

Beyond Chapter VII: A quantitative analysis of how the Security Council moderates the legal value of its resolutions

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Abstract

The Security Council is considered the only organ within the United Nations that can issue legally binding decisions for states. With over two thousand resolutions adopted, the UNSC has developed a practice of formalistic legal language. However, the conditions under which resolutions are considered binding are controversial. By empirically examining all resolutions adopted between 1946 and 2023, we shed light on how the Council uses various linguistic markers considered indicative of legal bindingness. We find that the Council has developed a clear practice of explicitly referencing Chapter VII when it intends to take legally binding decisions and when it first establishes a peace mission. This practice has been consistent for the past two and a half decades. The Council lacks, however, a clearly discernible and consistent practice where it adopts ostensibly legally binding decisions without explicit references to Chapter VII. These results have consequences for the debate on the legal validity of the resolutions.

1. Introduction

On 25 March 2024, the United Nations Security Council (UNSC) adopted Resolution 2728 on the war in Gaza, which demanded an immediate ceasefire for the month of Ramadan, the immediate and unconditional release of all hostages, and humanitarian access to them.¹ Resolution 2728 sparked a debate over its legal status: representatives of Mozambique and Sierra Leone insisted that it was legally binding, whilst the South Korean representative stated that it was perhaps not legally, but only morally binding,² and representatives of the United States of America called it ‘non-binding’.³

Similarly, legal scholarship has been divided: some scholars have found the resolution to be legally binding,⁴ while others have argued that it is not.⁵ These debates show that there is uncertainty about the legal status of UNSC resolutions, especially when the Council uses language that could be considered mandatory but falls short of explicitly invoking Chapter VII.

¹ S/Res/2728 (2024).

² Press conference available at <http://webtv.un.org/en/asset/k1m/k1m284v9ph>.

³ Linda Thomas-Greenfield: ‘fully support some of the critical objectives in this non-binding resolution’, UN Doc. S/PV.9586, at 5. In the same session, representatives of Slovenia and China insisted that Security Council resolutions, including this resolution, were binding: *ibid.*, at 5 and 8.

⁴ E. Bjorge, ‘Resolution 2728 (2024) is a Binding Council Resolution’ (April 2024), <https://www.ejiltalk.org/resolution-2728-2024-is-a-binding-council-resolution/>; H. Birkenkötter, ‘Why Today’s UN Security Council Resolution Demanding an Immediate Ceasefire Is Legally Binding’, *VerfBlog*, 2024/3/25, <https://verfassungsblog.de/why-todays-un-security-council-resolution-demanding-an-immediate-ceasefire-is-legally-binding/>.

⁵ E. Stoecker, ‘Resolution 2728 on Israel/Gaza is Significant, But it Is Not a Binding Council Decision’ (April 2024), <https://www.ejiltalk.org/resolution-2728-on-israel-gaza-is-significant-but-it-is-not-a-binding-council-decision/>.

This article provides empirical evidence on whether the Council has developed a consistent practice in indicating the legal value of its resolutions using specific linguistic markers. By linguistic markers, we mean specific phrases, references to, or language from articles of the UN Charter that indicate a legally binding decision. We use quantitative text analysis on a corpus of all UNSC resolutions, focusing on whether such use is observable in the Council's practice beyond resolutions that explicitly reference Chapter VII. We do not intend to definitively settle the question of legal bindingness generally or regarding Resolution 2728, nor do we develop a test to determine unequivocally whether a resolution is binding or not. Instead, we provide an empirical analysis of the use of specific language that has been considered an indicator of legal bindingness. Such an empirical analysis is an important step prior to any doctrinal argument. Our findings suggest that while explicit Chapter VII references might normally be considered a sufficient condition for legal bindingness, they are not a necessary condition, as the Council's practice is less systematic and uniform than is commonly assumed. This lack of consistency leads us to conclude that the absence of specific language is not a sufficient indicator of intentional ambiguity, with implications for legal arguments about the bindingness of resolutions.

We proceed as follows. Section 2 provides an overview of debates as to what constitutes a legally binding UNSC decision and why it is important to look at the language that the Council uses in its resolutions. We then review existing scholarship that has used quantitative text analysis to study the UNSC's practice and identify a gap with regard to legal language used

in the Council's resolutions in Section 3. Sections 4 and 5 are devoted to closing this gap: we first provide a descriptive account of the documents and clauses we find and then provide an analysis of our findings.

2. Identifying binding language in Security Council resolutions

The Security Council occupies an extraordinary role within the UN. It is charged with the 'primary responsibility for the maintenance of international peace and security',⁶ and it has the power to take legally binding measures in this regard. The textual root is Article 25 of the Charter: 'The Members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with the present Charter.' Under this article, UN member states have a legal obligation to carry out any decision taken by the Council.⁷ Such obligations take primacy over any other treaty obligation.⁸

While there is no doubt that the Council has the faculty to take legally binding decisions,⁹ the exact extent to which UNSC resolutions and other documents contain them has been subject to debate, because the Charter does not specify what exactly constitutes a 'decision' in the sense of its Article 25. Some cases are clear cases. For example, the Council

⁶ Article 24 (1) UN Charter.

⁷ This has long been accepted, see e.g. H. Kelsen, *The Law of the United Nations. A Critical Analysis of its Fundamental Problems* (Steven & Sons, 1951), at 95.

⁸ Article 103 UN Charter.

⁹ The Charter does not use the term 'decision' consistently. L. Sievers and S. Daws, *The Procedure of the UN Security Council*, (OUP, 2014), point out that the term 'decision' can refer to any substantive action taken by the Council, regardless of their form (Resolution, Presidential Statement, or other), and that this differs from the term 'decision' used in Article 25, which denotes a legal obligation, at 374, 380 et seq.

took several decisions following the Iraqi invasion of Kuwait that are considered to be legally binding. One uncontroversial case is resolution 661 (1990) where the Council, ‘mindful of its responsibilities...for the maintenance of international peace and security’ and ‘acting under Chapter VII of the Charter’, took various decisions, *inter alia*, that all States had to refrain from making available any funds to the Iraqi government or Iraqi businesses.¹⁰ A more recent example is resolution 2653 (2022) on the situation in Haiti, where the Council, ‘determining that the situation in Haiti continues to constitute a threat to international peace and security in the region’ and ‘acting under Chapter VII of the Charter of the United Nations’, decided *inter alia* that ‘all Member States shall take the necessary measures to prevent the entry into or transit through their territories of any individuals’ designated by the Sanctions Committee established by the same resolution.¹¹

These clear cases have in common that they both explicitly invoke Chapter VII of the Charter in the preambulatory part and open several paragraphs in the operative part with the verb ‘decides’. There is thus specific language that allows a prediction of whether a resolution contains legally binding decisions. This article provides empirical evidence on the consistency of the Council’s use of such language in its resolutions.

¹⁰ S/Res/661(1990). This is a measure under Article 41 UN Charter, cf. E. De Wet, 'Introduction to Chapter VII: The General Framework', in Bruno Simma, and others (eds), *The Charter of the United Nations: A Commentary*, 4th Edition (2024; OUP), para. 5.

¹¹ S/Res/2653 (2022), para. 3.

2.1 The focus on Security Council resolutions

In this article, we empirically investigate the Council's practice in using specific language in its resolutions. This merits a brief justification for two reasons. First, the Security Council issues not only resolutions, but also other documents that could potentially contain decisions under Article 25 UN Charter. Second, not all resolutions containing legally binding decisions are binding in their entirety; rather, they typically include a combination of binding decisions and non-binding recommendations.

The Council issues a range of documents, including reports, agendas, and various outcome documents. The current Note by the UNSC President concerning its Working Methods lists three main types of outcome documents: resolutions, presidential statements, and press statements.¹² The Council further lists Notes by the President and Exchange of Letters under 'Decisions and Outcomes' on its website.¹³ While all of these documents can *prima facie* contain 'decisions of the Security Council',¹⁴ there appears to be agreement that resolutions, irrespective of their legal value, carry more political weight than Presidential Statements, and that 'if the Security Council intends to adopt a mandatory decision, it will, as a rule, opt

¹² UN Doc. S/2024/507, paras 94 et seq.

¹³ See <https://main.un.org/securitycouncil/en/content/decisions-and-outcomes>. The adoption of the annual report by the Security Council to the General Assembly takes this form, cf. UN Doc. S/2025/336 for the latest Note adopting the annual report.

¹⁴ Sievers/Daws (n 9), 381: 'there is no a priori reason why a presidential statement or other decision format cannot convey a mandatory decision by the Council'.

for the form of a resolution'.¹⁵ We therefore believe it is justified to focus on the Council's most important document type.

A resolution typically consists of a preambulatory part and an operative part, each with several individual clauses. Most often, resolutions contain both decisions and recommendations in the operative part. The Charter text itself makes this distinction in Article 39, which states that where the Council determines that a threat to or breach of the peace exists, or that an act of aggression has occurred, it can either make recommendations or decide on measures under Articles 41 and 42 of the Charter. As Wood and Sthoeger put it, 'a lengthy resolution may contain just one legally binding provision'.¹⁶ Typically, though, the unit of analysis will be the resolution as a whole. In the *Namibia* Advisory Opinion, which we discuss in more depth in the following section, the International Court of Justice (ICJ) analysed the resolutions in question as a whole.¹⁷ Indicators for resolutions containing legally binding decisions are not necessarily contained within the same clause as the decision itself. The phrase 'acting under Chapter VII', which is normally an indicator for a resolution containing binding elements,¹⁸ is typically contained in a preambulatory clause,

¹⁵ S. Talmon, 'The Statements by the President of the Security Council' (2003) 2 Chinese Journal of International Law 419, at 452.

¹⁶ M. Wood and E. Sthoeger, *The UN Security Council and International Law*, (Cambridge University Press, 2022), 32; similarly Sievers/Daws (n 9), 381.

¹⁷ *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970)*, Advisory Opinion, I.C.J. Reports 1971 (hereinafter *Namibia* Opinion), at paras 108 et seq; see also Dissenting Opinion by Judge Gerald Fitzmaurice, who opined that 'the various Security Council **resolutions**...were not binding on the Mandatory' (at para. 111, emphasis added).

¹⁸ A. Peters, 'Article 25', in Bruno Simma, and others (eds), *The Charter of the United Nations: A Commentary*, 4th Edition (2024; OUP), at para. 13.

as are references to Article 25. As we further explain in our analysis below, it matters how many different linguistic indicators co-occur in a given resolution to analyse the legal value of individual clauses - they need to be read within the context of a resolution as a whole.¹⁹ As stated before, our aim here is not to make definitive statements on how many binding decisions the Council has issued. Authentic (though not authoritative²⁰) interpretation is a prerogative of the Council itself.²¹ Rather, we are interested in how consistently the Council uses linguistic markers indicating legal bindingness in its resolutions.

2.2 The extent of the Council's legal decision-making power: from Chapter VII to the *Namibia* Advisory Opinion

The Security Council's dominant role in international law is anchored primarily in its powers enshrined in Chapter VII of the UN Charter. Chapter VII provides measures the Security Council can take if it determines that there is a threat to or breach of the peace or an act of aggression (Article 39 UN Charter). Under Article 41, the Council can impose measures 'not involving the use of armed force'. Article 42 of the Charter provides the basis for the authorization of armed force. Article 40 allows for provisional measures. Together, these

¹⁹ Whether or not an individual clause contains legally binding decisions needs to be assessed on an individual, case-by-case basis. As stated before, even if a resolution contains language that suggests it contains legally binding clauses, not every clause in that resolution will contain legally binding decisions. However, to examine larger patterns, we submit that the co-occurrence of different linguistic indicators in a resolution as a whole is relevant and thus use resolutions as our unit of analysis.

²⁰ Peters (n 18), para. 27.

