



Un Security Council Resolutions in the Legal System: Lesson Learned from Singapore

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Abstract: *United Nations (UN) Security Council (UNSC) resolutions (UNSCRs) are adopted by a vote of the five permanent members and ten non-permanent members of the UNSC. Each UNSCR is understood to be part of the "primary responsibility for the maintenance of international peace and security" of the UN. The Indonesian government has been encouraged by various parties to make a legal instrument that would enforce the UNSCRs. Such an instrument would serve to bridge and reduce gaps in the rule of law regarding the enforcement of UNSCRs for nations. However, the government of Indonesia faces several challenges in implementing legal instruments for the UNSCRs. This article maintains that it is crucial to study accommodative policies regarding the national enforcement of UNSCRs by considering the example of Singapore. Singapore has special laws that respond to UNSCRs (The UN Act Chapter 339-UN Act). UN Act 339 is the legal umbrella in Singapore for the government's implementation of UNSCRs. The UN Act is also an attempt by the Singaporean government to carry out its international obligations to the United Nations.*

Keywords: *democratic legitimacy, national law un, security council resolutions, un act chapter 339 of singapore.*

I. Introduction

The United Nations (UN) Security Council (UNSC) is the most powerful international organization in the world, as it can make decisions that bind all member countries in terms of compliance and implementation.¹

For instance, the council can impose sanctions or require military action against a country through the passage of UNSC Resolutions (UNSCRs), a different form of decision from those issued by other major UN agencies. However, a UNSCR, which is legally binding on its members,² is often the

¹ Ian Hurd, *After Anarchy: Legitimacy and Power in the United Nations Security Council* (New Jersey, USA: Princeton University Press, 2007).

² Marko Divac Öberg, "The Legal Effects of Resolutions of the UN Security Council and General Assembly in the Jurisprudence of the ICJ,"

subject of debate. UNSCRs are considered contrary to the legal principle *nec nocent nec prosunt tertiis* in international agreements. This principle is violated in that UNSCRs are binding even on countries that are not members of the UN (countries that have not ratified the Charter or its statutes), as stated in Article 2 paragraph (6) and Article 49 of the UN Charter. The practice by which the UNSCRs are applied varies from country to country. Some countries consider UNSCRs to be self-executing treaties, such that resolutions can be directly enforced in national law. However, other countries consider UNSCRs to non-self-executing.

The active role that the Indonesian government takes in UN shows that Indonesia is committed to strengthening the sustainable global peace and stability. The Indonesian government has played an active role on the UNSC four times as a non-permanent member (1974–1975, 1995–1996, 2007–2008, and 2019–2020). Recently, many parties have encouraged the Indonesian government to create a legal umbrella that would provide enforcement for UNSCRs in domestic. This is considered important for supporting Indonesia's role in the international community. The proposed legal instrument that would function to mediate the enforcement of the UNSCR. It is widely held that the Indonesian government cannot leave a vacuum in the national law to circumvent its international obligations entailed by the mandate of UNSCR.

Several challenges must be surmounted by the Indonesian government in implementing UNSCRs in national law. The first is related to the implementation of Chapter VII of the UN Charter, which impacts individuals' rights and obligations, as well as those of non-state/corporate legal subjects. Recently, a legal state of affairs has emerged, in which international law regulates the state as its legal subject and then regulates the rights and obligations of individuals in a country.³ There has been a paradigm shift in the conception of the binding nature of the UNSCR, marked by the emergence of implementations that could involve individuals' and corporations' rights and obligations.⁴

According to this new paradigm, UNSCR enforcement may conflict with the principle of a national legal system, which requires strict regulation of coercive measures against individuals or cooperatives. History records that the UN Charter was first drawn up to solve the problem of interstate conflict. It was not intended to regulate the conditions that occur in countries that originate from the behavior of non-state actors, mostly individuals or corporations. The articles in the UN Charter, which initially contained states' rights and obligations, have been interpreted by the UNSCR to support the application of force against individuals and corporations⁵ (for examples, see UNSCR No. 1267 and UNSCR No. 1373 on countering terrorism). The adoption of UNSCRs and the

The European Journal of International Law 16, no. 5 (2006): 885; Anna Spain, "The U.N Security Council's Duty Decide," *Harvard National Security Journal* 4 (2013): 325–26.

