Hossein KHORASANI[1] **Mahdi BEYGI**[2]

The admissibility of threats, admissions, and statements of state officials in international law

Case Study of the War of the United States and Israel against the Islamic Republic of Iran

Abstract: *Public international law, in its evolutionary trajectory, has transcended the monopoly of traditional sources enumerated in Article 38 of the Statute of the International Court of Justice. One of the most significant manifestations of this evolution is the recognition of the admissibility of threats, admissions, and statements of state officials as unilateral acts before international tribunals. The present research, employing a descriptive-analytical method with a critical approach, examines the substantive status and evidentiary value of these acts. The research findings demonstrate that unilateral acts, grounded in the principle of good faith and the doctrine of self-limitation, are capable of creating independent legal obligations. In this regard, developed rules of attribution establish that the statements of specialized ministers are also considered binding upon states, relying on the doctrine of attribution. An examination of judicial practice reveals a dual function of these acts; the International Court of Justice (ICJ), through an interpretation-oriented approach, considers these statements as a source of states' civil obligations, while the International Criminal Court (ICC) evaluates officials' threats and admissions as robust evidence for establishing the mental element of international crimes. Furthermore, this research proves that unilateral acts, in conjunction with United Nations resolutions, accelerate the formation process of customary international law and have become efficient regulatory tools in emerging fields such as international environmental law and international investment law. The case study of the US-Israeli war against Iran demonstrates that the threatening statements of the US President, the admissions of the Secretary of State, and the*

1. Master Relations internationales, Université libre islamique d'Iran.
2. Master Relations internationales, Université libre islamique d'Iran.

statements of the Israeli Prime Minister, upon establishing the intention to be bound, the competence of the official, and the publicity of the issuance, all constitute legal unilateral acts and give rise to international responsibility.

Keywords: *Unilateral Acts, International Court of Justice, International Criminal Court, Admissions and Threats of Officials, Doctrine of Estoppel.*

L'admissibilité des menaces, des aveux, et des déclarations des responsables étatiques en droit international. *Étude de cas de la guerre menée par les États-Unis et Israël contre la République islamique d'Iran.*

Résumé : Le droit international public, dans son évolution, a dépassé le monopole des sources traditionnelles énumérées à l'article 38 du Statut de la Cour internationale de Justice. L'une des manifestations les plus significatives de cette évolution est la reconnaissance de la recevabilité des menaces, aveux et déclarations de fonctionnaires d'État comme actes unilatéraux devant les juridictions internationales. La présente recherche, employant une méthode descriptive et analytique avec une approche critique, examine la valeur substantielle et probante de ces actes. Les résultats démontrent que les actes unilatéraux, fondés sur le principe de bonne foi et la doctrine de l'autolimitation, sont susceptibles de créer des obligations juridiques indépendantes. À cet égard, les règles d'attribution établies confèrent également aux États la compétence juridique, conformément à la doctrine de l'attribution. L'examen de la pratique judiciaire révèle une double fonction de ces actes ; La Cour internationale de Justice (CIJ), par une approche interprétative, considère ces déclarations comme une source d'obligations civiles pour les États, tandis que la Cour pénale internationale (CPI) évalue les menaces et les aveux des responsables comme des preuves solides de l'élément moral des crimes internationaux. De plus, cette recherche démontre que les actes unilatéraux, conjugués aux résolutions des Nations Unies, accélèrent la formation du droit international coutumier et sont devenus des outils réglementaires efficaces dans des domaines émergents tels que le droit international de l'environnement et le droit international des investissements. L'étude de cas de la guerre israélo-américaine contre l'Iran montre que les déclarations menaçantes du président américain, les aveux du secrétaire d'État et les déclarations du Premier ministre israélien, dès lors que l'intention d'être lié, la compétence du responsable et la publicité de leur publication sont établies, constituent tous des actes unilatéraux licites et engagent la responsabilité internationale.

Mots-clés : Actes unilatéraux, Cour internationale de Justice, Cour pénale internationale, Aveux et menaces de fonctionnaires, Doctrine de l'Estoppel.

THE SYSTEM OF PUBLIC INTERNATIONAL LAW, as the regulatory framework for relations among subjects of this arena, is inherently a decentralized system based on the will of states. In traditional doctrine, the sources of international obligations were largely confined within the framework of Article 38 of the *Statute of the International Court of Justice* (ICJ). According to this article, international treaties, international custom, and general principles of law are considered the primary sources for deriving legal rules (Shaw, 2021, p. 102). Nevertheless, the tremendous dynamism of diplomatic relations and the complexities of the modern era have shown that state interactions and actions are not limited solely to written treaties or long-standing customary practices. Thousands of statements, speeches, interviews, and positions are issued daily by high-ranking state officials in public forums or media. In this context, one of the most complex issues in contemporary international law is assessing the legal value of "unilateral acts" and their admissibility before international tribunals (Crawford, 2019, p. 412).

Unilateral acts encompass a wide range of state behaviors that, without requiring reciprocal acceptance or a counterpart action from other subjects of international law, can be a source of legal effects. Among these, three categories—"statements and promises", "admissions", and "threats" of official authorities—have found a particular place in the judicial practice of international tribunals. Promises and statements, if issued with the "intention to be legally bound", can unilaterally create rights and obligations for the issuing state. On the other hand, an "admission" by an official of a factual or legal situation, by activating the rule of "estoppel" (or preclusion from contradicting a previous admission), prevents that state from later asserting a claim contrary to its prior statements before tribunals (Distefano, 2019, p. 235).