²¹ M. Wood, 'The Interpretation of Security Council Resolutions' (1998) 3 *Max Planck Yearbook of United Nations Law* 73–95, at 82.

provisions endow the Security Council with ‘greater power than any other international organ in the history of international organizations’.²²

There is consensus both in practice and amongst legal scholars that a combination of the phrase ‘acting under Chapter VII’ and the word ‘decides’ is generally sufficient to indicate that a resolution contains legally binding decisions.²³ Controversy has existed on the extent to which the Security Council can take legally binding decisions outside of Chapter VII.²⁴ Throughout the UN’s early days, there was a widely held view that the Council’s faculty to adopt legally binding measures was limited to Chapter VII and did not extend to measures adopted under Chapter VI on the pacific settlement of disputes.²⁵

This was famously dismissed by the ICJ, which held in its *Namibia* Advisory Opinion that:

It is not possible to find in the Charter any support for this view. Article 25 is not confined to decisions in regard to enforcement action but applies to ‘the decisions of the Security Council’ adopted in accordance with the Charter...The language of a resolution of the Security Council should be carefully analysed before a conclusion can be made as to its binding effect. In view of the nature of the powers under Article 25, the question whether they have been in fact exercised is to be determined in each case, having regard to the terms of the resolution to be interpreted, the discussions leading to it, the Charter provisions invoked and, in general, all

²² E. De Wet (n 10), para. 1.

²³ M. Wood (n 21), 73–95; J. d’Aspremont, *Formalism and the sources of international law* (2011, OUP), 190–91; P. Johansson, ‘The Humdrum Use of Ultimate Authority: Defining and Analysing Chapter VII Resolutions’ (2009) 78 *Nordic Journal of International Law* 309–42; L. Borlini, ‘The Security Council and Non-State Domestic Actors: Changes in Non-Forcible Measures between International Lawmaking and Peacebuilding’ (2021) 61 *Virginia Journal of International Law* 489–552, at FN 1.

²⁴ There is one uncontroversial case outside of Chapter VII, namely the Council’s explicit faculty to decide upon enforcement measures for ICJ judgments, Article 94 (2) UN Charter.

²⁵ Peters, in UN Charter Commentary 3rd ed., para 13; Sievers/Daws (n 9), at 383–4. This view is still occasionally held today, see B. Conforti and C. Focarelli, *The Law and Practice of the United Nations*, 5th edn (Brill Nijhoff, 2016), at 451–2.

circumstances that might assist in determining the legal consequences of the resolution of the Security Council.²⁶

To substantiate its view, the Court used a systematic argument, namely that Article 25 was placed before both Chapters VI and VII, and that if its legal force were limited to Chapter VII, Article 25 would be superfluous, as legal force of action under Chapter VII is also secured by Articles 48 and 49 of the Charter. The Court then analysed the legal effects of Resolutions 269 (1969) and 276 (1970) to find, *inter alia*, that clauses which, respectively, called upon the government of South Africa to withdraw from Namibia and upon member states to ‘refrain from any dealings with the Government of South Africa which are inconsistent’ with the Council’s declaration that South Africa’s continued occupation of Namibia was illegal, did in fact generate legally binding obligations and that member states were under an obligation to recognize the illegality of South Africa’s presence in Namibia.²⁷ This was an important finding because South Africa had held that these resolutions generated at best recommendations.²⁸

The *Namibia* Advisory Opinion, though not unchallenged,²⁹ has remained an important reference to establish that UNSC resolutions can contain legally binding decisions outside

²⁶ *Namibia* Opinion (n 17), at paras 113-14.

²⁷ *Ibid.* at para. 133 for the finding of a legal obligation.

²⁸ Written statement of the Government of the Republic of South Africa, contained in: *International Court of Justice, Pleadings, Oral Arguments, Documents. Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) Notwithstanding Security Council Resolution 276 (1970)*, Volume I, Request for Advisory Opinion, Documents, Written Statements, at 520-7.

²⁹ Sievers and Daws (n 9) note that the Advisory Opinion was not ‘universally accepted’, citing statements by France and the United Kingdom challenging the Court’s view, at 386-7.

of Chapter VII.³⁰ The view that legally binding force can arise from resolutions not adopted under Chapter VII is also supported by the *travaux préparatoires*. A proposal to limit the binding force to specific chapters of the Charter was rejected at the San Francisco Conference, even though no agreement was reached as to the actual scope of Article 25.³¹

2.3 Explicit and implicit Chapter VII resolutions, Article 25, and the debate on legal bindingness

In the aforementioned *Namibia* Advisory Opinion, the ICJ insisted on a careful analysis of the language of a resolution to determine whether it contained binding decisions, including the Charter provisions it invokes, as well as the discussions leading to its adoption, ‘and, in general, all circumstances that might assist in determining the legal consequences of the resolution’.³² The last observation points to a general problem with the interpretation of Security Council resolutions. As Michael Wood observes, it is not always easy to gain insight into the negotiation history of a given resolution, because much of the negotiation takes place behind closed doors and without official records.³³ Wood submits that even though negotiations are often shrouded in secrecy, the negotiation history of a resolution ought to play a fundamental role in assessing whether a resolution is binding or not.³⁴

³⁰ Peters (n 18), para. 14.

³¹ Ibid. para. 6.

³² *Namibia* Opinion (n 17), at paras 113-14.

³³ Wood (n 21), at 94.

³⁴ Ibid. The author does not give as much weight to the negotiation history of resolutions in his article revisiting the issue of Security Council interpretation, again due to the fact that such information is hardly available: M. Wood, ‘The Interpretation of Security Council Resolutions, Revisited’ (2017) 20 *Max Planck Yearbook of United Nations Law* 1–35, at 15.

The authority to interpret and apply a given text lies first and foremost with the organ itself,³⁵ but the Council only seldom pronounces itself explicitly on how its resolutions ought to be understood. In light of this, legal scholars will have to resort to and start with what is public, namely, the text. This is also confirmed by the ICJ: while it asserted in the *Kosovo Advisory Opinion* that interpreting a UNSC resolution ‘may require the Court to analyse statements by representatives of members of the Security Council made at the time of their adoption, other resolutions of the Security Council on the same issue, as well as the subsequent practice of relevant United Nations organs and of States affected by those given resolutions’, it did not refer to any statements made during the adoption when it proceeded to interpret resolution 1244 (1999). Instead, the Court did a close reading of the resolution text and considered other documents related to Resolution 1244 (1999).³⁶

Wood himself has given more emphasis to textual indicators in recent work. He and Eran Stthoeger identify three elements when assessing whether the Council has made a legally binding decision: first, whether the Council has determined that a threat to the peace, breach of the peace, or act of aggression has occurred (typically using the phrase ‘determines/determining’ that a situation is ‘a threat to...peace’, Article 39 UN Charter);

³⁵ It is primarily the Council’s – not the individual member states’ – responsibility to do so, cf. *Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo, Advisory Opinion, I.C.J. Reports 2010, p. 403*, para. 46; the ICJ also asserts to authoritatively interpret Security Council resolutions, *ibid.*

³⁶ *Ibid.*, paras. 95-100.

second, whether the Council has taken action under Chapter VII, indicating it either through a reference to the Chapter or to particular provisions within it; and third, whether the Council intends to take a decision under Article 25 through referencing the Article explicitly, coupled with a decision in the operative part.³⁷

Similarly, Sievers and Daws state that '[t]ogether with the trend for the Council to cite Chapter VII to convey that a resolution is to be considered as binding, in its contemporary practice the Council has, with some consistency, usually coupled such a citation with a determination of the existence of a threat to peace and security'.³⁸ Yet all authors also point out that the Security Council does not consistently use Chapter VII references and/or language from Article 39, whether for political or other reasons. It is thus unclear whether the aforementioned criteria are alternative or cumulative, although it is safe to say that the more criteria are present, the stronger the case for bindingness gets. In light of this, Patrik Johansson has argued that Chapter VII decisions need not be explicit, i.e., that there can be resolutions that take decisions under Chapter VII without explicitly referencing the Chapter or any of its articles, and identifies nine such cases up until 2008.³⁹ Yet, there is agreement that the vast majority of UNSC resolutions that are considered to contain legally binding decisions will contain one or several of the following linguistic markers in the text: an explicit

³⁷ Wood/Sthoeger (n 16), 35-36.

³⁸ Sievers/Daws (n 9), 391.

³⁹ Johansson (n 23), at 321. Also including implicit Chapter VII determinations is M. Svicevic, 'The Invocation of Chapter VII in United Nations Security Council Resolutions: Qualification, Classification, and Legal Bindingness' (2023) 26 *Max Planck Yearbook of United Nations Law Online* 684-716.

reference to Chapter VII, and/or an explicit reference to one of its articles, and/or an explicit determination that a situation constitutes a threat to or breach of the peace, and/or an explicit reference to Article 25 of the Charter.

Lastly, the phrase that introduces an operative clause is of importance. As mentioned before, operative clauses in a resolution explicitly adopted under Chapter VII might contain both recommendations and decisions. There is broad agreement on the word ‘decides’ to indicate legal bindingness.⁴⁰ Peters submits that clear prescriptions such as ‘authorizes’ or ‘determines’ are constitutive of legal obligations, whereas ‘demands’ can either create a new legal obligation or reinforce a pre-existing legal obligation and elevate it to an obligation under the UN Charter, with the result that it enjoys primacy over other treaty obligations under Article 103 UN Charter.⁴¹ Fox, Boon and Jenkins classify ‘decides’, ‘authorizes’, ‘determines’, ‘resolves’, ‘condemns’ and ‘demands’ as ‘clearly binding’,⁴² whereas Wood and Sthoeger point out that the term ‘demand’ might also be used to sound assertive without actually adopting binding language.⁴³ They suggest that conversely, ‘there could be situations where, due to political compromises, the Security Council is imposing legal obligations while making use of “constructive ambiguity” in a legally binding text. A decision

⁴⁰ See Peters (n 18), para. 11, with reference to the ILA Study Group on UN Sanctions’ Final Report: https://www.ila-hq.org/en_GB/documents/ila-report-un-sanctions, at 7.

⁴¹ Peters (n 18), para. 11.

⁴² G. H. Fox, K. E. Boon, and I. Jenkins, ‘The Contributions of United Nations Security Council Resolutions to the Law of Non-International Armed Conflict: New Evidence of Customary International Law’ (2018) 67 *American University Law Review* 649–731, Appendix I.

⁴³ Wood/Sthoeger (n 16), 40.

could, therefore, be binding without explicitly containing some or all of the three elements mentioned earlier in this section, though this is hardly satisfactory and may lead to bitter disagreement later.⁴⁴ Several verbs are subject to debate. Sievers and Daws consider the terms ‘decides’, ‘requires’, ‘demands’, and ‘requests’ to be ‘fairly definite’ and constitutive of legally binding obligations, whereas other operative words, specifically the ubiquitous ‘calls upon’, would depend more heavily on context.⁴⁵ Wood and Sthoeger, in turn, consider that ‘calls upon’, when directed at states, will only exceptionally create a legal obligation, and that ‘urges’ will depend on context.⁴⁶ Peters considers ‘urges’, ‘calls upon’, and ‘underlines’ as depending on context; Fox et al. put ‘calls upon’, ‘requests’, and ‘urges’, amongst others, in a category of ‘possibly binding’ phrases, depending on whether the resolution in question contains other elements indicating legally binding decisions. The same authors also state that, through conversations with various legal advisers, there is disagreement amongst states which operative phrases – if any – other than ‘decides’ ought to be considered legally binding.⁴⁷

This brief overview shows that, in the debate over legal bindingness, the Council’s language matters. But how consistent is the Council’s use of language that is considered to indicate legal bindingness? Can we expect that the Council will make an explicit reference to Chapter VII when it introduces one of its operative clauses directed at states with the verb ‘decides’?

⁴⁴ Ibid., 41.

⁴⁵ Sievers/Daws (n 9), 382-383.

⁴⁶ Wood/Sthoeger (n 16), 39-40.

⁴⁷ Fox et al. (n 42), 661.

Does it use different language in resolutions that take decisions under Chapter VII and those that take decisions outside Chapter VII? These are empirical questions of great relevance for the doctrinal analysis of the legal value of UNSC resolutions. The aim of the present article is to provide insight into the consistency of the Council's use of linguistic indicators that are commonly accepted as indicating legal bindingness, and conversely, to identify how many cases there are where the text of a resolution is ambiguous, as was the case with resolution 2728 (2024) referenced in the introduction. We turn to this in the following sections.