³ Setyo Widagdo and Et.al, *Hukum Internasional Dalam Dinamika Hubungan Internasional* (Malang: Universitas Brawijaya Press, 2019).

⁴ Rika Kurniaty, "The Right to Democracy Arrangement Under International Law," *RechtIdee* 14, no. 2 (2019): 288–300.

⁵ Several coercive attempts against individuals or corporations in the UN Security Council resolution are generally related to arms embargoes, travel bans, asset freezing, commodity bans, transportation bans, diplomatic restriction, bans on the proliferation of sensitive goods, and financial restriction.

coercive measures contained in them have led to a clash in terms of legality, to be enforced at the national level.

The ability of UNSCRs to administer the use of force⁶ have raised conflicts between the globalization of international security and the democratic legitimacy of the use of UNSCRs to impinge on the rights and obligations of individuals or corporations operating within the boundaries of national jurisdictions. This conflict indicates differences in approach between international and constitutional law. International law requires that the entire international community (with the exception of national legal sovereignty over citizens and their corporations) be willing to prioritize the application of force to maintain international security. For the perspective of constitutional law, UNSCRs do not have more weight than a moral norm that cannot be applied directly without going through democratically legitimate processes such as those followed in developing national legislation. Thus, the UNSCRs are a form of soft law that cannot bind third parties, as the involvement of the subject in the decision-making process is limited to representation by the five permanent members of the UNSC.

In practice, many UN member countries only selectively enforce UNSCRs, in line with their national interests at the national level. One example of a country that has adopted legal instruments to accommodate the implementation of UNSCRs is Singapore. Singapore created rules to minimize the legal gap between UNSCRs and the problems that have arisen when the government must

enforce UNSCR at the national level. Singapore's government enforces specific laws that govern the national implementation of UNSCRs, known as The UN Act Chapter 339 (UN Act).⁷ The UN Act is a legal umbrella for implementing UNSCRs by the Singaporean government. The UN Act represents the Singaporean government's attempt to carry out its international obligations to the UN.

This article examines and discusses several significant issues related to the need for national rules to implement UNSCRs in Indonesia. The remainder of the article is structured as follows. The following section presents the ways in which the binding power of UNSCRs function as international instruments; the regulation allowed by the 1945 Indonesian Constitution for the enforcement of international treaties; the establishment of a national legal umbrella for UNSCRs in Indonesia; and the approach taken by the Singaporean government (through the UN Act Chapter 339) to implement the UNSCRs to balance international and national security interests. This is followed by the conclusion of the study.

II. Legal Materials and Methods

This article analyzes the arrangement of legal instruments for applying UNSCRs in national law.⁸ The statute approach and the case approach are used to investigate the practice of implementing UNSCRs carried out by the Indonesian government and the

⁶ Jessica Priscilla Suri, "The United Nations Security Council Resolution on Sanctions Towards Individual from the Perspective of International Law," *Padjajaran Journal of International Law* 3, no. 2 (2019): 203.

⁷ Li-Ann Thio, "International Law in the Courts of Singapore: No Longer a Little Island?," *Asian Yearbook of International Law* 19 (2013): 1–62.

⁸ Ian Hurd, "Choice and Methods in the Study of International Organizations," *Journal of International Organizations Studies* 2, no. 2 (2011).

Singaporean government through the UN Act Chapter 339.

Secondary data, namely legal materials obtained from library materials, are used. The materials include the following:

- a. Primary legal materials: The Charter of the UN 1945; the UN Act (Chapter 339) of Singapore; Indonesian Joint Regulation of the Minister No. 231/2015 Concerning Inclusion of the Identity of Persons and Corporations in the List of Suspected Terrorists and Terrorist Organizations; and Immediate Blocking of Funds Owned by Persons or Corporations Listed in the List of Suspected Terrorists and Terrorist Organizations; and the Basic Principles and Guidelines on the Rights to a Remedy and Reparation for Victims of Violations of International Human Rights and Humanitarian Law 1945.
- b. Secondary legal materials that provide an explanation of the primary legal materials.
- c. Tertiary legal materials that provide instructions and explanations for primary and secondary legal materials.