However, the most challenging aspect of this subject is the status of the "threat". In the legal system post-UN Charter, Article 2(4) of the Charter absolutely prohibits the threat or use of force, and this prohibition is now recognized as a "peremptory norm" (*jus cogens*) in international law (Corten, 2022, p. 89). The question arises: if a threat is inherently an unlawful and void act, how can it be invoked before international tribunals? The recent practice of tribunals such as the ICJ and especially the International Criminal Court (ICC) shows that threats by state officials are invoked not as a source creating a right, but as "evidence in proof of a claim" for establishing "criminal intent", "state policy" in committing international crimes, or establishing a breach of international obligations with high probative value (Schabas, 2024, p. 192).

The issue of unilateral acts and statements of state officials has long been of interest to international law scholars. In judicial practice, the decisions of the Permanent Court of International Justice (PCIJ) in the Eastern Greenland case (1933) and the historic ICJ judgment in the Nuclear Tests case (1974) are considered cornerstones of the legal literature in this field. Institutionally, the International Law Commission (ILC), recognizing the importance of this topic, after years of study, published the "Guiding Principles Applicable to Unilateral Declarations of States" in 2006, which was a significant step in regulating these acts (ILC, 2006).

In legal doctrine, authors such as Eckart (2012) in Promises of States under International Law have analyzed the element of intention to be bound in detail. In recent years, research has shifted towards the application of these statements in international criminal law and urgent proceedings. For example, O'Keefe (2023), in his studies, has focused on the probative value of state statements in establishing the mental element of crimes such as genocide before the ICC. Furthermore, Zemanek (2023), in his recent examinations, has analyzed how the Court's practice has evolved in relying on statements of specialized ministers (in addition to foreign ministers). Nevertheless, a review of the literature reveals a significant gap; most previous research has focused solely on the binding force of "promises", and few studies have comprehensively addressed both the substantive value (creating obligations through promises and admissions) and the formal-probative value (relying on threats violating peremptory norms in international criminal and civil tribunals). The present article seeks to fill this scientific gap.

Based on the outlined foundations, the main research question is: "Under what conditions and based on which legal foundations do international tribunals (especially the ICJ and ICC) rely on threats, admissions, and statements of state officials as a source of obligation or evidentiary proof?"

This research employs a "descriptive-analytical" approach, utilizing library and documentary methods. In this regard, theoretical concepts and legal doctrine are first analyzed using authoritative and up-to-date sources. Then, to precisely elucidate the subject, international judicial practice, including contentious cases and provisional measures orders of the ICJ, decisions of international criminal tribunals such as the ICC, as well as documents and reports of bodies such as the UN and ILC, are critically and inductively examined and inferred.

To provide a comprehensive answer to the above questions, this article is organized into four main sections. Following this introduction, the first section analyzes the fundamental status of unilateral acts as an independent source of international law and examines the judicial practice's departure from the monopoly of Article 38 of the ICJ Statute. The second section is dedicated to the conceptual and legal categorization of types of unilateral acts, including promises, admissions (with emphasis on the estoppel rule), and threats (in contrast to peremptory norms). The third section critically examines and analyzes the judicial practice of international tribunals, especially the ICJ and ICC, regarding the admissibility of these acts in disputes related to state responsibility and international crimes. The fourth section analyzes unilateral acts in the US-Israeli war against Iran, followed by a conclusion.

1. Analysis of the Legal Foundations and Status of Unilateral Acts as an Independent Source of International Law

Examining the admissibility of unilateral acts (including statements, threats, and admissions) first requires elucidating the status of these acts in the hierarchy and structure of the sources of public international law. Legal doctrine and judicial practice in recent decades have witnessed significant developments, moving from "reductionist" approaches towards accepting new binding sources. This section analyzes the theoretical and legal bases for the binding nature of unilateral acts.

1.1 The Departure of Doctrine and Practice from the Monopoly of Article 38 of the ICJ Statute

Article 38 of the Statute of the International Court of Justice (ICJ), generally regarded as the starting point for identifying sources of international law, refers only to treaties, custom, and general principles of law. The 1969 *Vienna Convention on the Law of Treaties* (VCLT) explicitly defines a treaty as an international agreement concluded between states in written form (Klabbers, 2024, p. 54). Since unilateral acts lack the element of "mutual agreement," they do not fall within the framework of treaties.

However, international law scholars generally agree that Article 38 of the ICJ Statute is not "exhaustive". Alain Pellet, in his commentary on the Statute, argues that the absence of mention of unilateral acts in Article 38 does not prevent courts from relying on these acts as an independent source of rights and obligations, as the said article was not intended to limit the sovereign will of states (Zimmermann & Tams, 2019, p. 865). States, by virtue of their equal sovereignty, have the authority to express their will not only through bilateral diplomacy but also individually.

1.2 The Doctrine of Self-Limitation and the Principle of Good Faith

A fundamental question in the philosophy of international law is why a state should unilaterally bind itself without receiving any consideration. The theoretical basis for this lies in the "doctrine of self-limitation". According to this theory, the absolute sovereignty of states allows them to voluntarily limit the scope of their freedom of action.