3. Quantitative text analysis and the Security Council: the case for an empirical analysis of the Council's language practice

The aim of this article is to provide a description of the Council's practice in using specific linguistic elements and phrases in order to better understand the Council's practice in moderating the legal bindingness of its resolutions. This is an empirical endeavour that requires examining the texts of over 2,000 resolutions adopted by the UNSC. Due to the large volume of text, we submit that quantitative text analysis can be usefully applied. There is, however, currently a gap between international law scholarship on the Security Council and quantitative text analysis methods.

International organizations and the UN in particular are the subject of considerable empirical research, mainly in political science and international relations, and increasingly in international law. Over the past decades, several studies have examined the Security

Council, shedding light on, amongst others, its voting behaviour,⁴⁸ agenda setting,⁴⁹ responsiveness to security problems,⁵⁰ sanctions,⁵¹ and peacekeeping missions.⁵² These studies have provided important insights, especially into the UNSC's decision-making.

As text data and methods have become increasingly accessible, new possibilities for empirical research have emerged.⁵³ This is particularly interesting for legal contexts,⁵⁴ including international law.⁵⁵ Quantitative text analysis enables researchers to gain insights into large quantities of texts issued by various UN bodies, a task that was previously extremely time-intensive and costly. Several contributions examine the UN through text data based on various data sources, ranging from studies of speeches in the General Assembly to evaluation.⁵⁶

⁴⁸ E. Voeten, 'Outside Options and the Logic of Security Council Action' (2001) 95 *American Political Science Review* 845–58.

⁴⁹ M. Lundgren and M. Klamberg, 'Selective Attention: The United Nations Security Council and Armed Conflict' (2023) 53 *British Journal of Political Science* 958–79.

⁵⁰ M. Lundgren, J. Tallberg, T. Sommerer, and T. Squatrito, 'When are International Organizations Responsive to Policy Problems?' (2023) 67 *International Studies Quarterly*.

⁵¹ S. Chesterman and B. Pouligny, 'Are Sanctions Meant to Work? The Politics of Creating and Implementing Sanctions Through the United Nations' (2003) 9 *Global Governance: A Review of Multilateralism and International Organizations* 503–18.

⁵² J. Di Salvatore, M. Lundgren, K. Oksamytna, and H. M. Smidt, 'Introducing the Peacekeeping Mandates (PEMA) Dataset' (2022) 66 *Journal of Conflict Resolution* 924–51.

⁵³ J. Grimmer and B. M. Stewart, 'Text as Data: The Promise and Pitfalls of Automatic Content Analysis Methods for Political Texts' (2013) 21 *Political Analysis* 267–97; J. A. Evans and P. Aceves, 'Machine Translation: Mining Text for Social Theory' (2016) 42 *Annual Review of Sociology* 21–50.

⁵⁴ J. Frankenreiter and M. A. Livermore, 'Computational Methods in Legal Analysis' (2020) 16 *Annual Review of Law and Social Science* 39–57.

⁵⁵ W. Alschner, 'The computational analysis of international law' in R. Deplano, N. Tsagourias (eds.), *Research Methods in International Law* (Edward Elgar, 2021), 203–27; T. Altwicker, 'International Legal Scholarship and the Challenge of Digitalization' (2019) 18 *Chinese Journal of International Law* 217–46; R. H. Lie and M. Langford, 'The Computational Turn in International Law' (2024) 93 *Nordic Journal of International Law* 38–67.

⁵⁶ J. Gray and A. Baturo, 'Delegating diplomacy: rhetoric across agents in the United Nations General Assembly' (2021) 87 *International Review of Administrative Sciences* 718–36; J. Scherzinger, 'Unbowed, unbent, unbroken? Examining the validity of the responsibility to protect' (2023) 58 *Cooperation and Conflict*

As stated before, resolutions are arguably the Council's most important document type. It is therefore promising to see an ever-increasing body of research that analyses UNSC resolutions. Knapp uses topic models – an unsupervised method that utilizes statistical techniques to model topics from documents, which are subsequently interpreted – to capture key themes and provide evidence of temporal developments and breakpoints.⁵⁷ Beyond topic models, a series of studies with predefined analytical objectives also examine language use in resolutions. In a recent study, Bethke et al. developed hand-coded dictionaries to gain insights into how 'responsibility language' is used in the resolutions and on the actors to whom this language is addressed.⁵⁸ Hauenstein and Joshi distinguish different types of articulation in UNSC resolutions following civil wars and comprehensive peace agreements to investigate how the language that the Council uses influences compliance with a peace agreement.⁵⁹ Scherzinger looks at the relationships between speeches and resolution content regarding authorizations of the use of force.⁶⁰

81–101; J. Medzihorsky, M. Popovic, and E. K. Jenne, 'Rhetoric of civil conflict management: United Nations Security Council debates over the Syrian civil war' (2017) 4 *Research & Politics*; T. Sakamoto, 'Cross-national analysis of global security discourse using word embeddings' (2020); K. Watanabe and Y. Zhou, 'Theory-Driven Analysis of Large Corpora: Semisupervised Topic Classification of the UN Speeches' (2022) 40 *Social Science Computer Review* 346–66; S. Eckhard, V. Jankauskas, E. Leuschner, I. Burton, T. Kerl, and R. Sevastjanova, 'The performance of international organizations: a new measure and dataset based on computational text analysis of evaluation reports' (2023) 18 *The Review of International Organizations* 753–76.

⁵⁷ A. Knapp, 'Speaking of civilians: Automated text analysis of the United Nations' framing of complex humanitarian emergencies' (2024) 50 *International Interactions* 300–31.

⁵⁸ F. S. Bethke, F. Haass, and H. Niemann, 'The Language of Responsibility in the United Nations Security Council, 1946–2020' (2024) 68 *International Studies Quarterly*.

⁵⁹ M. Hauenstein and M. Joshi, 'Remaining Seized of the Matter: UN Resolutions and Peace Implementation' (2020) 64 *International Studies Quarterly* 834–44, esp. at 836–7.

⁶⁰ J. Scherzinger, 'Acting under Chapter 7: rhetorical entrapment, rhetorical hollowing, and the authorization of force in the UN Security Council, 1995–2017' (2023) 37 *International Relations* 3–24, at 14–16.

Each of these studies is interesting in its own right, but they all use political science categories. Only very few studies on the Security Council work quantitatively with an international law lens. Ridi's and Gasbarri's work is noteworthy: they use network methods to analyse how UNSC resolutions refer to each other. In doing so, they argue that the Security Council's practice of referring to its previous resolutions serves as an indicator for the formation of obligations under customary international law.⁶¹ In an earlier study, Johansson analysed a large number of UNSC resolutions specifically to identify resolutions that should be considered as adopted 'under Chapter VII'.⁶² Even though this work systematically examines a large number of resolutions, Johansson did not use quantitative text methods.⁶³

Against this background, we conclude that there is a research gap: recent advances in text-as-data works on UN policy organs tend to underestimate the role of international law, whereas legal scholars have not applied text-as-data tools and methods to corpora of resolutions.⁶⁴ This is a missed opportunity, as natural language processing (NLP) methods can help build a bridge between legal academia and empirical research on legal institutions.

⁶¹ N. Ridi and L. Gasbarri, 'The Role of Previous Resolutions in the Practice of the Security Council' (2023) 61 *Columbia Journal of Transnational Law* 561–640, esp. at 620–5.

⁶² Johansson (n 23).

⁶³ Similarly, both Fox et al.'s and Borlini's work on obligations imposed by the Security Council on non-state actors use hand-coded data, cf. Fox et al. (n 42); Borlini (n 23).

⁶⁴ Ridi and Gasbarri are an exception in this regard. Other international law research that employs quantitative text analysis has focused on the analysis of treaties, see W. Alschner and D. Skougarevskiy, 'Mapping the Universe of International Investment Agreements' (2016) 19 *Journal of International Economic Law* 561–88, or on judgments, including from the International Court of Justice, see W. Alschner and D. Charlotin, 'The Growing Complexity of the International Court of Justice's Self-Citation Network' (2018) 29 *European Journal of International Law* 83–112.

We want to use the momentum of NLP research to complement ‘traditional’ doctrinal analysis.⁶⁵

This last observation raises a question about the relationship between empirical observation and legal analysis: even if we observe that the Security Council has a consistent practice of using certain linguistic markers, can we infer from this that documents exhibiting those markers are binding, whereas others are not? Or would this fall prey to the fallacy of inferring normative value from a descriptive fact?⁶⁶ This is not the case. We do not claim that our findings can be directly translated into a classification scheme for UNSC resolutions as binding or non-binding, or whether the Council takes measures under or outside of Chapter VII. As stated before, we do not intend to make definitive statements on the legal value of each individual resolution. Rather, our study lays the groundwork for an informed debate on the legal nature of UNSC resolutions in the first place. While one should not infer a normative commitment from empirical fact alone, normative arguments often rely on assumptions about legal practice. Understanding how the UN Security Council uses language is a fundamentally empirical question that arises against the background of doctrinal research. The empirical question about the consistent use of language has legal relevance, and we answer it on the basis of the full corpus of Security Council resolutions between 1946 and 2023.

⁶⁵ See U. Šadl and H. P. Olsen, ‘Can Quantitative Methods Complement Doctrinal Legal Studies? Using Citation Network and Corpus Linguistic Analysis to Understand International Courts’ (2017) 30 *Leiden Journal of International Law* 327–49; Alschner (n 55).

⁶⁶ Cf. for this point Altwicker (n 55), at 236.

4. How does the Security Council moderate the legal value of its resolutions? An empirical analysis of all Security Council resolutions adopted between 1946 and 2023

This section provides an empirical descriptive analysis of the Council's use of phrases that have been associated in the literature with legally binding content. Our aim is to shed light on the occurrence of key phrases. This section is structured as follows: First, we explain the data set and present key descriptive features. Second, we explore whether and how frequently key phrases that might indicate bindingness occur. In the last section, we examine the phrases' co-occurrence.

4.1 Data preparation and methodological approach

Our data source is the UN Security Council dataset from Fobbe et al.⁶⁷ The dataset contains not only the resolutions as machine-readable full-text data but also draft resolutions, voting data, and debates. Our analysis focuses on the 2721 resolutions in the dataset from 1946 to 2023.

Our data processing consists of two steps. The first step was to prepare the available documents and segment the individual paragraphs. This involved removing page breaks and cleaning up the document margins. We also excluded the annexes and separated the main body of the resolutions into individual clauses (or paragraphs), considering clauses as the

⁶⁷ S. Fobbe, L. Gasbarri, and N. Ridi, Words of Power: Introducing a Comprehensive Corpus of UN Security Council Resolutions. Preprint. S. Fobbe, L. Gasbarri, and N. Ridi, 'Corpus of Resolutions: UN Security Council (CR-UNSC)' (2024), Version: 2024-05-19 <https://zenodo.org/doi/10.5281/zenodo.11212056>.

central unit of analysis.⁶⁸ So, each resolution is represented as a list of paragraphs. The second step was to create the relevant variables to answer our research question. This was done by matching the respective phrases and references to norms in the clauses of the resolutions.

We used almost exclusively rule-based approaches for both steps of the data processing.⁶⁹ This means that rules based on expert knowledge were developed to automatically find certain character sequences, such as certain phrases, in the documents.⁷⁰ This was possible because the language and layout of the documents are relatively consistent and well-structured. The advantage of a rule-based approach is that errors are always traceable because the approach is deterministic. Nevertheless, errors can occur. It is possible that content is wrongly matched (false positive) or not found (false negative).

For one particular question, we went beyond rule-based approaches. This concerned the subsample of 1235 clauses that used at least one of the operative phrases ‘decide’, ‘request’ or ‘demand’, but where the resolutions did not contain any other linguistic marker of

⁶⁸ We understand paragraphs, or clauses, as they are commonly referred to within the UN system, to be those segments of text introduced by an operative or preambulatory word. This understanding implies that clauses can be very long (extending over several pages) if the UNSC inserts lists or enumerations under a paragraph introduced by a word. There are occasional deviations from this otherwise very consistent practice only in some very early resolutions. This is most likely due to the fact that in its early years, the Council adopted several substantive decisions without calling them ‘resolutions’, which were only retroactively numbered and issued as resolutions in the Council’s Official Records, cf. Sievers/Daws (n 9), at 374.