III. Results and Discussion

The Binding Power of UNSCRs

International law has long been considered a quasi-legal instrument and has been the object of much criticism from some legal experts. Criticism of international legal instruments has also been aimed at the legitimacy of international organizations (such as the UN, which is one of the institutions that can issue and establish

binding international legal products). One example of the criticism of this international organization's legitimacy can be found in the UNSC's response to the request of the US for authorization to attack Iraq and depose Saddam Hussein, made on October 25, 2002. The UNSC rejected the request, but the US attacked anyway.⁹ Even though it was not following a UNSCR, this action led to debate among scholars.

The decisions made by international organizations are still a critical element in discussion. In this era of globalization in particular, the world is colored by the growing power of international institutions and legitimate or legitimate organizations. Such international institutions include the World Bank, the International Monetary Fund, the Multilateral Investment Guarantee Agency, NATO, the Organization of African Unity, the Inter-American Development Bank, the European Council, the European Union, ASEAN, and the World Trade Organization. The UN Charter itself even recommends the creation of more specific regional organizations and intergovernmental organizations, such as the Asia-Pacific Economic Cooperation. These international organizations are legitimate, and decisions made by them are considered valid. Thus, it is not an exaggeration to say that these international organizations have legitimacy in the eyes of the international community.¹⁰

The UNSC has the authority to make decisions and take action on behalf of the

⁹ W. F. Donaher and R. B DeBLOIS, "Is the Current UN and US Policy Toward Iraq Effective?," *The US Army War College Quarterly: Parameters* 31, no. 4 (2001): 4.

¹⁰ Sumaryo Suryokusumo, *Hukum Organisasi Internasional* (Jakarta: Penerbit Tatanusa, 2015).

global community.¹¹ The positions of its members have more influence, therefore, than those of the individual members of the UNSC. The UNSC has strong legitimacy, as its position and role represent the international community's collective views. The strength of collective legitimization is a potential source for the acknowledgment of the legitimacy of the UNSC's attitudes and actions by the international community.¹²

The idea of collective legitimization has existed since 1966, but it is still relevant to current conditions. The non-permanent members of the UNSC show that the character of collective legitimization is more robust than it has been in previous periods. The increase in the number of members of the UNSC can be interpreted as an effort to provide greater space for countries beyond the UNSC's permanent members to be involved in the decision-making process produced by the institution. Over the following 30 years from its first presentation, Claude's idea of collective legitimization was strengthened by David D. Caron's article "Governance and Collective Legitimation in the New World Order," in which he stated that collective legitimization is a soft feature and is sometimes significant for international organizations and governments.¹³ However, there collective legitimization can be misused, with the consequence that the relevant international organization and community will pay for it.

It should be noted that the basis for the formation of the UN Charter is as a guide for the international community. When it was founded, the PBB was drafted to resolve

issues between countries or to clarify interstate issues. The articles in the UN Charter have been interpreted broadly in various UNSCRs to support the use of force against individuals/corporations. The use of UNSCRs on non-state actors is carried out concerning countering terrorism. Counter-terrorism is carried out through UNSCR No. 1267 and UNSCR 1373. The stipulation of UNSCR No. 1267 and UNSCR 1373 and the coercion called for therein against non-state actors have resulted in a clash of legal principles in terms of national enforcement. This resolution is related to the coercive measures available to a government and its organs, which can only be carried out in the case of a prior arrangement. Thus, countries must formulate national legislation that can minimize the legal gaps and problems that have arisen so far. It is to be expected that the national legal framework can regulate the state's ties to the UNSCR by prioritizing national interests.

Amid the various considerations related to the need for domestic rules in implementing the UNSCR, we should note to Article 25 of the UN Charter. Article 25 states that: "The Members of the United Nations agree to accept carry out the decisions of the Security Council in accordance with the present Charter," which means that the members of the UN agree to accept and implement the decisions of the UNSC. It can be concluded from Article 25 that all member states of the UN agree to accept and implement UNSC decisions and in that article. The UNSC also makes decisions that have binding force, including the UNSCRs. Such decisions have

¹¹ Gadi Ezra, "The Saga of 'Global Legislation,'" *International Law Studies* 99, no. 2922 (n.d.): 98–100.

