

# The Status of the Judicial and Advisory Practice of the International Court of Justice in Determining the Legitimacy of Sanctions

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| Received: 2025-11-12                                                                                                                                                                 | Revised: 2026-02-05 | Accepted: 2026-02-14 | Initial Publish: 2026-07-25 | Final Publish: 2026-12-01 |
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## 1. Round 1

### 1.1. Reviewer 1

Reviewer:

In the Introduction, the paragraph beginning “The judicial and advisory practice of the Court... performs a strategic function” describes the Court’s role but does not clearly articulate the doctrinal gap in the literature. The manuscript would benefit from a more precise identification of what previous studies have failed to address and how this article departs methodologically or conceptually from them.

The sentence “the Court has stated that sanctions must be imposed within the framework of the United Nations Charter—particularly Chapter VII...” requires direct citation to a specific paragraph of an ICJ judgment. The Court has rarely made such explicit pronouncements; therefore, this claim should be carefully qualified or substantiated.

The assertion that erga omnes obligations “justify collective sanctions” requires caution. The Wall Opinion established non-recognition obligations, but did not explicitly endorse sanctions. The manuscript should distinguish between non-recognition duties and economic sanctions as enforcement mechanisms.

Classifying unilateral sanctions as “Questionable” and multilateral sanctions as “Conditionally Legitimate” simplifies a complex spectrum. Consider elaborating on conditionality factors such as Security Council authorization, humanitarian exemptions, proportionality, and procedural safeguards.

Although the Literature Review identifies a gap in Persian-language scholarship, it remains largely descriptive. The author should critically evaluate methodological weaknesses or theoretical limitations in prior Persian works rather than merely noting their existence.

In the Discussion section, the sentence “the ICJ... has become a key actor in the legal discourse on sanctions legitimacy” risks conflating interpretative influence with normative authority. A clearer distinction between de facto influence and de jure competence would strengthen analytical precision.

Where the manuscript refers to violations of economic and social rights, it would benefit from explicit references to treaty provisions (e.g., ICESCR Articles 11 and 12) and relevant interpretative practice, rather than general references to “human rights law.”

Authors revised the manuscript and uploaded the document.

## 1.2. Reviewer 2

Reviewer:

The statement in the Introduction that “economic sanctions may constitute a non-military form of force” based on the Nicaragua judgment requires clarification. The Court in Nicaragua (para. 202–205) distinguished between economic coercion and armed force. The manuscript should avoid suggesting that the Court equated economic sanctions with “force” under Article 2(4), unless supported by precise textual analysis.

In the section “A Comparative Analysis of Multilateral and Unilateral Sanctions”, unilateral sanctions are broadly criticized. However, the doctrine of countermeasures under the Articles on State Responsibility is insufficiently integrated. A discussion of proportionality and necessity within lawful countermeasures would strengthen the legal analysis.

The paragraph stating that the study “for the first time” establishes a systematic linkage between ICJ jurisprudence and sanctions legitimacy may be overstated. Several international scholars (e.g., Simma, Crawford) have already explored similar connections. The author should moderate the novelty claim or explicitly explain how the analytical framework differs.

In Table (1), the entry “Prohibition of the use of force – Interpretative practice of the Court – Negates coercive economic measures” appears doctrinally problematic. The ICJ has not definitively held that economic measures constitute “force” under Article 2(4). This table entry should be reformulated to reflect doctrinal nuance.

The use of the Oil Platforms (2003) judgment to derive proportionality standards for sanctions is innovative but requires deeper justification. The manuscript should explicitly explain how proportionality in self-defense translates doctrinally into proportionality in economic sanctions.

The text refers to “the provisional measures orders issued in 2018” as evidence of human rights integration. It would be beneficial to clarify that these were provisional measures, not final judgments, and to discuss the legal weight of such orders under Article 41 of the ICJ Statute.

In the Namibia (1971) and Wall (2004) discussion, the manuscript suggests advisory opinions contribute to “legitimacy” of sanctions. However, the normative status of advisory opinions under Article 65 of the ICJ Statute should be analyzed more critically. The manuscript should clarify whether their authority is persuasive, customary-formative, or quasi-binding.

Authors revised the manuscript and uploaded the document.

## 2. Revised

Editor’s decision: Accepted.

Editor in Chief’s decision: Accepted.