⁶⁹ The online appendix includes an additional summary table showing how each variable was created.

⁷⁰ We created a number of regex patterns implemented in python. Regex patterns allow for conditions to be included in the rules, so that slight variations in wording can be taken into account.

bindingness.⁷¹ We identified the paragraphs by matching the respective wording, but we also needed to know who was addressed. Such a task is not easy to solve with a rule-based approach because the sentences can have a variety of grammatical structures, even though the information is immediately obvious to human readers. Therefore, we used a Large Language Model (LLM) to extract the information from the paragraphs. Further details on our prompts and validation strategy are contained in an Online Appendix.⁷²

In general, our research strategy is error-mitigating. It combines quantitative and qualitative elements in that quantitative variables are generated but then subjected to detailed qualitative analysis. Based on this in-depth work with the text of the resolutions, the quantitative steps were always validated and, if necessary, improved.⁷³ We also corrected minor errors, such as atypical document structures or OCR errors, by hand. To ensure scientific reproducibility, we publish the code for our data processing in the online appendix.⁷⁴

⁷¹ See *infra* Section 4.3.2.

⁷² H, Birkenkötter and K. Lüders, Online Appendix: Beyond-Chapter-VII [Dataset]. (2026, Version v1.0, Zenodo). <https://doi.org/10.5281/zenodo.21552192>.

⁷³ We have, where possible, validated our variables against those of Fobbe et al. (n 67). In their dataset, they have included some variables that are very similar to ours, although not identical. We have therefore taken the opportunity to compare them. All the differences found are justifiable, as the objectives were different. Especially, consider the difference between our 'Article 39 language' variable (see below) and their 'peace_breach' and 'peace_threat' variables. The variables differ in definition but were still valuable for validation. We could not find any erroneous discrepancies for our variables. See Fobbe et al. at 19-21.

⁷⁴ Birkenkötter/Lüders (n 72).

Our final data set of 2721 resolutions comprises over 55,000 clauses. However, the resolutions are not evenly distributed over time. Until 1990, the Security Council had only adopted 646 resolutions; this number increased considerably in the 1990s. This shift, related to the end of the Cold War and subsequent changes in policy dynamics in the Council, is well documented in the literature.⁷⁵

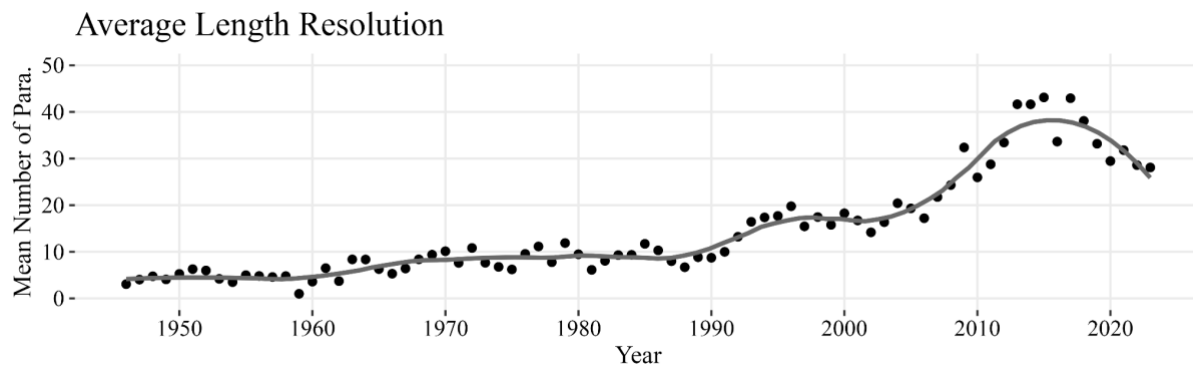


Figure 1: The figure visualizes the average number of paragraphs per resolution for the period from 1946 to 2023, with each scatter point representing one year. The trend line has been calculated using LOESS.

Figure 1 shows the change in length of the resolutions as the average number of clauses per year. Until the 1990s, resolutions contained, on average, fewer than 15 clauses each. This number increased slightly throughout the 1990s. However, the major change did not occur with the increase in the number of resolutions in the 1990s, but later with an accelerated increase from the 2000s and a peak in the mid-2010s with an average of over 40 clauses per resolution. Possible reasons for this increase are the emergence of complex, multidimensional peacekeeping operations, which tend to have extensive, detailed

⁷⁵ See e.g. Sievers/Daws (n 9), at 377.

mandates,⁷⁶ as well as thematic agendas on women and peace and security, children and armed conflict, and protection of civilians, which have led to agreed language that is today standardly included in country-specific resolutions as well. While we refer to pre-/post-1990 practice in the following, Figure 1 shows that the picture is slightly more complicated and that practice might not always neatly fall across pre-/post-1990 lines.

4.2 Occurrence of language indicating bindingness

As presented in Section 2 above, there is little disagreement that the Council's resolutions are likely to contain legally binding elements when the Council explicitly refers to Chapter VII of the Charter.⁷⁷ This includes references to specific articles of Chapter VII, notably Articles 39-42. Resolutions that contain an explicit reference to Article 25 of the Charter are also considered to likely contain legally binding clauses. There is uncertainty regarding resolutions that do not explicitly reference any of the aforementioned Charter provisions, but that contain ostensibly mandatory language. We discuss such cases in more depth in Section 5. Here, we solely focus on the empirical occurrence of different linguistic indicators.

We first present the results for references to Article 25, followed by those for references to Chapter VII, Article 39, including language from that article, and Articles 40, 41, and 42. We

⁷⁶ J. A. Koops, N. MacQueen, T. Tardy, and P. D. Williams, *Introduction: Peacekeeping in the Twenty-First Century: 1999–2013* (OUP, 2015).

⁷⁷ Even if the bindingness of each individual clause will ultimately depend on the clause's content, not on whether the resolution mentions Article 39 and/or Chapter VII or not.

then provide an overview of key operative phrases that can indicate binding measures. The last part of this section analyses the frequency of different combinations of linguistic markers indicating bindingness.

4.2.1 References to Article 25

Scholars have observed that express references to Article 25 are neither necessary for a resolution to be binding nor common.⁷⁸ Our research confirms this and shows how rare references to Article 25 are. We search for references to Article 25 UN Charter in the main body of the resolutions.⁷⁹ Only 30 resolutions contain explicit references to this provision.⁸⁰ The following table shows the distribution of resolutions that explicitly reference Article 25 over time:

Decade	Art 25 Charter	n
1940	0	78
1950	0	54
1960	3	143
1970	9	186
1980	1	185
1990	3	638
2000	0	623
2010	9	596
2020	5	218

Table 1: Table 1 shows the absolute number of resolutions containing at least one Article 25 mention per decade and the absolute number of resolutions adopted in each decade.

⁷⁸ Wood/Sthoeger (n 16), 36; Peters (n 18), para. 7 ('Article 25 has been rarely explicitly cited in decisions adopted by the SC').

⁷⁹ As in the other cases below, our rules for matching norms allow slight variations: for instance not only 'Article 25 of the United Nations Charter' is found, but also 'Article 25 of the Charter'. The exact regex patterns can be found in the code in the online appendix.

⁸⁰ There are a total of 36 references, which means that some resolutions contain more than one reference to Article 25. E.g. Resolution 232 (1966) on Southern Rhodesia, the first to refer to Article 25, explicitly reminds states that failure to carry out the resolution constitutes a violation of Article 25 and then calls upon all states to carry out the decision of the Council in accordance with Article 25 of the Charter.

The first resolution to explicitly refer to Article 25 is Resolution 232 (1966) on the situation in Southern Rhodesia. Ten out of the 30 resolutions referencing Article 25 concern the situation in Southern Rhodesia. The only other resolution in the 1960s to reference Article 25 explicitly is Resolution 269 (1969) on Namibia and South Africa, which was one of the resolutions analysed in the *Namibia* Advisory Opinion discussed in Section 2. Throughout the 1970s, one resolution concerning Portugal's armed attack in Guinea includes a reference to Article 25, in addition to the resolutions on Southern Rhodesia. Throughout the 1980s and 1990s, only four resolutions refer to Article 25: one regarding the situation in Lebanon, two regarding Iraq's invasion of Kuwait, and one resolution establishing the UN Protection Force in the Former Yugoslavia.⁸¹ Reference to Article 25 is completely absent from any resolution in the 2000s and reemerges with Resolution 2118 (2013) on the situation in Syria. In total, there are 13 resolutions in the 2010s and 2020s on the situation in Syria, all with identically formulated references to Article 25 in the preambulatory part of the resolution: 'underscoring that Member States are obligated under Article 25 of the Charter of the United Nations to accept and carry out the Council's decisions.'⁸² The original Resolution 2118 (2013) was the result of political negotiation that avoided a reference to Chapter VII in the preambulatory part whilst insisting on the binding character of the measures decided in its operative part.⁸³ The

⁸¹ S/Res/521 (1982); S/Res/667 (1990); S/Res/686 (1991); S/Res/743 (1992).

⁸² S/Res/2118 (2013); S/Res/2165 (2014); S/Res/2191 (2014); S/Res/2258 (2015); S/Res/2332 (2016); S/Res/2393 (2017); S/Res/2401 (2018); S/Res/2449 (2018); S/Res/2504 (2020); S/Res/2533 (2020); S/Res/2585 (2021); S/Res/2642 (2022); S/Res/2672 (2023).

⁸³ See M. Milanovic, A Few Thoughts on Resolution 2118 (2013), <https://www.ejiltalk.org/a-few-thoughts-on-resolution-2118/>.

repetition in subsequent years is likely a case of agreed language due to the same penholdership in the Council (rotating amongst non-permanent members in this specific case).⁸⁴ There is only one further resolution that contains a reference to Article 25 from 2000 onwards, with the exact same wording as in the resolutions on Syria, and it is the resolution on Iran's nuclear programme, in which the Security Council endorsed the Joint Comprehensive Plan of Action.⁸⁵

4.2.2 References to Chapter VII, Articles 39-42, and language contained in Article 39

As mentioned, the Security Council's important position within the UN system stems from its faculties under Chapter VII of the UN Charter. Article 39, the first article in Chapter VII, authorizes the Council to determine whether there exists a threat to or breach of the peace. Such a determination allows the adoption of provisional measures under Article 40 or coercive measures under Articles 41 and 42 UN Charter, including the use of force. For these reasons, Article 39 has been called the 'single most important provision of the Charter'.⁸⁶

Explicit references to Article 39 UN Charter are, however, even rarer than to Article 25: only six resolutions explicitly mention Article 39 UN Charter in their text.⁸⁷ In 1948, the Council

⁸⁴ On penholdership in the Security Council see Sievers/Daws (n 9), 127-8, 262, 267; Security Council Report, *The Penholder System* (2018), and UN Doc. S/2014/268.

⁸⁵ S/Res/2231 (2015).

⁸⁶ See De Wet (n 10), para 1, with reference to a statement by the US Secretary of State during the drafting process of the Charter.

⁸⁷ S/Res/54 (1948), S/Res/62 (1948), S/Res/232 (1966), S/Res/461 (1979), S/Res/598 (1987), and S/Res/660 (1990).

explicitly referenced Article 39 in two resolutions on the situation in Palestine, both of which state that ‘the situation in Palestine constitutes a threat to the peace within the meaning of Article 39 of the Charter of the United Nations’. Both resolutions further contain various requests and explicit decisions, including decisions taken under Article 40.⁸⁸ It is undisputed that those resolutions constitute early examples of Article 39 determinations and contain legally binding decisions.⁸⁹ However, they remain singular cases. It would take almost two decades for the Council to refer to Article 39 again, and it did so in the same resolution on Southern Rhodesia in 1966 that also first references Article 25. In this resolution, the Council acted ‘in accordance with Articles 39 and 41 of the United Nations Charter’.⁹⁰ Resolution 461 (1979) on the tensions between the United States and Iran following the Iran hostage crisis also refers to Articles 39 and 41 of the UN Charter, although it does not adopt measures under these articles, but threatens to do so in case of non-compliance. Lastly, the Council was ‘acting under Articles 39 and 40 of the Charter’ in Resolution 598 (1987) on the armed conflict between Iraq and Iran and Resolution 660 (1990) concerning Iraq’s invasion of Kuwait.