¹² A. Ahrnens, "A Quest for Legitimacy: Debating UN Security Council Rules on Terrorism and Non-Proliferation" (Swedia University, 2007).

¹³ Erik Voeten, "The Political Origins of the UN Security Council's Ability to Legitimize the Use of Force," *International Organization*, 59(3), 527–557 59, no. 3 (2005): 527–57, <https://doi.org/https://doi.org/10.1017/S0020818305050198>.

the consequence that, consciously or not, whatever the UNSC decides concerning its function in resolving disputes, the parties concerned must carry it out. This commitment entails that UNSCRs that are produced in accordance with Chapter VII of the UN Charter, must immediately be implemented and enforced at the national level, without passing through any initial analysis and consideration before ratification, as is the usual course of an international treaty produced by the state. This commitment is independent of the extent to which a country has monist or dualist in its approach to implementing an international treaty in its domestic law. A UNSCR is not a self-executing treaty because its formation falls outside of the generally accepted negotiation process. Thus, in general, the location of the binding power of the UNSCR is in the UN Charter, in particular, Article 25.

Furthermore, to be valid and have legally binding power, the resolution decision-making process must meet the requirements of Article 27 of the UN Charter, which, in paragraph 3, states that all UNSCRs for international dispute resolution require a vote. A vote requires that nine members of the UNSC must vote in favor, including the five permanent members of the UNSC, to pass decisions on non-procedural matters. For decisions on issues that are not procedural, any permanent member state of the UNSC can veto. Thus, a veto or no vote from the permanent members can prevent the adoption or approval of a proposal, even if it has otherwise received the necessary number of votes in favor (as many as nine votes of its members). If one of the UNSC's permanent members issues a veto, then the resolution

does not apply and has no legally binding power.

The UNSC resolution is binding not only to member states of the UN but to countries that are not members of the UN, as stated in Article 2 paragraph (6): "The Organization shall ensure that states which are not Members of the United Nations (UN) act in accordance with these. Principles so far as may be necessary for the maintenance of international peace and security." Thus, a country that is neither a member of the UN nor of the UNSC can be subject to an obligation to implement and be bound by a UNSCR. This also applies where the country is a party to the dispute. According to the understanding of the UNSC, a country in such a position threatens to jeopardize international peace and security.¹⁴

The critical question arises: are sanctions to be imposed on countries that ignore the UNSCR? When a country does not comply with a UNSCR, the UNSC can impose both non-military and military sanctions. This is regulated under Articles 41 and 42 of the UN Charter. Article 41 of the UN Charter states: "The Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the members of the UN to apply such measures. These may include complete or partial interruption of economic relations and of "rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations." This article provides for acts of violence that do not include the use of military force. These would include the complete or partial termination of economic relations (including by land, sea, air, post and

¹⁴ Marthinus Omba, "Tanggung Jawab Dan Peranan Dewan Keamanan Perserikatan Bangsa-Bangsa Dalam Memelihara Perdamaian Dan Keamanan

Internasional," *Indonesian Journal of International Law* 5, no. 4 (2008): 766–88.

telegraph, radio, and other means of communication), as well as the termination of diplomatic relations.

If efforts rooted in Article 41 of the UN Charter are not successful, action can be taken based on Article 42 of the UN Charter, which states: “Should the Security Council consider that measures provided for in Article 41 would be inadequate or have proved to be inadequate, it may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations.” Article 42 stipulates that if efforts based on Article 41 are not practicable, the UNSC can take action, using the army, sea, and air forces that may be needed to maintain international peace and security. The actions regulated in Article 42 are intended to show the power of enforcement of the UNSC against countries involved in international disputes to enforce compliance with the UNSCR for the sake of maintaining international security and peace.

How Does 1945 Indonesian Constitution Regulate the Enforcement of International Agreements?

