty grants states full authority to determine internal and external policies without interference from other parties. However, this principle often hinders the enforcement of international law, as states can reject the jurisdiction of international institutions on the grounds of sovereignty (Rijal et al., 2024). As a result, many international disputes cannot be effectively resolved through existing legal mechanisms.

Another factor contributing to this failure is political dominance in the international dispute resolution process. In some cases, decisions by international institutions are not solely based on law but are also influenced by the political power of major powers. This leads to unfairness in the application of international law, as countries with greater political and economic power tend to wield greater influence in the decision-making process (Rusli & Lie, 2025).

Furthermore, weaknesses in enforcement mechanisms are also a significant factor. The absence of a firm and binding sanctions system means that countries that fail to comply with international decisions face no significant consequences. In many cases, the sanctions imposed are merely moral or political, rather than truly coercive legal ones (Wagian & Fathoni, 2015). This often leads to international law being considered "weak" in practice.

In the international investment sector, for example, disputes often cannot be resolved effectively even through international arbitration mechanisms. Many arbitration awards are difficult to enforce at the national level due to differences in legal systems and the interests of each country (Winata, 2023). This situation demonstrates that while the international legal system continues to develop, implementation challenges remain significant.

Furthermore, legal uncertainty is also a contributing factor to the failure of international dispute resolution. Differences in interpretation of international law

between countries often give rise to new conflicts in the dispute resolution process. This demonstrates that international law lacks a truly uniform standard of interpretation that is binding on all parties (Siahaan, 2024).

Overall, the failure of international law in resolving international disputes is not only due to normative weaknesses, but also to political factors, state sovereignty, and weak law enforcement mechanisms. This situation demonstrates that international law is still in its developmental stage and is highly dependent on the cooperation and commitment of nations worldwide.

B. Factors Causing the Failure of International Law

1. Limitations of Jurisdiction of International Institutions

One of the main causes of the failure of international law is the limited jurisdiction of international judicial institutions. Not all countries automatically submit to the jurisdiction of institutions like the International Court of Justice. States must provide prior consent before a case can be heard. This results in many disputes being unable to be processed because one party refuses jurisdiction (Gea et al., 2024).

This situation demonstrates that international law still relies heavily on voluntary principles (consensual systems). Consequently, there is no guarantee that all disputes can be resolved through international legal channels.

2. State Non-Compliance with International Rulings

State non-compliance is the most obvious factor in the failure of international law. Although international decisions are binding, there is no effective enforcement mechanism. Many countries choose not to enforce decisions if they are deemed detrimental to their national interests.

In practice, compliance with international law is more political than legal. States will only comply if it doesn't harm their strategic position (Rusli & Lie, 2025). This weakens the credibility of international law as a global legal system.

3. Dominance of Political Interests and State Power

Political factors play a significant role in the failure of international law. Larger powers often wield greater influence in international institutions, so decisions taken do not always reflect legal justice.

In some cases, international decisions reflect political compromise rather than the application of pure law. This leads to distrust of international institutions and undermines the effectiveness of dispute resolution (Wagian & Fathoni, 2015).

4. Weakness of International Sanctions Mechanisms

Sanctions under international law are generally neither direct nor coercive. There is no international police force that can effectively enforce international court decisions. Sanctions typically take the form of diplomatic or economic pressure, which is often ineffective.

As a result, states that violate international decisions do not always face significant consequences. This deprives international law of the coercive power that should be a key characteristic of a legal system (Winata, 2023).

5. Differences in National Legal Systems

Differences in legal systems between countries also pose a major obstacle to the implementation of international law. Each country has a different legal system, leading to varying interpretations of international law.

This lack of synchronicity often leads to conflicts in the implementation of international decisions, particularly in civil and investment matters. This undermines the effectiveness of international law in resolving cross-border disputes (Siahaan, 2024).

6. Uncertainty of International Law

Uncertainty in the interpretation of international law is also a significant factor. Many international legal norms are general in nature and can therefore be interpreted differently by different countries.

This creates significant uncertainty in the dispute resolution process. As a result, international law often fails to produce consistent outcomes in similar cases (Rijal et al., 2024).

Overall, the failure of international law is caused by a combination of structural, political, and legal factors. Limited jurisdiction, state non-compliance, political dominance, weak sanctions, differences in legal systems, and legal uncertainty are interrelated and weaken the effectiveness of international law in resolving global disputes.

c. The Influence of Politics and National Interests on International Law Enforcement

The enforcement of international law is fundamentally inseparable from the dynamics of global politics. Although international law is normatively designed to be neutral, in practice, its decisions and implementation are heavily influenced by the political interests of states, particularly large powers. This often results in international law not functioning as ideally as envisioned in pure legal theory.

In many cases, decisions by international institutions are based not only on legal considerations but also on political compromises between states. This situation leaves international law vulnerable to interference by national interests (Rusli & Lie, 2025). Consequently, legal justice is often not fully achieved due to political dominance in the decision-making process.

1. Dominance of Great Powers in the International System

Major powers such as the United States, China, Russia, and the permanent members of the Security Council wield significant influence in enforcing international law. They possess not only military and economic power but also significant political influence within international institutions such as the United Nations.

In practice, these countries can influence the outcome of resolutions or even veto decisions deemed contrary to their interests. This demonstrates that international law is not entirely independent of global political forces (Gea et al., 2024). This situation creates inequality in the enforcement of international law because smaller states often lack the same influence.