Instead of explicit references to Article 39, the Council has developed a practice using language from Article 39, but without explicitly referencing it. Article 39 of the UN Charter

⁸⁸ S/Res/54 (1948) contains an order to desist from further military action; S/Res/62 (1948) calls upon the parties to seek an armistice and explicitly designates it as a ‘further measure under Article 40’. S/Res/73 (1948), also on Palestine, reaffirms the armistice requested under S/Res/54 (1948), but does not contain any reference to Article 39.

⁸⁹ See the discussion in Section 2 and Johansson (n 23), at 312-13.

⁹⁰ S/Res/232 (1966).

foresees different conditions under which the Security Council can take action: when it determines that a situation constitutes either a threat to the peace, a breach of the peace, or an act of aggression. If the Council chooses to act upon such a determination, it often, though not always, does so by explicitly invoking Chapter VII.

We therefore look for explicit references to Chapter VII and the relevant articles under which the Security Council can take action: Articles 40, 41, and 42 of the Charter. In addition, we also look for wording from Article 39 of the Charter, which we label ‘Article 39 language.’ For our purposes, ‘Article 39 language’ consists of the following phrases⁹¹:

- ‘threat to peace’
- ‘threat to the peace’
- ‘threat to regional peace’
- ‘threat to international peace’
- ‘breach of the peace’
- ‘breach of international peace’
- ‘international peace and security’⁹²

⁹¹ Again, the code with the regex patterns can be found in the online appendix.

⁹² As the Council does not always explicitly determine that a threat to or breach of the peace exists, even if it acts under Chapter VII, we deliberately choose this broader expression, especially compared to Fobbe et al. (n 67). We have already mentioned Resolution 661 (1990), where the Council was ‘mindful’ of its responsibilities for the maintenance of international peace and security. Similar examples from recent practice include a series of resolutions on Libya, in which the Council is ‘mindful of its primary responsibility for the maintenance of international peace and security’ and then proceeds to act under Chapter VII (UN Docs. S/Res/2240 (2015); S/Res/2312 (2016); S/Res/2380 (2017); 2437 (2018); 2491 (2019); S/Res/2546 (2020); S/Res/2598 (2021); S/Res/2652 (2022); and S/Res/2698 (2023)), without an explicit *determination*. In the following sections, we consider different combinations of linguistic indicators, and never rely on the Article 39 language category on its own.

- ‘aggression’⁹³
- Text passages with a word of the stem ‘aggress’ followed by ‘act’ or ‘acts’⁹⁴

1100 resolutions contain at least one of the aforementioned ‘Article 39 language’ formulations, and 896 resolutions contain a total of 921 references to Chapter VII of the UN Charter. Only six resolutions refer to Article 40 of the UN Charter, of which we have already mentioned five: three are from 1948 and concern the situation in Palestine (in two of them, the Council determines this situation to constitute a threat to international peace and security under Article 39) and Resolutions 598 (1987) and 660 (1990) on the Iraqi invasions in Iran and Kuwait, where the Council acted under Articles 39 and 40 of the Charter. The last resolution containing a reference to Article 40 is Resolution 1696 (2006) on Iran’s nuclear programme, where the Council was explicitly ‘[a]cting under Article 40 of Chapter VII of the Charter of the United Nations in order to make mandatory the suspension [of enrichment-related and reprocessing activities] required by the IAEA’. Note that here, the Council also

⁹³ De Wet observes that the Council has never explicitly determined that an act of aggression exists under Article 39: E. De Wet, ‘Article 39’, in Bruno Simma, and others (eds), *The Charter of the United Nations: A Commentary*, 4th Edition (2024; OUP), para 51. This is consistent with our findings insofar as there are no resolutions in which the Council decides upon coercive measures following an explicit determination of an act of aggression. The Council has, however, characterized various acts of armed force as aggression. Our data shows that Resolutions 405 and 419 (both of 1977) qualify the 1977 attempted overthrow of the Benin government by French-led mercenaries (‘opération crevette’) as an ‘act of [armed] aggression’ (cf. S/Res/405 (1977), para. 2 ‘act of armed aggression’, and S/Res/419 (1977) para. 5 ‘act of aggression’). Neither resolution invokes Chapter VII. Further characterizations of armed attacks as acts of aggression concern Southern Rhodesia’s attack against Zambia (S/Res/424 (1978), S/Res/455 (1979)), South Africa’s attack against Angola, Botswana, and Lesotho (S/Res/567 (1985) and S/Res/568 (1985), S/Res/580 (1985) amongst others), and Israel’s airstrike against the PLO’s headquarter in Tunisia (S/Res/611 (1988)). Notably, there has been no determination of any armed force as an act of aggression after 1990, and no resolution that determined an armed attack as an act of aggression has then taken measures under Chapter VII. One resolution on Southern Rhodesia’s aggression against Zambia contains language threatening the potential adoption of measures under Chapter VII, cf. S/Res/424 (1978), para. 5.

⁹⁴ This matches, for example, ‘aggressive acts’.

mentioned Chapter VII, so this resolution will also appear amongst the 896 resolutions that contain an explicit reference to Chapter VII of the Charter. References to Article 41 are a bit more frequent, but still nowhere close to the number of references to Chapter VII and Article 39 language. 49 resolutions refer to Article 41 a total of 63 times. No single clause explicitly references Article 42.

Of the 896 resolutions that mention Chapter VII of the UN Charter, only 18 resolutions were adopted until 1990. This is remarkable: of all resolutions adopted until 1990, only about 3% explicitly refer to Chapter VII, whereas nearly half of those adopted between 1990 and 2023 do. This number has increased from 25.7% of resolutions throughout the 1990s to 44.8% in the 2000s and more than half of the resolutions adopted in the 2010s (55.2%). Since 2020, this number seems to be declining (48.6% for 2020 to 2023), possibly due to a decline in complex peacekeeping missions over the past few years.

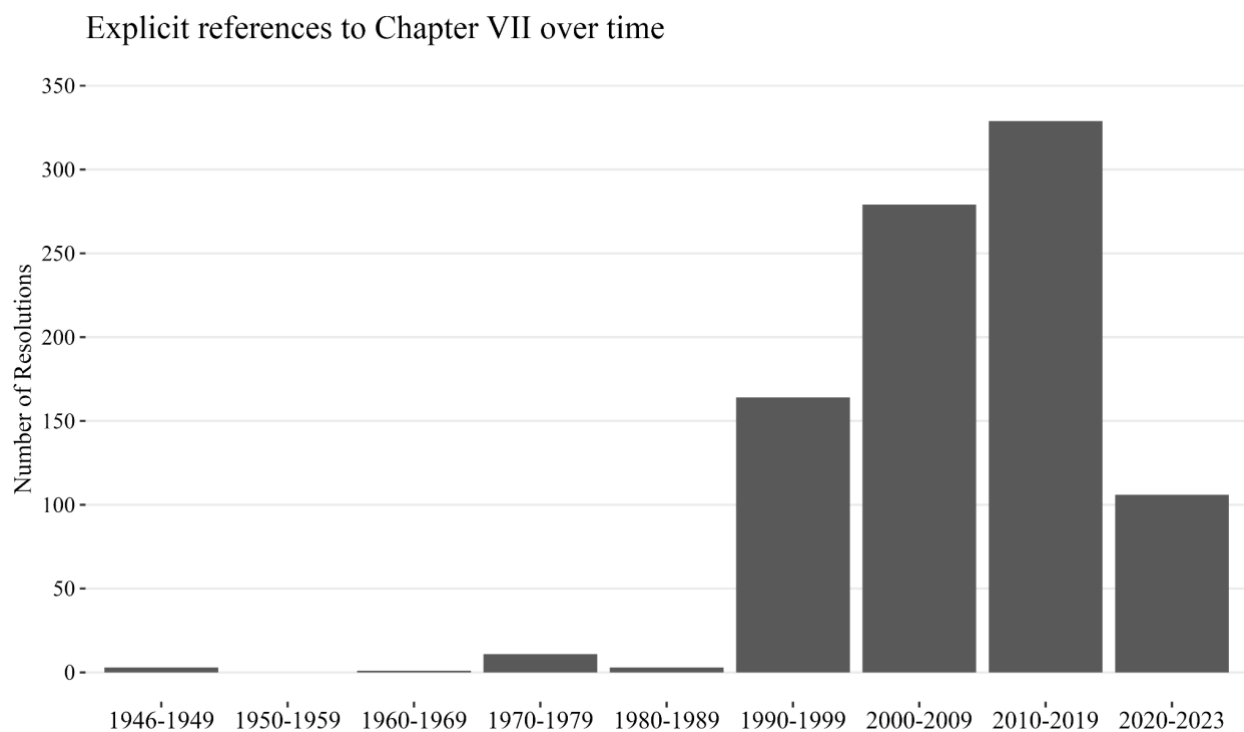


Figure 2: The bar plot shows the absolute numbers of resolutions per decade containing at least one reference to Chapter VII.

Decade	Art 25 Charter	Art 39 Charter	Art 40 Charter	Art 41 Charter	Chapter VII	Art 39 Language	n
1946-1949	0	2	3	0	3 (3.8%)	11 (14.1%)	78
1950-1959	0	0	0	0	0 (0.0%)	11 (20.4%)	54
1960-1969	3	1	0	2	1 (0.7%)	22 (15.4%)	143
1970-1979	9	1	0	4	11 (5.9%)	41 (22.0%)	186
1980-1989	1	1	1	0	3 (1.6%)	39 (21.1%)	185
1990-1999	3	1	1	2	164 (25.7%)	121 (19.0%)	638
2000-2009	0	0	1	12	279 (44.8%)	305 (49.0%)	623
2010-2019	9	0	0	25	329 (55.2%)	404 (67.8%)	596
2020-2023	5	0	0	4	106 (48.6%)	146 (67.0%)	218

Table 2: Number of resolutions containing at least one reference to Articles 25, 39, 40, 41, Chapter VII, or language from Article 39. The table contains the absolute number of resolutions per decade. Column ‘n’ shows the total number of resolutions adopted in the respective decade.

Before 1990, the Council does not invoke Chapter VII with a standard phrasing. The formulation ‘acting under Chapter VII’ appears in only seven of the eighteen resolutions that reference Chapter VII prior to 1990, out of which six concern the situation in Southern

Rhodesia.⁹⁵ The seventh resolution prior to 1990 in which the Council acts under Chapter VII regards sanctions imposed on apartheid South Africa.⁹⁶

One resolution on Southern Rhodesia explicitly terminates measures previously adopted under Chapter VII.⁹⁷ Three resolutions adopted in 1948 on Palestine contemplate action under Chapter VII but do not take any measures,⁹⁸ as do six further resolutions adopted in 1978, 1980, and 1985, all on either Southern Rhodesia or South Africa.⁹⁹ Several of these resolutions, namely on Southern Rhodesia's armed activities in Zambia and South Africa's armed activities in Angola, contain almost identical phrasing where the Council threatens to 'meet again to consider the adoption of more effective measures, in accordance with the appropriate provisions of the Charter of the United Nations, including Chapter VII thereof'.¹⁰⁰ Lastly, Resolution 447 (1979) on South Africa's violation of Angola's territorial integrity is an interesting case. Here, the Security Council explicitly relies on its prior threat to adopt

⁹⁵ S/Res/253 (1968), S/Res/277 (1970), S/Res/288 (1970), S/Res/314 (1972), S/Res/388 (1976), and S/Res/409 (1977). S/Res/232 (1966) adopts measures under Chapter VII, but uses the language 'Acting in accordance with Articles 39 and 41 of the United Nations Charter', see above. This is an outlier and does not reappear, as far as we can see, in any other resolution.

⁹⁶ S/Res/418 (1977).

⁹⁷ S/Res/460 (1979).

⁹⁸ S/Res/50 (1948), S/Res/54 (1948), S/Res/61 (1948).