In its Article 11, the 1945 Constitution of Indonesia deals with arrangements regarding international law together with the presidential power to declare war and make peace. However, its discussion of international treaties is so short as to be ambiguous. Article 11 of the 1945 Constitution falls under the chapter on the Powers of the State Government. Article 11, therefore, only regulates the authority of the

President to make international agreements. The mechanism for making international agreements and their relationship to the Indonesian national legal system is not regulated in Article 11 of the 1945 Constitution.¹⁵

When a state must determine when an international treaty is considered to be law in the national order, it can follow the incorporation doctrine or the transformation approach. The choice between the doctrines is an internal procedure followed in ratifying an international treaty.

As a rule, which is further regulated under Article 11 of the 1945 Constitution, the internal procedure for ratifying international treaties in Indonesia is regulated in Article 9 Paragraph (2) of Law No. 24 of 2000 Concerning International Treaties. Here, an international agreement that has been ratified, both internally and externally, is not ratified by a law or a presidential decree but through the delivery of an international agreement instrument of ratification. Therefore, the law or presidential decree is only an internal procedure for ratification.

Article 9 of Law No. 24 of 2000 Concerning International Treaties also does not entirely and clearly discuss the substance of the internal procedures for ratifying international treaties. This is indicated through several debates related to the laws and presidential regulations that ratify an international agreement to transform the international agreement into national law. Another opinion states that presidential laws and regulations are subject to the approval of the DPR or the president, who incorporates international treaties into national law. International treaties apply in Indonesia in their original

¹⁵ H. Nasution and F. Nurangga, “Mekanisme Penerapan Intervensi Kemanusiaan Dalam Hukum

Nasional Indonesia,” *Jurnal Penelitian Hukum De Jure* 20, no. 2 (2020): 189–204.

form per international legal norms. According to this last view, the law or presidential stipulation is a form of approval by the DPR that binds them to international agreements in the international order. Thus, Law No. 24 of 2000 Concerning International Treaties does not separate internal procedures from external procedures for ratifying international treaties in Indonesia. Internal ratification, as understood in the science of legislation, is very different from external procedures of ratification. Ratification in the form of an act ratifying international treaties in general does not constitute binding itself to a particular international agreement as referred to in Article 2 (1) b of the Vienna Convention on The Law of Treaties 1969.

The position of international treaties within the Indonesian national legal system that stipulates laws or statutory regulations under the law does not apply if its application is contrary to the provisions of international agreements that do apply in Indonesia. Changes in the position of international treaties in the Indonesian national legal system accord with the primacy of national law monism. International agreements do not transform; that is, international agreements retain their original form. International treaties are recognized as a source of national law. The interaction between national law and international law is more clearly visible than that separating the national legal system from the international one. International treaties do not lose their international character, namely their rights and obligations, as such treaties are laws that transform the contents of international agreements to have force in national law.¹⁶ Thus, to resolve this,

the hierarchy of laws and regulations under Law No. 12 of 2011 concerning the Establishment of Legislations must be revised to give national agreements a place as a source of Indonesian national law that is not regulated in Article 11 or in other articles of the 1945 Constitution.

National Legal Umbrella for the UNSCR in Indonesia

The decision-making process in the UNSC cannot be carried out by one country alone. It requires joint effort to create world peace and security. This joint effort produces norms that need to be obeyed by all UN members following the mandate of Article 25 of the UN Charter. Countries are required to have a legal framework to implement the UNSC's decisions.

In Indonesia, the establishment of a national legal mechanism as a legal umbrella (umbrella rule) for implementing international organizations' decisions, such as UNSCRs, is considered essential for implementing foreign policy. As with other UN member states, Indonesia is bound by Articles 25 and 49 of the UN Charter regarding various UNSCRs. The existence of a legal umbrella is expected to provide a clear mechanism for the implementation of UNSCRs that relate to national interests and do not conflict with national provisions. The national legal mechanism should reduce the gap between national law and international law to implement the UNSCR, following applicable legal principles.

One challenge in the Indonesian government's implementation of UNSCRs is related to the legality principle of the

¹⁶ Setyo Widagdo and Rika Kurniaty, "Prinsip Responsibility to Protect (R2P) Dalam Konflik Israel- Palestina: Bagaimana Sikap Indonesia?,"

Arena Hukum 14, no. 2 (2021): 314–27, <https://doi.org/http://dx.doi.org/10.21776/ub.arenahukum.2021.01402.6>.