2. National Interests Above International Interests

Every country fundamentally has national interests that are the primary priority in its foreign policy. When conflicts arise between international law and national interests, many countries choose to prioritize their own interests.

This results in many international decisions not being fully implemented. States tend to interpret international law according to their own interests (Rijal et al., 2024). Consequently, the principle of the universality of international law becomes difficult to apply consistently.

3. Veto Politics in the United Nations Security Council

One of the most visible forms of political influence in international law is the veto power held by the five permanent members of the UN Security Council. This

veto power allows one country to overturn international decisions, even if they are approved by a majority of other countries.

In many cases of international conflict, the use of the veto often hinders collective action to resolve disputes or stop violations of international law. This demonstrates that the international legal system remains heavily dependent on an unbalanced global political structure (Wagian & Fathoni, 2015).

4. Instrumentalization of International Law

International law is often used as a political tool by powerful nations to achieve their strategic goals. In some cases, international law is applied selectively, depending on the political interests of the countries involved.

This phenomenon is known as *selective justice*, where laws are enforced only in certain countries, while other countries with greater political power tend not to receive the same sanctions (Winata, 2023). This reinforces the view that international law is not entirely objective.

5. Dependence of International Institutions on Member States

International institutions such as the International Court of Justice and the United Nations rely heavily on the contributions and cooperation of member states. Without financial and political support from major powers, these institutions cannot function optimally.

This dependence prevents international institutions from being fully independent in their decision-making. In many cases, political pressure from donor countries can influence the policy direction of international institutions (Siahaan, 2024).

6. The Impact of Power Inequality on International Justice

The imbalance of power between countries leads to injustice in the enforcement of international law. Small countries often lack the capacity to resist political pressure from larger powers.

As a result, international law often does not provide equal protection for all states. This contradicts the principle of equality in international law, which should be the primary foundation of the global legal system (Gea et al., 2024).

Political influence and national interests have a significant impact on the enforcement of international law. The dominance of major powers, the use of vetoes, the instrumentalization of law, and the dependence on international institutions demonstrate that international law is not entirely free from political interference. This weakens the effectiveness of international law in resolving global

disputes fairly and consistently.

D. Weak Sanctions Mechanisms in the United Nations

One of the most fundamental weaknesses in the international legal system is the weakness of sanctions mechanisms, particularly within the United Nations (UN) framework. Although the UN has a mandate to maintain international peace and security, in practice, sanctions mechanisms are often ineffective in enforcing state compliance with international law.

1. Absence of a Coercive Law Enforcement System

Unlike national legal systems, which have law enforcement agencies, international law lacks an executive branch that can compel states to comply with decisions. The UN can only issue resolutions or recommendations, the implementation of which depends on member states.

This situation results in many international decisions being ineffectively implemented. States that violate international law cannot be directly compelled to comply with these decisions (Rusli & Lie, 2025).

2. Sanctions are inconsistent and selective

The sanctions imposed by the UN are often inconsistent and selective. Some countries receive severe sanctions, while others committing similar violations receive no equivalent sanctions.

This demonstrates the influence of politics in determining international sanctions. Countries with strategic relationships with major powers often avoid severe sanctions (Wagian & Fathoni, 2015).

3. Reliance on the UN Security Council

The imposition of international sanctions relies heavily on the UN Security Council. However, due to its veto power, decisions are often hampered by the interests of permanent members.

If one member state still disagrees, sanctions cannot be imposed. This renders the international sanctions system ineffective in many cases of global conflict (Gea et al., 2024).

4. Economic Sanctions Are Not Always Effective

One of the most frequently used forms of sanctions is economic sanctions. However, in practice, these sanctions are not always effective, as some countries are

able to survive through cooperation with other countries or specific economic blocs.

Furthermore, economic sanctions often impact civil society, not just the targeted government (Winata, 2023). This creates an ethical dilemma in the application of international sanctions.

5. Absence of an Execution Mechanism for International Court Decisions

Decisions from the International Court of Justice or international arbitration bodies lack a mechanism for direct enforcement. The UN lacks the authority to enforce such decisions by force.

As a result, the implementation of a decision is highly dependent on the willingness of the disputing states. If a state refuses, there is no legal mechanism that can truly enforce it (Siahaan, 2024).

6. The Weak Deterrent Effect in International Law

Due to the lack of truly firm sanctions, international law often fails to deter violating states.

States can violate international law without facing significant consequences.

This has led to repeated violations of international law in various cases, both in armed conflicts, human rights violations, and territorial disputes (Rijal et al., 2024).

The weakness of the UN sanctions mechanism demonstrates that the international legal system still lacks effective enforcement power. Dependence on member states, political influence, and the absence of international law enforcement agencies often render sanctions ineffective and inconsistent. This is a major factor in the failure of international law to resolve global issues.

CONCLUSION

International law plays a crucial role in maintaining global order and peacefully resolving disputes between nations. However, in practice, its effectiveness remains severely limited due to various structural and political factors that influence it.

The failure of international law is primarily due to weak law enforcement mechanisms, the dominance of major power political interests, and state non-compliance with the decisions of international institutions. Furthermore, the weakness of the sanctions system also undermines the effectiveness of international law in resolving global conflicts.

Therefore, it is necessary to strengthen the international legal system by increasing

cooperation between countries and reforming international institutions so that international law can function more effectively and fairly in resolving global disputes in the future.

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