⁹⁹ S/Res/424 (1978), S/Res/428 (1978), S/Res/439 (1978), S/Res/466 (1980), S/Res/475 (1980), S/Res/566 (1985).

¹⁰⁰ S/Res/424 (1978), S/Res/428 (1978), S/Res/447 (1979).

measures under Chapter VII,¹⁰¹ but then falls short of adopting such measures. Rather, it demands that South Africa cease its action immediately.¹⁰²

Since 1990, ‘acting under Chapter VII’ has become a standard formulation in the Security Council. With fewer than a dozen exceptions,¹⁰³ almost all resolutions that refer to Chapter VII contain the phrase ‘acting under Chapter VII’ with only very slight variation.¹⁰⁴

4.2.3 Decides, demands, authorizes, requests: the use of strong verbs

As discussed in Section 2, another indicator of legally binding resolutions is the use of strong operative phrases, i.e. verbs that may indicate legally binding action. We search the following verbs: ‘decide’, ‘demand’, ‘authorize’, and ‘request’.¹⁰⁵ Again, we see an increase

¹⁰¹ ‘Bearing in mind its resolution...by which...it solemnly warned that, in the event of further acts of violation of the sovereignty and territorial integrity of Angola, it would meet again in order to consider the adoption of more effective measures in accordance with the appropriate provisions of the Charter of the United Nations, including Chapter VII thereof’, S/Res/447 (1979), preamble.

¹⁰² S/Res/447 (1979), para. 3.

¹⁰³ These resolutions either refer to the possibility of Chapter VII action, or refer action under Chapter VII taken in the past, see e.g. S/Res/940 (1994) (‘takes not of [the Secretary-General’s] support for action under Chapter VII’) or S/Res/813 (1993) (‘Calls upon all States strictly to abide by and comply with the general and complete embargo on all deliveries of weapons and military equipment to Liberia imposed by Resolution 788 (1992) under Chapter VII’).

¹⁰⁴ Such as ‘decides under Chapter VII’, ‘decides, acting under Chapter VII’.

¹⁰⁵ See for a discussion of different operative phrases *supra* Section 2.3. ‘Decide’ and ‘authorize’ are uncontroversially indicators of legally binding resolutions. We focus on ‘demand’ as a strong verb that has in the past generated controversy as to its legally binding nature, perhaps because it does not occur with the same frequency as ‘calls upon’ or ‘urges’, and therefore tends to be perceived as stronger. ‘Request’ is a verb that is standardly used to formally ask a specific behavior of other UN organs, such as the Secretary-General, and is thus interesting because it carries administrative authority. ‘Calls upon’ and ‘urges’ are other operative phrases that are discussed in the context of bindingness, but are generally considered to be exhortatory, cf. Wood/Sthoeger (n 16), at 39; we therefore do not consider them further.

in the use of all of these verbs over the years, to the point that well over 80% of all resolutions adopted since 2010 contain the verb ‘decides’:

Decade	Decides	Demands	Authorizes	Requests	n
1946-1949	8 (10.3%)	0 (0.0%)	1 (1.3%)	19 (24.4%)	78
1950-1959	18 (33.3%)	0 (0.0%)	5 (9.3%)	19 (35.2%)	54
1960-1969	25 (17.5%)	9 (6.3%)	3 (2.1%)	54 (37.8%)	143
1970-1979	74 (39.8%)	29 (15.6%)	1 (0.5%)	88 (47.3%)	186
1980-1989	97 (52.4%)	33 (17.8%)	6 (3.2%)	119 (64.3%)	185
1990-1999	423 (66.3%)	162 (25.4%)	73 (11.4%)	448 (70.2%)	638
2000-2009	487 (78.2%)	129 (20.7%)	83 (13.3%)	452 (72.6%)	623
2010-2019	497 (83.4%)	152 (25.5%)	94 (15.8%)	521 (87.4%)	596
2020-2023	191 (87.6%)	58 (26.6%)	29 (13.3%)	189 (86.7%)	218

Table 3: Number of resolutions containing ‘decides’, ‘demands’, ‘authorizes’, or ‘requests’. The table contains the absolute number of resolutions per decade. Column ‘n’ shows the total number of resolutions adopted in the respective decade.

The verb ‘demand’ occurs in 572 resolutions in total, i.e. in far fewer resolutions than either ‘requests’ (1909 resolutions) or ‘decides’ (1820 resolutions). In the count of the verb ‘decides’, we explicitly excluded the phrase ‘decides to remain seized of the matter’, indicating that the Council has not finally disposed of a matter, which we count separately.¹⁰⁶

¹⁰⁶ We find that it occurs in 1743 of the 2721 resolutions we examine. The clause first emerged in the late 1960s and has been used in nearly every resolution from the mid-2000s onwards. The first resolutions to use the phrase are resolutions 245 and 246, both of 1968 and on the situation of West Africa (later Namibia). The Council uses this phrase with virtually all country situations and thematic resolutions today. The few resolutions that do not contain such clauses relate to other tasks that the Council is endowed with, e.g. the election of judges in the ICJ (cf. Article 4 ICJ Statute), or internal administrative action, e.g. endowing medals of honor (see e.g. S/Res/2154 (2014)).

Not all demands, decisions, requests, or authorizations are necessarily directed at or create legally binding obligations for UN member states. The Security Council standardly makes requests to its sub-organs or other UN organs, such as the UN Secretary-General, e.g. to report on a specific issue or to make a proposal.¹⁰⁷ We address this question below.¹⁰⁸

In this section, we have explored how often linguistic markers that are considered to indicate possible legally binding content occur in Security Council resolutions. We have seen that the Council only rarely references individual articles of the Charter (Article 25: 30 resolutions; Article 39: six resolutions; Article 40: six resolutions; Article 41: 49 resolutions; Article 42: zero resolutions). Over the past three decades, almost half of all resolutions explicitly reference Chapter VII, and more than half contain language from Article 39 UN Charter. Over 80% of resolutions adopted since 2010 contain the verb ‘decides’.

4.3 Co-occurrence of binding language

As discussed in Section 2, the case for bindingness is considered stronger the more linguistic markers for bindingness are present in a resolution. We therefore are interested in how frequently several linguistic markers are used in the same resolution. In the following, we first explore whether explicit references to Charter provisions that mark bindingness co-occur. We find that this is seldom the case. We then turn to the more controversial cases,

¹⁰⁷ A standard clause today is ‘requests the Secretary-General’, which is found close to 200 times, again with the vast majority of this phrasing occurring after 1990.

¹⁰⁸ *Infra*, Section 4.3.2.

namely, where the Council adopts resolutions with ostensibly mandatory language, but without explicit reference to a Charter provision in the text.

4.3.1 Explicit Charter references do not normally co-occur, but they often (though not always) co-occur with Article 39 language

Our research shows that specific Charter provisions do not necessarily co-occur in the Council's practice. Only six resolutions contain a reference to Chapter VII, a reference to Article 25 of the Charter, and language from Article 39 of the UN Charter at the same time.¹⁰⁹ Of the 896 resolutions that explicitly reference Chapter VII, only eight also reference Article 25. Co-citing Chapter VII and Article 25 of the UN Charter is thus the exception. Chapter VII does co-occur with Article 39 language, though not always: 696 resolutions contain both a reference to Chapter VII and Article 39 language, but 200 resolutions that reference Chapter VII do not contain any language from Article 39. Conversely, 404 resolutions containing Article 39 language do not refer to Chapter VII and of those, only 15 contain a reference to Article 25 of the Charter.

¹⁰⁹ S/Res/253 (1968); S/Res/277 (1970); S/Res/460 (1979); S/Res/686 (1991); S/Res/2118 (2013). All of these resolutions also contain the verbs 'request' and 'decide'.

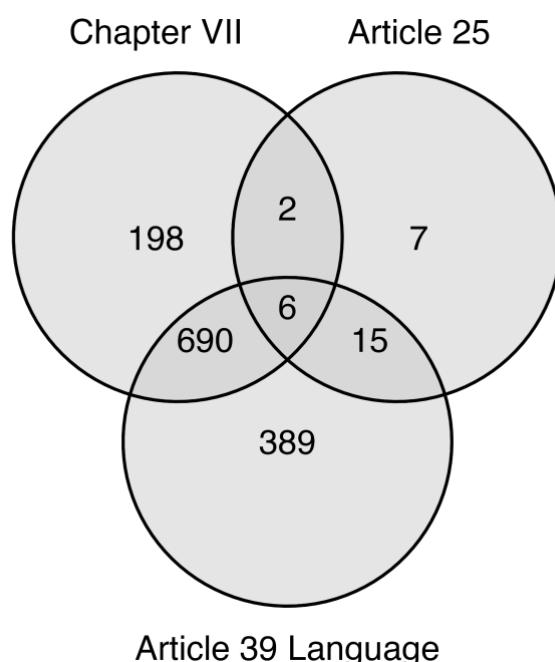


Figure 3: This Venn diagram visualizes the intersection of resolutions containing references to Chapter VII, Article 25, and Article 39 language.

After 1990, when most references to Chapter VII occur, only three resolutions cite both Article 25 and Chapter VII. Two of these three resolutions are from the early 1990s when the language of ‘acting under Chapter VII’ started to consolidate.¹¹⁰ The only other resolution that references both Article 25 and Chapter VII of the UN Charter after 1990 is Resolution 2118 (2013), which is the first of the abovementioned string of resolutions on Syria. In this resolution, the Council does not act under Chapter VII but rather threatens to adopt measures under Chapter VII in case of non-compliance.¹¹¹ No other subsequent resolution

¹¹⁰ Namely Resolutions 667 (1990) and 686 (1991), both on Iraq-Kuwait. Resolution 667 does not contain explicit phrasing from Article 39, but does talk about Iraq’s actions as ‘aggressive acts’ and ‘violations of international law’. Resolution 686 (1991) contains both a reference to Article 25, the phrase ‘acting under Chapter VII of the Charter’, and recalls the task of ‘restoring international peace and security’, thus using phrasing from Article 39 (‘international peace and security’), as well as the verbs ‘demands’ and ‘decides’ with regard to action to be taken by Iraq and a ‘request’ to all other Member States.

¹¹¹ The resolution contains a determination that the use of chemical weapons constitutes a threat to international peace and security, a decision that the Syrian Arab Republic shall not use such weapons or

on Syria references Chapter VII, although all contain a preambulatory clause which determines (with slight variation in the wording throughout the years) that the situation in Syria constitutes a threat to peace and security in the region, and they all contain a reminder that ‘Member States are obligated under Article 25 of the Charter of the United Nations to accept and carry out the Council's decisions’.¹¹²

The scarcity of co-referencing Articles 25 and Chapter VII is of course related to the fact that only thirty resolutions reference Article 25 to begin with. The Council does, in turn, tend to use both language from Article 39 as well as verbs indicating legally binding action when it references Chapter VII of the Charter, although Article 39 language is not as widespread as is commonly assumed amongst commentators.¹¹³ 823 of the 896 resolutions with a reference to Chapter VII also contain a decision other than to remain seized of the matter. Interestingly, this does not necessarily coincide with wording from Article 39 of the Charter: there are 200 resolutions that contain a reference to Chapter VII of the UN Charter but do not

remit them to non-state actors, a demand that non-state actors not develop, acquire, possess or use nuclear, chemical or biological weapons, and a decision that in case of non-compliance, measures under Chapter VII be imposed (at para. 21: ‘Decides, in the event of non-compliance with this resolution, including unauthorized transfer of chemical weapons, or any use of chemical weapons by anyone in the Syrian Arab Republic, to impose measures under Chapter VII of the United Nations Charter’.

¹¹² Resolution 2118 (2013) focuses on the use of chemical weapons and determines that their use constitutes a threat to peace and security.