UNSCR, which leads to a forced attempt in the form of punishment with a national scope. No punishments can be imposed on all legal subjects, except by means of Indonesia's existing laws and regulations. To implement a UNSCR that contains an element of enforcement, Indonesia's government depends on its judicial power. In this case, the UNSCR can be interpreted as a formal source of law in the form of a treaty. Thus, the resolution acquires a position similar to that of other formal sources of law worth the judge's consideration, such as statutory regulations, customs, and jurisprudence.

The UNSC does not provide a model for implementing sanctions in the domestic realm. A main difficulty for domestic courts in implementing a UNSCR is when the aggrieved party objects to an action. Sanctions imposed on individuals or entities do not result from legal proceedings that are carried out at the domestic level, imposing difficulty on the court in carrying out the judicial process. Generally, the aggrieved party then files a lawsuit at the constitutional court. Because the role of the domestic judiciary role is very important in implementing the UNSCRs, this should also be regulated in provisions dictating the manner of imposing UNSC sanctions at the level of national law. The government, therefore, needs to determine steps to minimize obstacles to implementing decisions generated at the international level at the national legal system to develop legal procedures that can have legal certainty.

Furthermore, the decisions of the UNSC are not always specific regarding the limits on the implementation of sanctions imposed, such as UNSCR 1373. UNSCR 1373 emphasizes that each member state must freeze assets suspected of being linked to acts of terrorism. This resolution does not provide

a specific explanation of who the sanctioned subjects are, so the interpretation is submitted to each country's own governance. The absence of a subject explanation regarding the target of sanctions produces uniformity in its implementation. On the other hand, the UNSCR 1822 precisely determines the subject to be sanctioned by asset freezing to make it easier for certain countries to implement the sanctions. In the implementation of UNSC sanctions at the national level, interpretation is concentrated on the content of the resolution content.

To clarify the application of the UNSCR decisions, we need to analyze the principles of monism and dualism in international law. An examination of the literature and the opinions of jurists indicate that Indonesia does not hold a rigid position with respect to monism or dualism. Indonesia's dynamic relationship to these two perspectives creates the dilemma whether to subordinate national law to international law or prioritize national law over international law. Here we should look at Law No. 24 of 2000 Concerning International Treaties, whose Article 10 states that the ratification of international treaties is carried out according to law when it relates to matters of politics, peace, defense, and state security; changes in territory or determination of territorial borders of the Republic of Indonesia; sovereignty or sovereign rights of the state; human rights and the environment; the establishment of new legal norms; or foreign loans and/or grants. Article 10 of Law No. 24 of 2000 regulates that these agreements must be established or outlined in law, as it is related to political issues, peace, and state security for implementing the UNSCR in Indonesian national law.

In taking steps to create a legal umbrella for implementing the UNSCR, the government

must incorporate the Law of the Republic of Indonesia No. 12 of 2011 concerning the Formation of Legislation. Articles 5 and 6 of the law stipulate that legislation must meet several criteria relating to clarity of formulation and import; appropriate forming of institutions or officials; suitability of types, hierarchies, and contents; ability to be implemented; usability; and openness. Furthermore, Article 6 states that the content of the legislation must reflect principles of protection, humanity; nationality; kinship; archipelago; unity in diversity, justice; equal position in law and government; legal order and certainty; and balance and harmony.¹⁷ Article 6 of Law No. 12 of 2011 indicates that the government of Indonesia should pay attention to the principles of order and legal certainty when making laws to implement UNSCRs.

In determining the right legal framework to implement the UNSCRs and decisions of other international organizations, the Indonesian government must first meet several challenges, including:

- a. Whether Indonesia will bind itself to all decisions of the international organizations to which Indonesia is a member or only follow decisions aligned with Indonesia's national interests.
- b. Which authorities/institutions are given the mandate to determine whether an international organization's decisions are in line with or not with Indonesia's own national interests and which authorities/institutions are given the role of forming a national legal framework to implement the international organization's decisions.