Nevertheless, the driving force and legal adhesive that transforms this individual will into an inviolable international obligation is the principle of "good faith". The International Law Commission (ILC) and the Court have emphasized in numerous decisions that mutual trust and good faith are the fundamental bases of international cooperation. When a state official issues a statement and expects other subjects of international law to rely on it, the principle of good faith requires that state to adhere to its promise or admission (Eckart, 2012, p. 142). In fact, the admissibility of statements is rooted in the principle of "protection of legitimate expectations" of the international community.

1.3 Mathematical-Logical Analysis of the Threshold for Creating an Obligation in Unilateral Acts

In legal logic and the philosophy of law, the transition from a "merely political statement" to a "binding legal obligation" requires the accumulation of conditions that can be expressed in the language of "formal logic" using mathematical modeling. For international tribunals to be able to rely on a unilateral act, a specific "threshold" must be met.

If we denote the unilateral act by the variable U, the "intention to be bound" by I, the competence of the issuing official by C, and "publicity" by P, the ultimate legal obligation, O, is a function of the definitive aggregation of these variables. This relationship can be formulated as follows:

$$O = f(I, C, P)$$

In this legal function, the necessary and sufficient condition for act U to lead to obligation O is a definite conditional proposition:

$$(U \cap I \cap C \cap P) \implies O$$

In other words, the probability of creating a legal obligation, given the establishment of the intention to be bound, is 100%, which in the language of legal statistics can be written as:

$$P(O|I) = 1$$

The absence of the variable I (intention) nullifies the entire equation and reduces the act to a mere political courtesy (Distefano, 2019, p. 240). International tribunals, in their proceedings, precisely seek this equation to assess the admissibility of officials' statements.

1.4 The ILC Guiding Principles (2006) and the Anatomy of "Intention to be Bound"

The most important legal document in elucidating the dimensions of unilateral acts is the "Guiding Principles Applicable to Unilateral Declarations of States" adopted by the International Law Commission in 2006 (ILC, 2006). Although not in the form of a treaty, this document, as a crystallization of customary international law and doctrinal opinion (akin to Article 38(1)(d) of the ICJ Statute), possesses high precedential value.

According to Principle 1 of this document, declarations made with the "intention to create legal obligations" are binding. However, establishing this intention in practice is very difficult. The ILC stipulates that to discover the state's intention to be bound, attention must be paid to three essential elements:

1. Content of the statement: Are explicit, clear, and unconditional terms used? The more precise the language of the statement, the easier it is to prove legal intent.

2. Surrounding factual circumstances: When and where was the statement made? A statement issued during the heat of an international crisis to prevent war carries different legal weight than a speech at a diplomatic reception.

3. Reaction of the addressees: Although a unilateral act does not require acceptance, the reaction of the international community can indicate how they perceived the seriousness of the statement.

Principle 7 of this document also states that obligations arising from unilateral declarations are binding only if they are explicit and precise. In cases of doubt or ambiguity regarding the state's intention, the interpretation must be done "restrictively"; because the principle is the freedom of action of states, and no state can be restricted based on conjecture (Shaw, 2021, p. 115).

1.5 Irrevocability of Unilateral Acts

One of the fundamental challenges in relying on unilateral acts before international tribunals is whether a state that has unilaterally accepted an obligation can unilaterally withdraw from it or revoke it. Principle 10 of the ILC Guiding Principles explicitly states that a unilateral declaration that has created rights and obligations cannot be revoked "arbitrarily" (ILC, 2006). To determine whether the revocation of a statement is arbitrary, international tribunals use a three-pronged test: First, did the statement itself stipulate that it was revocable? Second, has a "fundamental change of circumstances" occurred that makes performance of the promise impossible? Third, to what extent have the states addressed by that statement or admission changed their position or relied upon it? If a state, relying on another state's statement, has foregone its own rights, the first state cannot revoke its statement (estoppel). This restriction reveals the clear difference between fleeting political decisions and international legal acts (Klabbers, 2024, p. 62).

1.6. The Relationship Between Unilateral Acts and International Custom

Finally, examining the status of unilateral acts would be incomplete without analyzing their relationship with international custom. International custom consists of two elements: the material element (consistent state practice) and the psychological element (*opinio juris*). Statements, threats, and admissions of state officials play a dual role in international law. On the one hand, as proven, they are directly binding as an "independent legal act". On the other hand, these acts can be invoked before tribunals as strong evidence for proving the existence of the "psychological element of custom".

When several states issue similar statements denying a certain behavior (e.g., the prohibition of aggression), the aggregation of these unilateral acts serves as a catalyst for the rapid formation of a new customary rule in the international community. In this case, a state's statement is both a source of obligation for that state itself and a brick in the edifice of customary international law (Crawford, 2019, p. 418).

Therefore, from an analytical and doctrinal perspective, when faced with statements, admissions, and threats, international tribunals are not confronted with a gap in sources; rather, relying on the principle of good faith, rules of legal logic, and established custom, they possess a solid foundation for the legal assessment of these statements.

2. Conceptual Categorization of Examples of Unilateral Acts (Promise, Admission, Threat) and Rules for Establishing the Competence of State Officials

International tribunals, for the attribution of a unilateral act to a state, must pass through stringent conceptual and competency filters, which are analyzed in this section.

2.1 Promise and Affirmative Statemenents

In international law literature, a "promise" is the most prominent form of unilateral act in which a state undertakes an obligation to perform (an act) or refrain from performing (an omission) a specific action in the future. The key feature of a promise is that it does not require "acceptance" or "reciprocity" from other states.

