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The Legal Effects of Resolutions of the UN Security Council and General Assembly in the Jurisprudence of the ICJ FREE

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Abstract

This article aims to extract from the jurisprudence of the International Court of Justice a basic theory of legal effects of unilateral instruments of international organizations in public international law. These effects can be divided into three categories. The first is *substantive* effects. These include binding, authorizing and (dis)empowering effects. The second category is *causative* effects, whereby determinations of fact or of law bring substantive effects into existence. The third category is *modal* effects – how and when the substantive effects come into existence (e.g. immediate or deferred, retroactive or non-retroactive, reversible or irreversible effect). Each of these categories of legal effects behaves differently according to whether the effects are *intrinsic* or *extrinsic*. Intrinsic effects are based on the special treaty powers of the United Nations Security Council and General Assembly. In this hypothesis, all three categories of effects exist to the full extent that the explicit and implicit powers of the adopting body allow for them. Extrinsic effects are directly based on general international law, in particular on the rules of formation of customary international law. Here, there are no causative effects. Substantive effects do not strictly speaking exist; only pre-substantive ones do. And modal effects are always immediate, non-retroactive and reversible.

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