These challenges must be studied and resolved by the drafters of the legal framework for implementing international organizations' decisions in Indonesia. The intent must be to provide legal certainty for the implementation of decisions by international organizations while strengthening Indonesia's role as an actor regarding national peace and security. Indonesia may be able to learn from Singapore's experience and its UN Act. At the very least, Singapore has shown that its UN Act can play the role of a bridge for Singapore as international legal norms are transformed, including the regulation of the rights of individuals in the realm of national jurisdiction UNSCR regulating, into national law. The UN Act has supported Singapore's commitment to the UNSC without requiring consultation with agencies/ministries on the dynamics of specific UNSCRs, of the sort that will always emerge. When there is a need from the Singaporean government to adopt a UNSCR, the UN Act becomes the legal basis for Singaporean ministries and agencies to implement this at the national level by establishing technical provisions. These technical provisions do not require further consultation with parliament.

The Singaporean UN Act Chapter 339: Article 25 of the Implementation of the UN Charter

The Singaporean government has considered national regulations that would have a legal effect on the UNSCRs. Such effects are carried out through a special law that regulates the national implementation of UNSCRs, otherwise known as the UN Act Chapter 339. With the UN Act, Singapore

¹⁷ Eric Hendra, "Sekuritisasi Dalam Kerangka 'R2P' Dan Intervensi Kemanusiaan: Dilema Antara

Legalitas Dan Legitimasi," *Jurnal Hubungan Internasional* 3, no. 2 (2015): 131-41.

intended to establish a legal umbrella for the national implementation of UNSCRs to carry out its international obligations to the UN and fill the legal void (legal lacuna) that occurred on this point. The UN Act was developed amid a debate on the increasingly prescriptive obligations mandated by the UNSCR with enforcement against individuals and corporations (non-state actors). The UN Act was formed from a consideration of the national implementation of the UNSCR, which arose as a form of implementation of Article 41 of the UN Charter regarding measures not involving armed forces, especially apprehension and trial, and financial measures against individuals or groups.

The drafting of the UN Act was begun and completed in 2001 in response to the development of UNSCR 1373 regarding the national obligation to compile a national listing of individuals linked to terrorists or terrorist groups.¹⁸ Before 2001, implementation of UNSCRs in Singapore was carried out on a case-by-case basis. Before 2011, several national provisions were deemed insufficient to bridge the gap between the mandate and obligations of the UNSCR and its implementation at a national level. There are at least two gaps that Singapore sought to fill regarding the national implementation of the UNSCR, namely, the speed of implementation of the UNSCRs and the implementation of the new legal rules.

Regarding of the speed of implementation of the UNSCR, before 2011, the Singaporean government applied a piecemeal approach. However, the approach previously adopted by Singapore cannot fulfill the need to implement UNSCR. The piecemeal approach,

in particular, cannot cope with the spread of acts of terrorism in some areas. In addition it cannot support novel legal principles that need to be established or introduced at the national level, as mandated by the UNSCR. For example, Singapore's national legislation prior to 2001 does not address asset freezing without delay under the UNSCR for Singaporean citizens who are known to be involved in terrorist financing abroad. The available national legislation is only capable of freezing the assets of Singaporean citizens who are involved in funding terrorism domestically.

Apart from helping transform the rule of law contained in the UNSCR as an international legal instrument and implementing it in national law, the UN Act is considered to have a positive influence in several ways, as follows:

- a. The UN Act provides an intensive cross-ministerial forum for coordination that promotes it in the form of a national committee. With the UN Act, cross-ministerial concerted efforts among related institutions can be carried out. Each implementing agency can recognize the tasks that must be carried out in response to the emergence of UNSCRs. It should be noted that the sectoral imbalances that generally arise in Singapore are due to the existence of the main functions of the relevant ministries or institutions, which are structurally separated.
- b. In particular, to encourage coordination across ministries and related institutions, Singapore formed a committee related to the implementation of UNSCRs under the

¹⁸ C. H. Tham, "Terrorist Property Rights in Singapore: What's Left after the United Nations

Act 2001?," *Singapore Journal of Legal Studies* July (2002): 176–213.