According to the practice of the International Court of Justice (ICJ) in the famous Nuclear Tests case (1974), statements by French officials regarding the cessation of atmospheric nuclear tests were considered a binding legal obligation. The Court argued that when a state publicly makes a promise with the intention to be bound, the international community has the right to rely on it based on the principle of good faith. Here, the doctrine of estoppel, or preclusion from contradicting a prior act or statement, as a general principle of law, comes into play. If State A makes a promise and State B changes its position in reliance on that promise, State A is legally precluded from breaching its promise (Distefano, 2019).

2.2 Admission and Acknowledgement of Facts

"Admission" in international law is the acceptance of a legal or material fact by officials of a state, usually against that state's interest. In international tribunals, admission has two distinct values: "substantive value" as a source of obligation, and "evidentiary value" as proof in the adjudicative process.

In the Armed Activities on the Territory of the Congo case (2005), the ICJ explicitly relied on statements of senior Ugandan officials. The Court established a practice whereby statements by high-ranking officials of a state, made against that state's interest, possess the highest probative value. The legal logic behind this practice is clear: no official would ordinarily speak against their national interest unless those statements correspond to the truth (Klabbers, 2024). An admission can lead to the establishment of the international responsibility of the state concerned, and the International Criminal Court (ICC) has frequently relied on statements of state and military officials as admissions of criminal intent when examining the mental element (mens rea) of crimes.

2.3 Threat and Its Legal Consequences

The concept of a "threat" holds a complex and distinct position among unilateral acts. Unlike a promise, which creates rights for third parties, a threat is usually intended to intimidate and impose political will. From the perspective of contemporary international law, the most significant manifestation of a threat is the violation of Article 2(4) of the UN Charter, which explicitly prohibits the "threat or use of force".

In its advisory opinion on the Legality of the Threat or Use of Nuclear Weapons (1996), the ICJ established a fundamental rule: if the use of military force is illegal in a specific circumstance, the threat to use that force is likewise inherently illegal (Shaw, 2021).

This rule can be formulated using propositional logic as follows. If we denote the use of force by F, illegality by I, and threat by T:

$$(F \implies I) \iff (T(F) \implies I)$$

This equation shows that international tribunals, to assess the lawfulness of a threat, first assess the lawfulness of the act threatened. If that act violates peremptory norms (*jus cogens*), the mere issuance of a threatening statement by a state official independently constitutes an "international wrong" and is admissible before tribunals for seeking reparations or taking countermeasures.

2.4 Rules for Establishing the Competence of State Officials

The issuance of a statement, admission, or threat alone is insufficient to create responsibility or an obligation for a state; the missing link is the principle of "attribution". Who has the competence to bind the state internationally by their words?

According to Article 7 of the *Vienna Convention on the Law of Treaties* (VCLT) and consistent ICJ practice, there is a traditional triumvirate of officials, known as the "troika", who, by virtue of their inherent functions, possess full competence to represent the state:

1. Head of State
2. Head of Government
3. Minister for Foreign Affairs

Statements by these three officials, under any circumstances (without needing to produce credentials), are considered the definitive will of the state (*Legal Status of Eastern Greenland*, 1933). If we denote attribution to the state by A, the official's act by O, and membership in the troika by T, the relationship is:

$$(O \in T) \implies A = 1$$

In recent decades, judicial practice has expanded this traditional circle. In the Armed Activities case, the Court accepted that ministers of defense or high-ranking military commanders could also commit the state by their statements within their specialized area of competence. This is also highly relevant in ICC proceedings, where statements by military commanders are considered evidence of "state policy" in committing international crimes (Crawford, 2019).

To explain this expansion of competence, an extended logical model can be used. If Ds denotes the specialized area of competence (e.g., military affairs), M denotes a non-troika military official, and S the subject of the statement, attribution to the state (A=1) is achieved under the following conditions:

$$(M \notin T) \land (S \in D_f) \implies A = 1$$

This conceptual expansion is particularly important when analyzing "threats" as unilateral acts. In the field reality of international relations, public threats are rarely issued by diplomats but often by high-ranking military commanders and defense ministers. These threats, especially when they entail violations of fundamental rules of international humanitarian law and the law of armed conflict, possess dual legal effects (substantive and probative) before international tribunals (Zimmermann & Tams, 2023).

For example, a threat by military officials to bomb vital infrastructure, water and electricity facilities, or dams is a direct violation of the "principle of distinction" enshrined in Article 52 of Additional Protocol I (1977) to the *Geneva Conventions* (Henckaerts & Doswald-Beck, 2022). The ICJ, in its advisory opinion on the Legality of the Threat or Use of Nuclear Weapons (1996), established a fundamental rule: "if the use of force is illegal in a specific circumstance, the threat to use it is also inherently illegal". Therefore, a threat by a military commander to destroy civilian infrastructure is not merely political rhetoric, but an "unlawful unilateral act attributable to the state", which independently grounds international responsibility.

From the perspective of international criminal proceedings, the value of such unilateral statements is even more critical. Before the ICC, public threats by military commanders are invoked as the strongest evidence for establishing two key elements in international crimes:

First, proving the existence of a "state or organizational policy", which is a prerequisite for crimes against humanity (Article 7 of the *Rome Statute*); and second, establishing "criminal intent". When a senior military official threatens to "completely destroy a region" or "deprive civilians of vital resources", this unilateral statement significantly reduces the prosecutor's burden of proof regarding specific intent in crimes such as genocide or war crimes (Schabas, 2024).