¹¹³ Sievers and Daws (n 9) state, for example, that ‘[t]ogether with the trend for the Council to cite Chapter VII to convey that a resolution is to be considered as binding, in its contemporary practice the Council has, with some consistency, usually coupled such a citation with a determination of the existence of a threat to peace and security.’, at 391.

at the same time contain language from Article 39.¹¹⁴ Yet, virtually all of these resolutions contain either a decision, a demand, a request, an authorization, or a combination thereof.¹¹⁵

Some 73 resolutions that contain a reference to Chapter VII do not contain the verb ‘decides’, with most of them adopted after 1990. This includes several resolutions in which the Council explicitly acts under Chapter VII.¹¹⁶ Only one resolution, however, calls for action and expressly references Chapter VII, but does not contain any of the verbs we search for: Resolution 1838 (2008) on piracy off the coast of Somalia, which calls upon and urges states, acting under Chapter VII, to take measures against piracy.¹¹⁷ All other resolutions that are adopted under Chapter VII but do not contain an explicit decision still request, demand, or authorize action, or do so in some combination.

¹¹⁴ To recall: this includes the phrases ‘threat to’ or ‘breach of’ ‘international peace’/‘the peace’, and the phrase ‘international peace and security’, and ‘aggression’.

¹¹⁵ Only two resolutions that reference Chapter VII do not contain *any* other indicator for legally binding action, and neither of them contains any request for action, either: Resolution 2390 (2017), which ends sanctions against Iraq (because such sanctions were imposed under Chapter VII, their lifting also requires a Chapter VII resolution), and Resolution 61 (1948) on Palestine, which considers Chapter VII action in case of violation of the truce achieved earlier in the year, but does not undertake any such action.

¹¹⁶ Recent examples of resolutions that do not contain the verb ‘decide’, but action under Chapter VII include Resolution 2335 (2016) on Iraq, in which the Council reaffirmed a previous call on the government of Iraq, or Resolution 2123 (2013) on Bosnia and Herzegovina, in which the Council *inter alia* reaffirmed previous measures, authorized the EU mission EUFOR ALTHEA as a successor to SFOR and all necessary measures to implement the Peace Agreement, and demanded the parties to respect the mission personnel’s security and freedom of movement.

¹¹⁷ S/Res/1838 (2008). The resolution further determines in a preambulatory clause that the situation in Somalia ‘continues to constitute a threat against international peace and security’, thus also employing Article 39 language. There are only two further resolutions in our entire corpus that contain a reference to Chapter VII, but none of the verbs that we search for, namely the aforementioned Resolutions 61 and 2390, but unlike Resolution 1838, these two resolutions do not call upon states for action at all (cf. n 115).

4.3.2 Co-occurrence of Article 39 language with strong verbs, but without explicit reference to Chapter VII or Articles 25 and/or 39-41 of the Charter

Of particular interest is the extent to which the Council adopts resolutions that do not take action under Chapter VII, but might contain decisions that constitute legally binding obligations for states. We have already established that explicit references to Article 25 are few and that, post-1991, Article 25 of the UN Charter has been invoked exclusively in a series of resolutions regarding the situation in Syria and in a single resolution on Iran.¹¹⁸ Such resolutions are thus far and few in the Council's recent practice. We are therefore searching for resolutions that do not explicitly invoke Chapter VII but still might be considered to contain legally binding elements.

To identify resolutions that might be considered to contain legally binding obligations while falling short of action under Chapter VII, threatening such action, or otherwise mentioning Chapter VII,¹¹⁹ we search for a combination of the linguistic markers presented above. We find 377 resolutions that contain language from Article 39 but do not contain an explicit

¹¹⁸ *Supra* Section 4.2.1.

¹¹⁹ We have seen that the Council often refers to Chapter VII, but not because it is 'acting under' this Chapter, i.e. imposing measures, but rather threatens to do so in case of non-compliance with requests, decisions, or demands by the Council. An example would be, e.g., Resolution 2118 (2013) and subsequent Resolutions 2209 (2015) and 2235 (2015) on the use of chemical weapons in Syria, where the Council decides that Syria shall not use chemical weapons and threatens measures under Chapter VII in case of non-compliance. Earlier examples include Resolution 54 (1948) on Palestine ('Declares that failure by any of the Governments or authorities concerned to comply with the preceding paragraph of this resolution would demonstrate the existence of a breach of the peace within the meaning of Article 39 of the Charter requiring immediate consideration by the Security Council with a view to such further action under Chapter VII of the Charter as may be decided upon by the Council') or Resolution 566 (1985) on South Africa ('Strongly warns South Africa that failure to do so would compel the Security Council to meet forthwith to consider the adoption of appropriate measures under the Charter, including Chapter VII, as additional pressure to ensure South Africa's compliance with the above-mentioned resolutions'). The threat of enforcement action to coerce states into compliance indicates that the original resolutions were intended as legally binding.

reference to Chapter VII, Article 25, or Articles 39 through 41. This makes for roughly 15% of all resolutions the Council has adopted between 1946 and 2023, without a big difference in relative terms before and after 1990.¹²⁰ Of the 377 resolutions without explicit Charter references but with Article 39 language, 347 resolutions use one of the strong markers ‘demand’, ‘request’, or ‘decides’.

The following picture emerges: Of these 347 resolutions, 305 contain a request; 188 resolutions contain a decision (not counting decisions to remain seized of the matter); 154 resolutions contain a request and a decision; 91 resolutions contain a demand; 79 a request and a demand; 36 a decision and a demand; 32 a decision, request and demand.

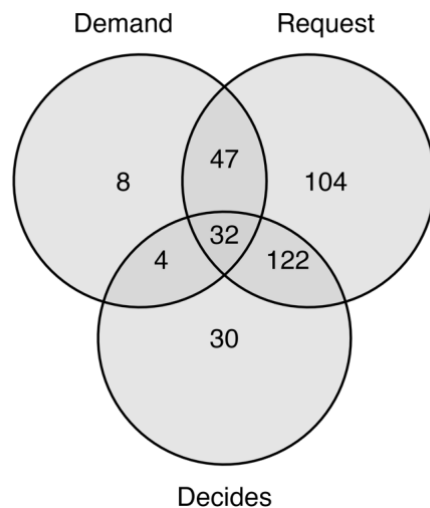


Figure 4: This Venn diagram displays all resolutions that contain Article 39 language, but do not contain an explicit reference to any Charter provision (Chapter VII, Articles 25, 39-41; n = 347). It visualizes how many of these resolutions contain the verbs ‘decide’, ‘demand’ and ‘request’ and their intersection.

¹²⁰ Before 1990, 95 of 646 resolutions contain language from Article 39 without a reference to Chapter VII, Article 39 or Article 25, which is roughly 15%; from 1990 through 2023, 284 of 2075 resolutions, or roughly 14%, exhibit these same properties.

From the above, we see that the number of resolutions that contain one or more strong verbs in combination with language from Article 39, but *without* any further Charter reference that indicates bindingness, is not negligible. After all, more resolutions contain the verbs ‘decides’, ‘requests’, and ‘demands’ in combination with Article 39 language than there are resolutions containing references to Article 25 of the Charter.

However, the addressees of decisions, demands, and requests are not necessarily member states. This is important because the debate centres on legally binding effects upon member states, not other UN organs. The Security Council can make internal requests, e.g. to the Secretariat, or establish sub-organs of the Council, such as committees or missions, and make requests or demands to them. Such resolutions may have binding effects *within* the UN but say nothing about obligations incumbent upon UN member states. Clauses that exclusively make demands or requests from UN internal organs should thus be excluded from the analysis, similarly to the standard phrase ‘decides to remain seized of the matter,’ which we do not count.¹²¹

We identified all the clauses with a strong verb from the above 347 resolutions to explore whom such clauses address. As explained above, we used an LLM to extract the addressee for each paragraph. The 347 resolutions contain a total of 1235 clauses with at least one strong verb. Of these 1235 clauses, 15 clauses do not contain an identifiable addressee. As

¹²¹ See explanation above, *supra* Section 4.2.3.

a result, we have a total of 1220 clauses from 345 resolutions that are directed at different actors. A first observation is that demands and requests typically address more than one actor. A second observation is the generality at which actors are addressed: whilst there are some specific requests to individual states or the Secretary-General as a specific organ within the UN, clauses often address broad groups, such as ‘all relevant UN entities’, or ‘all troop-contributing countries’, ‘all parties to the conflict’, or ‘all neighboring states’. There is a wide variety: The LLM identified several hundred different addressees.

Within these results, we identify, as expected, a large number of clauses that address UN organs.¹²² 757 clauses exclusively address various parts of the UN system, including the Secretary-General (417 clauses are addressed only to the Secretary-General), the Security Council itself, sub-organs such as missions or sanctions committees, UN Special Representatives and Envoys, and broadly ‘relevant UN entities’.¹²³ This means that 463 clauses are not addressed exclusively to the UN system, i.e. they are directed at least in part to actors outside the UN system.¹²⁴ Of these, 310 clauses have states amongst their addressees, i.e. they explicitly make demands or requests or decisions regarding state actors, not more broadly to ‘all parties’.¹²⁵ 112 clauses are directed exclusively at states.

¹²² These include the Secretary-General, the Security Council, various Special Envoys or Representatives, Security Council sanctions committees, different peacekeeping missions.

¹²³ We filtered the addressees by hand, identifying which clauses were addressed exclusively to parts of the UN system, such as the Secretary-General, the Security Council, ‘all relevant United Nations entities’, etc. We excluded clauses that were *also* addressed to state entities.

¹²⁴ Note that this includes cases where UN actors and actors outside the UN system are simultaneously addressed.

¹²⁵ There is quite a bit of variation here: state(s) as addressees are *inter alia* addressed directly (e.g. ‘Eritrea and Ethiopia’; ‘Yemeni authorities’); via their government (e.g. ‘the Government of Iraq’; ‘governments in the

Such clauses include, e.g., several resolutions which demand all member states to comply with a previous arms embargo imposed on Libya,¹²⁶ a demand to the Yemeni authorities to comply with their international law obligations,¹²⁷ or a demand to governments in the Great Lakes region to cease military and financial support to parties to the armed conflict in the Democratic Republic of the Congo.¹²⁸

Recall that these are all resolutions that do not contain any explicit reference to any relevant UN Charter provision. Note also that we did not include resolutions addressed to ‘all parties’ (of a conflict) in our count, which often includes state actors. There is thus a non-negligible number of cases where the Security Council uses strong language that is typically considered indicative of legally binding action without any explicit Charter reference indicating legal bindingness in the same resolution.

5. Consistently using indicators of bindingness? How the Security Council moderates legality beyond Chapter VII

In Section 2, we reviewed the debate on which Security Council resolutions are considered to contain legally binding decisions and which are not. We found that the phrase ‘acting under Chapter VII’ is considered of great importance when indicating bindingness. At the

Great Lakes region’); as part of a larger group (‘all states’; ‘all member states’; ‘all neighboring states’; ‘all troop-contributing countries’). We only included in our count such clauses that were unequivocally directed at state actors, including their armed forces, governments, or authorities, but left out actor groups where status is uncertain, such as clauses directed at ‘parties to a conflict’, ‘factions’, or ‘groups’.

¹²⁶ S/Res/2510 (2020), S/Res/2542 (2020), S/Res/2570 (2021); S/Res/2616 (2021); S/Res/2629 (2022).

¹²⁷ S/Res/2014 (2011).

¹²⁸ S/Res/1468 (2003).

same time, some commentators argue that unequivocal linguistic markers may be omitted for political reasons, even when the Council still intends to take legally binding action.¹²⁹ Where the Council omits a direct reference to relevant Charter provisions, but uses mandatory instead of hortatory language, these resolutions ought, in their view, to be considered as cases of constructive ambiguity.¹³⁰ In this concluding section, we argue against this view: while the data does not show any consistency in how the Security Council marks the legal value of its resolutions outside of explicit Chapter VII references, it does not follow from this lack of systematicity that such resolutions are all cases of constructive ambiguity.

On the basis of the data presented in Section 4, we observe that the Council today almost always uses the phrase ‘acting under Chapter VII’ when it intends to adopt measures under Articles 41 or 42 of the UN Charter, and also typically when it first establishes a peace mission,¹³¹ though not always when it extends a mission’s mandate, as seen in the previous section. This practice has been consistent since at least the mid-1990s, but not before 1990,

¹²⁹ As discussed, such is likely the case for Resolution 2118 (2013) on Syria, see *supra* Section 4.2.1. and Bellinger, ‘The Security Council Resolution on Syria: Is it Legally Binding?’ (*Lawfare*, 28 September 2013) <https://www.lawfaremedia.org/article/security-council-resolution-syria-it-legally-binding>. For the general statement see Wood/Sthoeger (n 16), at 36–7.