Coordination of the Ministry of Foreign Affairs. The Ministry of Foreign Affairs' role in the committee is to get the full support of the relevant Ministries/Agencies (such as the Ministry of Law, which assists in preparing national technical provisions). The entire mechanism for drafting national technical provisions is supported by the Singapore Attorney General's Office in reviewing the relevant aspects of the available national law. This structure is intended to support the effectiveness of implementation of the UNSCR without colliding with national interests.

c. As the legal basis for implementing the UNSCR, the Singapore UN Act is the umbrella law as the primary reference for the ministries or related institutions to form technical provisions for implementing the UNSCR. The technical provisions related to the UN Act include:

1. United Nations Anti-Terrorism Regulation Measures
2. United Nations Freezing of Assets of Persons Related to Sudan
3. United Nations Sanctions Related to the Democratic People Republic of Korea
4. United Nations Sanction Related to Iran
5. United Nations Sanctions Related to Yemen

None of these technical provisions now require a political process in parliament. Thus every obligation that arises under the UNSCR is allowed to be implemented immediately at the national level. The UN Act only requires Singapore's government to

inform the parliament of the promulgation of technical provisions, without requiring further consultation.

- d. As noted in points a and b above, intensive coordination is required by the UN Act to enhance awareness-raising actions. The growth in awareness can also be carried out in a positive manner, considering that each ministry or institution can carry out dissemination according to its own function.
- e. The UN Act is meant to be the legal basis for the enforcement of UNSCRs selectively under national interests arising from previously available national provisions. These national provisions are primarily related to national monetary and financial regulations. Due to the existence of the UN Act existence, Singapore's financial authority has the ability to postpone the implementation of the UNSCR in the event of conflicting financial and monetary regulations.

Furthermore, the implementation of the UN Act has enabled the implementation of other national legislation. Singapore has enacted laws related to strategic trade control that apply to countries subject to UNSC sanctions through the Singapore Regulation of Import and Exports Act (RIEA). Through the RIEA, some contraband materials, especially those related to the development of weapons of mass destruction, can be controlled by traffic. However, the RIEA does not reach further for items that are not explicitly related to nuclear and radioactive materials. For example, the RIEA cannot be used to prohibit luxury goods, in that this category is not affirmed in the harmonized system by the relevant UNSCR. This luxury goods category has created ambiguity in the restriction of luxury

goods through Singapore. The said UNSCR cannot touch goods categorized as contraband material that only cross Singapore in transit without transshipment or dropping off goods at ports in Singapore. The UN Act is thus a catch-all mechanism that helps implement strategic trade control by Singapore according to the mandate given by the UNSCR.

IV. Conclusion and Suggestions

In summary, the legally binding power of UNSCRs in resolving international disputes is regulated in Articles 25 and 27 of the UN Charter. From these articles, all parties must accept and implement the decisions of the UNSC, both UN member countries and non-member countries. Following Article 2 paragraph (6) of the UN Charter, The UNSC may sanction violations of UNSCRs. The sanctions are regulated under Articles 41 and 42 of the UN Charter. Such coercive actions create rights and obligations that must be carried out by all parties concerned in complying with a UNSCR, including Indonesia.

The Indonesian government is still facing several challenges in implementing UNSCRs, especially regarding the implementation of Chapter VII of the UN Charter, which contains impacts that may involve rights and obligations toward individuals and legal subjects. Indonesia does not yet have the appropriate instruments and modalities at the national level to serve as an umbrella for the Indonesian government to implement the provisions contained in UNSCRs. The legal umbrella in question would be a law taking into account that UNSCRs will impact the rights and obligations of the state. However, the implementation of UNSCRs in the form of law will limit the sovereignty and territorial integrity of the Republic of

Indonesia. Therefore, this study suggests that Indonesia may learn from Singapore, specifically its UN Act Chapter 339. The UN Act is an effort by the Singaporean government to carry out its international obligations to the UN. This act provides a concrete example of the need for cross-ministerial/institutional coordination in supporting the implementation of the UNSCRs, either through the preparation of technical provisions or through joint legal efforts to increase stakeholder awareness.

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