Expressed mathematically, in international criminal tribunals, the relationship between a public threat by a military official (Thm) and the establishment of criminal intent and organizational policy (Pcriminal) is not random but a strong evidential correlation:

$$Th_m(IHL\ Violation) \implies \lim_{x \to \infty} P_{criminal} = 1$$

This approach demonstrates that modern international law, moving beyond traditional formalism, accepts the realities of power structures within states. According to Article 4 of the *Draft Articles on Responsibility of States for Internationally Wrongful Acts* (ARSIWA, 2001), the acts and statements of military organs, regardless of their position in the domestic constitutional hierarchy, are absolutely attributable to the state, and defenses such as exceeding authority will not be heard against public threats that violate humanitarian law (Crawford, 2019).

2.5 Acts Ultra Vires

A common defense by states before international tribunals is that the official issuing the statement or admission exceeded their legal authority under domestic law. Is this defense admissible?

Public international law, based on Article 27 VCLT and the ARSIWA (2001, Article 7), adopts a decisive approach. If an official act in an "official capacity", even if they disobeyed orders or exceeded their authority, their act or statement remains attributable to the state. International law prioritizes legal security in international relations over the internal constitutional limitations of states. International tribunals are not required to delve into the domestic power distribution system of states; they rely on the official's apparent capacity and the legitimate reliance of other subjects of international law on that statement.

Consequently, the admissibility of statements by state officials before international tribunals is a function of the content of the statement (whether promise, admission, or threat) and the establishment of the official's formal (even if only apparent) competence.

3. Analysis of the Judicial Practice of International Tribunals and the Interaction of Unilateral Acts with UN Resolutions

International tribunals, particularly the ICJ and ICC, have not followed a uniform practice when faced with statements, threats, and admissions of state officials, and several interpretive challenges exist along this path. Furthermore, the link between these acts and UN resolutions, as well as emerging fields of international law, has opened new horizons for the doctrine of sources.

3.1 Interpretive Challenges in the Practice of the International Court of Justice (ICJ)

One of the most complex stages in relying on unilateral acts is the precise interpretation of their content. Unlike treaties, whose rules of interpretation are clearly codified in Articles 31 and 32 of the VCLT, the interpretation of unilateral acts suffers from a lack of a codified framework. In interpreting international law generally, attention to text, "context", and the evolution of rules is essential (Lekkas & Merkouris, 2022). However, due to their individual nature, unilateral acts require a different approach.

In interpreting unilateral acts, unlike treaties where the common intention of the parties is sought, the Court must merely discover the actual and expressed intention of a single state. For this reason, the text of the statement has absolute priority over "travaux préparatoires", because third states rely solely on the text as publicly issued (Kassoti, 2022). The terms and words used in unilateral acts are a direct and immediate reflection of the state's intention, and any ambiguity in the wording must be interpreted in favor of the issuing state's freedom of action to avoid imposing unintended obligations (Wakasa, 2023).

In analytical modeling language, if we consider the interpretation process (Int) as a function of textual clarity (T) and the context of issuance (C), in unilateral acts the weight of variable T increases significantly:

$$Int = \alpha T + \beta C \quad \text{where} \quad \alpha \gg \beta$$

3.2. Critical Analysis of the ILC Guiding Principles in Light of International Proceedings

Although the International Law Commission (ILC) attempted in 2006 to provide a framework for unilateral acts by issuing the Guiding Principles, judicial practice shows that these principles face serious challenges and shortcomings in practice. The 2006 Guiding Principles do not provide precise criteria for distinguishing between “merely political statements” and “legal obligations”, and this ambiguity allows international tribunals to exercise broad discretion, leading to contradictory results in similar cases (Salimi Moghaddam et al., 2022).

Lessons learned from the ILC’s attempt to codify these rules show that unilateral acts, due to their extreme diversity in form and content, cannot be captured in a rigid, uniform framework. Hence, international tribunals prefer, in their proceedings, to examine cases on a case-by-case basis based on the general principle of good faith rather than directly invoking the ILC Principles (Neals, 2022).

3.3 The International Criminal Court (ICC) and the Evidentiary Value of Admissions and Threats

Unlike the ICJ, which primarily deals with civil and international responsibility of states, the practice of the ICC adopts a distinct approach to statements by state officials. Within the framework of international criminal law, statements, televised admissions, tweets, and provocative speeches by leaders and military commanders are invoked not necessarily as a “source of obligation”, but as evidence to establish the mental element of international crimes.

Unilateral statements of officials in criminal tribunals can serve as circumstantial evidence for proving the existence of a “state or organizational policy” in committing crimes against humanity (Article 7 of the *Rome Statute*) or “specific criminal intent” in the crime of genocide (Article 6) (Degan, 2024). For example, public threats by officials to destroy a specific ethnic group, if the crime occurs, serve as the strongest evidence for proving genocidal intent in court, and the ICC Prosecutor has repeatedly used such unilateral acts in indictments.

3.4. Synergy of Unilateral Acts and UN Resolutions (UNGA & UNSC)

One of the emerging topics in international legal doctrine is examining the relationship and interaction between unilateral acts and resolutions of the UN General Assembly (UNGA) and Security Council (UNSC). Is a statement delivered by a state representative in the General Assembly an independent unilateral act or part of the process of forming a resolution?