¹³⁰ See Wood/Sthoeger (n 16), 41. On constructive ambiguity see M. Byers, ‘Agreeing to Disagree: Security Council Resolution 1441 and Intentional Ambiguity’ (2004) 10 *Global Governance* 165–86 and M. Byers, ‘Still agreeing to disagree: international security and constructive ambiguity’ (2021) 8 *Journal on the Use of Force and International Law* 91–114.

¹³¹ See also Sievers/Daws (n 9), 389, pointing out that the Council tends to cite Chapter VII even when establishing peace missions that do not include an enforcement mandate. Not all peace missions are considered to imply measures under Chapter VII and often, consent of the hosting state of the mission is sought, even if it may not be legally necessary, cf. R. Higgins, P. Webb, D. Akande, S. Sivakumaran, and J. Sloan, *Oppenheim’s International Law: United Nations*, 2 (OUP, 2017), vol. II, Chapter 27, Sections 2 and 3.

when only nineteen resolutions contained explicit references to Chapter VII in over four decades. The phrase ‘acting under Chapter VII’ generally indicates a legally binding commitment, even if the resolution does not explicitly take measures under Chapter VII.¹³² In some instances, the Council has acted explicitly under Article 41. However, this is not standard language.

The few cases where the Council has explicitly referred to specific articles of Chapter VII instead of the wholesale reference to the Chapter illustrate that the Council sometimes diverts from using even its most standard agreed language. The use of Article 25 UN Charter also confirms this. One might believe that the Council uses either a reference to Chapter VII or Article 25 because a reference to Article 25 is not necessary to indicate legal bindingness if the resolution already contains a reference to Chapter VII. Therefore, it is easy to assume that the Council only invokes Article 25 when it does not explicitly reference Chapter VII.¹³³ But the data disproves this point. The Council has, in fact, used Article 25 in several

¹³² E.g. S/Res/1838 (2008) on piracy off the coast of Somalia was adopted under Chapter VII, even if the Council did not use the term ‘decide’ or ‘decision’ in that resolution. This resolution *inter alia* calls upon states operating in the High Seas off of the coast of Somalia to ‘use...the necessary means, in conformity with international law...for the repression of acts of piracy’. Whether this resolution contains legally binding clauses is questionable. It has been argued that the resolution is hortatory because acts are restricted to those ‘in conformity with international law’, and the resolution does therefore not create any new obligations under international law, see D. Guilfoyle, ‘Counter-Piracy Law Enforcement and Human Rights’ (2010) 59 *International and Comparative Law Quarterly* 141–69, at 147. On the other hand, if one follows the analysis submitted by Peters (n 18), at para 11, that the Council can ‘top up’ existing legal obligations through binding resolutions, then this would indicate a legally binding obligation to use the necessary means that are allowed under existing international law. Such an interpretation may find support in para. 8, where the Council limits the applicability of the resolution to the situation in Somalia. Such a restriction would be superfluous if the resolution’s provisions were not considered to be legally binding to begin with. See for this argument also *infra*, text accompanying n 141.

¹³³ As mentioned before, this was arguably the case in the first resolution on Syria, cf. S/Res/2118 (2014).

resolutions where it also explicitly adopts measures under Chapter VII, both prior to 1990,¹³⁴ in 1990/91,¹³⁵ and in one resolution in the 2000s.¹³⁶

Beyond explicit Chapter VII references or references to Charter articles, there is no consistent practice in the UNSC regarding the use of linguistic markers of bindingness. The Council tends to use the term ‘decides’ when it acts under Chapter VII, but has also taken decisions outside of Chapter VII action in almost three hundred resolutions, of which close to two hundred resolutions use language from Article 39. We do not recognize a clear pattern of using other linguistic indicators where the Security Council demands or requests action from states but falls short of adopting measures under Chapter VII. Specifically, there seems to be no consistent use of the term ‘demand’: of the 572 resolutions that contain a demand, 301 also contain a reference to Chapter VII, whereas 271 resolutions do not. In many resolutions that use the word ‘demands’, the Council demands compliance with pre-existing international law obligations, such as compliance with international human rights law, international humanitarian law, or a previously concluded agreement between the parties to a conflict.

For example, in Resolution 246 (1968) on South Africa, the Council does not make any determination under Article 39 and does not explicitly act under Chapter VII. It does,

¹³⁴ S/Res/253 (1968), S/Res/288 (1970).

¹³⁵ S/Res/667 (1990), S/Res/686 (1991).

¹³⁶ S/Res/2231 (2015). Note that in this resolution, the Council did not explicitly reference Chapter VII by using the phrase ‘acting under Chapter VII’, but rather employs the formulation ‘acting under Article 41’ cf. paras. 7, 8, 9, 11, 12, 13, 16, 21, 22, 23.

however, remind member states and South Africa of their obligations under the present resolution and demands that South Africa release unlawfully detained persons from Namibia.¹³⁷ Demanding is used here in a context where it refers to a pre-existing obligation: since the prisoners were unlawfully detained in the first place, there was arguably an obligation to release them.¹³⁸ Similar formulations without any reference to Article 25 and/or Chapter VII and/or explicitly using the term ‘decision’ or ‘decide’ can be found, e.g., in a 1972 resolution in which the Council demands Portugal to ‘stop immediately and definitively any acts of violence and destruction directed against Senegalese territory’¹³⁹ or in a resolution on the conflict in Cyprus where the Council ‘demands that all parties to the present fighting cease all firing and military action forthwith’.¹⁴⁰ These formulations do not create new substantive obligations, but the Council demands compliance with existing legal obligations concerning the non-use of force and respect of territorial integrity. Anne Peters has argued that such demands ‘top up’ existing obligations – such a clause would, in this reading, reinforce an existing international law obligation and confer upon it the status of a Charter obligation, with the consequence that Article 103 UN Charter applies to it.¹⁴¹

¹³⁷ S/Res/246 (1968), para. 2. See on a different matter related to South Africa also S/Res/567 (1985), para. 3, demanding that ‘South Africa should unconditionally withdraw forthwith all its occupation forces from the territory of Angola’, again without references to Article 25 and/or Chapter VII.

¹³⁸ Cf. Article 9 International Covenant on Civil and Political Rights, UNTS vol. 999, p. 171; Article 9 Universal Declaration of Human Rights, A/Res/217 A (1948).

¹³⁹ S/Res/321 (1972), para. 3.

¹⁴⁰ S/Res/357 (1974), para. 2.

¹⁴¹ Peters (n 18), para. 11.

Such language appears in more recent resolutions as well. Beyond the abovementioned resolution on the Gaza war, which demanded a ceasefire for the month of Ramadan,¹⁴² the Council has used the verb ‘demand’ without any further indicator for legal bindingness in different contexts, including a demand that ‘all parties [to the armed conflict in the Democratic Republic of the Congo] fully respect international law, including, as applicable, international human rights law and international humanitarian law...[and] that all parties ensure full, safe, immediate and unhindered access for humanitarian and medical personnel’;¹⁴³ a demand that ‘all sides in Burundi refrain from any action that would threaten peace and stability in the country or undermine the inter-Burundian dialogue’;¹⁴⁴ or a demand to non-state armed actors (here, the Houthis in Yemen) that ‘the Houthis immediately and unconditionally: (a) engage in good faith in the United Nations-brokered negotiations; (b) withdraw their forces from government institutions...; (c) safely release President Hadi, Prime Minister Bahah, members of the Cabinet and all individuals under house arrest or arbitrarily detained’.¹⁴⁵

¹⁴² S/Res/2728 (2024) (n 1); see also the previous Resolution S/Res/2712 (2023), demanding that ‘all parties comply with their obligations under international law, including international humanitarian law, notably with regard to the protection of civilians, especially children’ (at para. 1).

¹⁴³ S/Res/2439 (2018), para. 6.

¹⁴⁴ S/Res/2303 (2016), para. 1.

¹⁴⁵ S/Res/2201 (2015), para. 7. The resolution further demands ‘that all parties in Yemen cease all armed hostilities against the people and legitimate authorities of Yemen and relinquish the arms seized from Yemen’s military and security institutions’, at para. 8. This demand raises the question as to whether the Council can issue binding decisions on non-state actors, one that, given the considerable increase in Chapter VII resolutions addressing non-state actors, should be answered in the affirmative, cf. Fox et al. (n 42).

These examples show two things. First, there are various resolutions for which a case of bindingness is conceivable, even though there is no other linguistic indicator but a strong verb. Second, the question of bindingness cannot be answered based on the data alone – as stated, this has not been the aim of the present article. The data give us certain indications: first, outside the formulation ‘acting under Chapter VII’, there is no consistent linguistic indicator of bindingness; specifically, references to Article 25 are rare. Second, there is considerable practice in which the Council uses strong verbs and explicitly requests or demands that various actors behave in one way or the other. On several occasions, the Council combines such demands and/or requests with a threat to adopt further measures or the use of other Article 39 language. But there is no unequivocal linguistic marker that would allow us to determine whether the Council intended to adopt binding measures.

These results have consequences for the debate on the legal value of the resolutions. Positions that make normative arguments for or against the bindingness of individual resolutions must be able to embed the empirical results into their argument. Even if no normative statement can be directly derived from the empirical study, it does change the premises of the debate. Our results show that the legal practice is inconsistent to the point that intentional constructive ambiguity cannot be assumed for cases where no explicit reference to Chapter VII is made. This is a burden for a normative argument. The empirical results raise the bar and emphasize the need for normative accounts to formulate a consistent explanation of how legal obligations can be recognized.

6. Conclusion

This article has investigated whether the Council consistently uses linguistic markers to indicate bindingness of its resolutions. We have made the case for using quantitative text analysis of Security Council resolutions to uncover specific patterns and uses over long periods of time. Quantitative text analysis is not yet widely used in international legal scholarship but bears great potential, at the very least for an initial dive into a large number of documents. This is especially true of UN documents, which are relatively uniform in structure and use highly formalized language. There lies great potential in quantitative text analysis in international law which should be explored in future scholarship.

As we have made clear from the beginning, the aim was not to use quantitative text analysis to develop a ‘test’ of legal bindingness. Indeed, this seems impossible not least because there is no agreement – neither amongst scholars nor amongst member states – under which conditions a resolution can be considered legally binding. There is some agreement that an explicit reference to the fact that the Council is acting under Chapter VII generally indicates bindingness, though there are some grey areas here as well – not least that this language, as we show, only emerged clearly after 1990.

We have further found that, especially outside of explicit Chapter VII references, there is no consistent use of linguistic indicators that allow for a prediction of bindingness. Article 25 is so scarcely used that it cannot be considered a consistent indicator for bindingness – only

30 resolutions of our entire corpus contain an explicit reference to Article 25, whereas the phrase ‘acting under Chapter VII’ is used in almost half of all resolutions adopted since 1990.¹⁴⁶ There are also no discernible patterns for co-citing Chapter VII with decisions, with almost three hundred resolutions using the operative phrase ‘decides’ without acting under Chapter VII. Lastly, of the 572 resolutions where the Council ‘demands’ action, 301 resolutions contain a reference to Chapter VII whereas 271 resolutions do not.

We present these empirical results as a contribution to the debate on legal bindingness of the Council. Opinions both amongst member states and legal scholars on the bindingness of individual resolutions will likely continue to diverge, unless a resolution both presents language that the Council is ‘acting under Chapter VII’ and explicitly ‘decides’ to take measures. But it does not follow that all resolutions that do not present these two properties are automatically non-binding or intentionally constructively ambiguous. Our results show that the Security Council’s linguistic practice beyond Chapter VII is too heterogeneous to allow for an unequivocal solution. Yet, it is undisputed that the distinction between legally binding and non-binding resolutions in the Council exists. Any legal interpretation must account for the empirical results presented here. Our contribution is to provide a solid empirical basis for this exercise.

¹⁴⁶ See Table 2 and accompanying text.

Data availability statement

An online appendix for this paper is available on Zenodo: <https://doi.org/10.5281/zenodo.21552191>. It provides supplementary information and declarations, along with the complete code and data for empirical analysis and replication.