This raises the question of whether state acts, resolutions, and subsidiary instruments are actual sources of international law. Vicuña argues that when unilateral statements of states are aggregated within the context of international institutions and crystallized in resolutions, a new "normative power" is created that transcends the sum of the individual acts of those states (Vicuña, 2025). General Assembly resolutions, although "recommendatory" in nature, if accompanied by numerous unilateral statements and admissions by an overwhelming majority of states, rapidly transform into binding customary rules.

In formal logic terms, if we denote the unilateral act by variable Ui (for state i) and the UN resolution by R, the final customary norm (C) is the product of the convergence of these two:

$$C = \lim_{n \to \infty} \sum_{i=1}^{n} (U_i \cap R)$$

This mathematical-legal equation shows that the greater the number of unilateral statements consistent with a resolution, the closer the probability of its crystallization into a binding customary rule approaches 100%.

3.5 Modern Manifestations of Unilateral Acts

The concept of unilateral acts has recently moved beyond its traditional framework of peace and security and penetrated specialized fields of international law. One of the most important manifestations of this is in international environmental law and the Paris Agreement. Nationally Determined Contributions (NDCs) are inherently individual commitments, and non-compliance can entail international responsibility (Minnerop, 2025). Also, a country's domestic investment laws can be considered a "promise or unilateral act" towards foreign investors in international arbitral tribunals (Hepburn, 2023). Nevertheless, the realm of peace and aggression remains the primary domain of unilateral acts in international law.

Examining international proceedings proves that unilateral acts, including threats, admissions, and statements, are by no means obsolete or unenforceable tools in international law. From the ICJ's meticulous practice in discovering state intentions to the ICC's strategic use of official admissions as evidence of criminal conduct, all indicate the dynamism of these acts. Furthermore, the link between unilateral acts and UN resolutions and the emergence of new forms of these acts in environmental documents and economic laws increasingly highlight the need for a critical revision of the traditional principles of Article 38 of the ICJ Statute.

4. Analysis of Unilateral Acts in the US-Israeli War Against Iran (Case Study Based on Officials' Statements)

The scenario under examination is the war of the US-Israeli coalition, with the cooperation of some Arab countries (Saudi Arabia, UAE, Bahrain, Kuwait, Qatar) against Iran during the period from February to April 2026. The central question is: among the documented statements, threats, and admissions from officials of these countries, which ones, by surpassing the "legal threshold" set forth in the ILC Guiding Principles (2006) and the judicial practice of the ICJ and ICC, possess the capability to create international responsibility for their respective states?

4.1 Analytical Framework: The Three-Pronged Admissibility Test

Based on the formula presented in Section 1.3 (mathematical-logical analysis of the threshold for creating an obligation), for any unilateral act (U) to lead to a binding legal obligation (O), and consequently its breach to create international responsibility, three essential conditions must be cumulatively met: (1) Intention to be bound (I), (2) Competence of the official (C), and (3) Publicity (P).

4.2 Analysis of US Unilateral Acts

4.2.1 Statements of Donald Trump (President) on April 4 and 5, 2026

Text of statements:

- "48-hour ultimatum to Iran... otherwise all hell will break loose on them" (April 4, *Truth Social*).

- "Tuesday is power plant day and bridge day... nothing like it!!!" (April 5, *Truth Social*).

- "I will take the oil" (April 5, *Fox News*).

Legal analysis based on the three-pronged test:

- Intention to be bound: Established. The use of definitive terms ("will", "I will take") and the specification of a time frame ("48 hours", "Tuesday") indicate, according to the criteria of Principles 1 and 3 of the ILC Guiding Principles (2006), an intention to create a legal situation. In the Nuclear Tests case (1974, para. 43), the ICJ explicitly stated that "the specification of time and place for the performance of an act" is a key indicator of intention to be bound.

- Competence of the official: Established. The US President is part of the "classic troika". According to the attribution doctrine (ARSIWA 2001, Article 4) and the Eastern Greenland (PCIJ, 1933) jurisprudence, the President's statements are directly attributable to the state without needing credentials (Crawford, 2019, p. 412).

- Publicity: Established. Publication on Truth Social (the President's official platform) and Fox News (national media) qualifies as "publicity". In the South Africa v. Israel case (2024, para. 52), the ICJ explicitly relied on a tweet from the Israeli Energy Minister as evidence, establishing that officials' official social media accounts satisfy the publicity requirement (Open Legal Blog Archive, 2024).

With all three conditions met and based on the stated formula, Trump's statements constitute a binding legal unilateral act containing two types of obligations:

1. Obligation to perform an act (threat of force): Direct violation of Article 2(4) of the *UN Charter* (prohibition of threat of force). Based on the fundamental rule in the Legality of the Threat or Use of Nuclear Weapons advisory opinion (ICJ, 1996, para. 47): "if the use of force is illegal, the threat to use it is also illegal". Since the use of force against Iran's territorial integrity without Security Council authorization and outside Article 51 (self-defense) is certainly illegal, the threat thereof constitutes an independent "internationally wrongful act" (Corten, 2022, p. 89).

2. Obligation to refrain from an act (non-appropriation of property): Statements regarding "taking the oil" violate Article IV(2) of the *1955 Treaty of Amity* (fair and equitable treatment of property) and also the peremptory norm prohibiting pillage in international humanitarian law (Article 33 of the *Fourth Geneva Convention*, 1949) (Degan, 2024, p. 156).

4.2.2 Statements of Marco Rubio (US Secretary of State) on March 4, 2026

- "We knew an Israeli action was coming, we knew this would accelerate attacks on US forces, and we knew if we didn't strike them preemptively, we would suffer more casualties".

Legal analysis: These statements are significant in two respects:

- Intention to be bound (as an admission): Established. Although these statements contain no "promise" to perform an act, they constitute an "admission" of a factual situation against the issuing state's interest. According to the ICJ's practice in the Armed Activities case (2005, para. 61), "statements by high-ranking state officials made against the state's interest possess the highest probative value".

- Competence: Established. The Secretary of State is a member of the classic troika (Zimmermann & Tams, 2019, p. 865).

- Publicity: Established, as it was made at an international press conference.

This admission has two legal functions:

1. Proof of "breach of the obligation of peace": These statements clearly show that the US, instead of acting in self-defense, entered a "war of choice" on behalf of Israel. This proves violation of Article I of the *Treaty of Amity* (obligation of peace and friendship) and also Article 2(4) of the *UN Charter* (Shaw, 2021, p. 215).

2. Activation of the doctrine of estoppel: Based on the estoppel rule established in the Temple of Preah Vihear case (ICJ, 1962), after this admission, the US cannot later claim that "there was no threat from Iran" or that "its actions were solely within the framework of self-defense" (Distefano, 2019, p. 235).

4.3 Analysis of Israeli Unilateral Acts

4.3.1 Statements of Benjamin Netanyahu (Prime Minister) on April 4-6, 2026

Text of statements:

- "After we destroyed 70% of their steel production capacity... today we attacked petrochemical complexes. We will continue to hit them" (April 4).

- "We have destroyed Iran's largest petrochemical plant" and "We are systematically eliminating senior Iranian officials" (April 6).

- Warning to Trump against "reaching a ceasefire agreement with Iran at this stage" (April 6).

Legal analysis based on the three-pronged test and Article 7 of the *Rome Statute* (ICC):

- Intention to be bound: Established. Definite past and future actions ("we have destroyed", "we will continue", "systematically eliminating") indicate an intention to continue military operations.

- Competence: Established. The Israeli Prime Minister is a member of the classic troika. Even if some statements are in informal video statements, the "official capacity" of the official makes attribution certain (ARSIWA Article 7) (Crawford, 2019, p. 425).

- Publicity: Established. Official video statements and a phone call with the US President reported by media.

Based on the ICC's practice in cases like Al Bashir (2010) and Ongwen (2021), Netanyahu's statements are admissible on two levels:

1. As "evidence" before the ICC to establish the mental element. Statements regarding "systematic elimination of senior Iranian officials" and "destruction of

70% of steel capacity" (civilian infrastructure) can serve as direct circumstantial evidence to prove specific intent in war crimes (Article 8 *Rome Statute*) and crimes against humanity (Article 7) (Schabas, 2024, p. 192). The ICC Prosecutor could argue that these statements indicate a "state or organizational policy" to commit widespread and systematic attacks against civilians (Goodman, 2023, p. 425).

2. As an "admission of violation of peremptory norms": Bombing petrochemical complexes (civilian infrastructure) is a direct violation of the principle of distinction (Article 52 of *Additional Protocol I*, 1977) and the principle of proportionality. Netanyahu's statement warning Trump against a ceasefire demonstrates an "intent to continue the violation", which, under Principle 10 of the *ILC Guiding Principles* (non-arbitrary revocability), is an aggravating factor for international responsibility (ILC, 2006).

4.4 Analysis of Unilateral Acts of Arab Countries (Saudi Arabia, UAE, Bahrain, Kuwait, Qatar)

4.4.1 Joint Statement of March 26, 2026 (UAE, Kuwait, Bahrain, Saudi Arabia, Qatar, Jordan)

Text of statements: "Reiterating condemnation in the strongest terms of Iran's blatant attacks... affirming the inherent right of self-defense under Article 51 of the *UN Charter*".

Legal analysis:

- Intention to be bound (as a legal position): Established. Explicit reference to "Article 51 of the *UN Charter*" and the "right of self-defense" indicates these countries' intention to invoke a specific legal framework. This statement goes beyond mere political condemnation and constitutes a "legal claim" (Klabbers, 2024, p. 61).

- Competence: Established. The joint statement was published via the official WAM news agency and represents the collective will of the foreign ministers or leaders of these countries.

- Publicity: Established, via official news agency.

This statement can be interpreted both in favor of Iran and against the Arab countries:

- In favor of Iran: This statement explicitly acknowledges that attacks (even if by Iran) occurred. Iran could argue that if these countries consider themselves victims of aggression, then they were not the initiators of the war, and their role in coordinating with the US and Israel (if proven) was not merely defensive (Salimi Moghaddam et al., 2022, p. 125).

- Against the Arab countries (via estoppel): Based on *ILC Guiding Principle* 10 (non-arbitrary revocation), if it is established that these countries, prior to issuing this statement, placed their territory or airspace at the disposal of the aggressive US and Israeli attacks, then they cannot simultaneously claim "self-defense" and be "complicit in aggression". The estoppel rule would prevent reliance on this statement as a defense (Distefano, 2019, p. 250).

4.4.2 Statements of Saudi Arabia at ICAO (April 5, 2026) and Qatar (March 31 & April 6, 2026)

Text of statements:

- Saudi Arabia: "Saudi Arabia is not a party to the ongoing conflict and has always called for de-escalation and diplomatic solutions".

- Qatar: "Iran's attacks on countries that have kept themselves away from the war… gamble with regional security". and "A comprehensive and sustainable diplomatic solution is the only option to resolve the crisis".

Legal analysis:

- Saudi Arabia: The Permanent Representative at ICAO (Article 7 VCLT and Armed Activities practice (ICJ, 2005)). This statement is an admission in favor of Iran. Iran can directly invoke this statement before the Security Council to prove that Saudi Arabia does not consider itself an "aggressor" or a "party to the conflict"; consequently, the US and Israeli military actions cannot be justified as defending Saudi Arabia (Zimmermann & Tams, 2023, p. 912).

- Qatar: The Prime Minister and Foreign Minister (troika). Qatar's statements contain two elements: first, an acknowledgment of intercepting missiles (which could be interpreted as a "hostile act" if the war is proven to be aggressive). Second, an emphasis on diplomacy, which, in a potential ICJ case, Iran could use as evidence of the "unsatisfactory nature of the diplomatic solution" (a condition under Article XXI(2) of the *Treaty of Amity*).

4.4.3 Statements and Actions of Kuwait and Bahrain (Admission of Practical Participation)

- Kuwait (April 4): "Kuwait's air defense is currently responding to missile and drone threats".

- Bahrain (April 7): Arrest of two suspects for espionage on behalf of Iran and the IRGC.

- Bahrain (April 1): "Iran's irresponsible behavior, if left unanswered, could become a norm…"

Legal analysis:

- Based on the attribution formula for acts of military officials; statements of the Kuwaiti army (non-troika military official) within their specialized competence (air defense) are binding on the state of Kuwait (Henckaerts & Doswald-Beck, 2022, p. 85).

- Kuwait's admission of intercepting missiles: This statement is an admission of a hostile physical act. If the ICJ determines that the war against Iran was aggressive in nature, this act by Kuwait could be prosecuted as "complicity in aggression" (ARSIWA 2001, Article 16) (Crawford, 2019, p. 452).

- Bahrain's claim of "espionage": The arrest of espionage suspects is primarily a domestic act and does not itself constitute a "unilateral act" in international law, unless Iran can prove these accusations were baseless and made as an illegal countermeasure against Iranian diplomats (Degan, 2024, p. 203).

4.5 Final Synthesis and Final Modeling of International Responsibility

Based on the analysis conducted and using the formulas presented in the article, the international responsibility of states in this event can be expressed as follows:

In the aforementioned war, regardless of the field actions, the statements of officials themselves as "unilateral acts" can independently form the basis of international responsibility. The statements of Trump and Netanyahu, due to being issued by the highest executive authorities and possessing clarity and intention to be bound, have the highest probative value and are alone sufficient to establish a "violation of the prohibition of threat of force" and an "admission of war crimes". This analysis well illustrates the departure of international legal doctrine from the monopoly of Article 38 of the *ICJ Statute* and the acceptance of unilateral acts as an independent and efficient source for creating international responsibility (Crawford, 2019, p. 418; Schabas, 2024, p. 192).

Conclusion

The doctrine of the sources of international law has moved beyond the traditional and rigid monopoly of Article 38 of the *ICJ Statute*. Unilateral acts, provided the "intention to be bound" is precisely established and based on the fundamental principle of "good faith", can create international legal obligations as an independent source.

Officials' statements are not merely political messages; a "promise" can, through the estoppel doctrine, create vested rights for third states; an "admission" has conclusive probative value in limiting a state's claims; and a "threat" (especially the threat of force) is inherently an unlawful act entailing international responsibility. The expansion of the scope of competence from the "classic troika" (Head of State, Head of Government, Foreign Minister) to specialized ministers and military officials demonstrates international law's adaptation to the complexities of modern states. In this regard, the rule of attribution for ultra vires acts ensures that states cannot invoke their domestic constitutional limitations to evade responsibility for their officials' statements.

Analysis of international judicial practice reveals a dual function. Before the ICJ, the primary focus is on interpreting the text of statements and discovering the objective intention of the issuing state to establish substantive obligations; whereas before the ICC, public statements, admissions, and threats by leaders and military commanders are primarily invoked as documents and evidence to establish the criminal mental element and prove specific intent in crimes like genocide.

Unilateral acts do not operate in a vacuum. The synergy of these statements with resolutions of international bodies (like the UN General Assembly) is a powerful catalyst for the rapid formation of binding customary rules; such that, in structural logic, the crystallization of custom has a direct relationship with the quantitative increase of statements consistent with resolutions. Modern manifestations of unilateral acts prove that states' unilateral statements and actions are no longer marginal institutions in international law, but vital pillars in the normative and dynamic architecture of the global legal order in the 21st century.

The application of the article's analytical framework to the war against Iran proves that unilateral acts are not merely theoretical tools. Trump's statements (threatening "all hell" and "taking the oil"), by satisfying the three conditions of intention to be bound, competence, and publicity, constitute a clear violation of Article 2(4) of the *UN Charter*. Rubio's admission of a "war of choice on behalf of Israel" activates the estoppel doctrine and prevents later denial. Furthermore, Netanyahu's statements regarding the "systematic elimination of officials" provide robust evidence for establishing criminal intent. ■

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