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## **THE INTERNATIONAL COURT OF JUSTICE: JURISDICTION, PROCEDURES AND FUNCTIONS**

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### **ABSTRACT**

The International Court of Justice is generally called the most influential judicial institution of the world for its world-wide contentious jurisdiction, final interpreter of the various international laws and authority over almost all nations. However, many professionals and law students have vague picture of the functioning of the court: they have concise information about the more visible, 'famous' cases, but less knowledge about its jurisdiction and how a case is drafted there. As mainly the nations and their foreign ministries are involved in it, its relevance does not come in day to day life of common citizen or even the indigenous lawyers. Nevertheless, one decision of this International Court can affect millions of people of a nation. As professionals in the legal field, we shall be aware of all the intricacies and viewpoints of this court. This research article aims to critically analyse the elements, structure, procedures and working of the International Court of Justice. This research article, through doctrinal research, further explores the contentious and advisory jurisdiction, international laws that are applied and accepted in the court, and drafting of a case in the court. This analysis provides ideas for the jurisprudence of the court and its role in the global realm.

### **INTRODUCTION**

The International Court of Justice (hereafter referred as ICJ), sometimes also acknowledged as the World Court, is one of the six head organs of United Nations (hereafter referred as UN).<sup>1</sup> It resolves questions between countries as per the international laws and offers warnings and suggestions on global lawful issues. The ICJ is the only worldwide court that adjudicates wide-ranging quarrels between countries, with its verdicts and assessments filling contribute as vital origins of the global law. The League of Nations had set up Permanent Court of

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<sup>1</sup> U.N. Charter art. 92.

International Justice (hereafter referred as PICJ) in 1920. The ICJ officially replaced PICJ in 1946. The ICJ was established in June 1945 by United Nations Charter and in April 1946 started its functioning.<sup>2</sup> A vital novelty presented by the ICJ Statute was its operational interrelationship with the UN Charter. The ICJ was merged into the UN, and the ICJ Statute became a fundamental part of the Charter of United Nations.

The UN Charter's Article 92 implies that Statute of ICJ is based on the Statute of PICJ and also states that "ICJ is the principal judicial organ of the United Nations". All countries of the United Nations are bound with ICJ Statute and can start contentious cases but advisory procedures can be initiated by only specialized agencies and organs of the UN. The ICJ is composed of board of fifteen adjudicators chosen by the United Nations General Assembly (hereafter referred as UNGA) and the United Nations Security Council (hereafter referred as UNSC) for the term of nine years.<sup>3</sup> Near about one adjudicator of a given ethnicity can serve on the court, and on the whole, should speak to chief civic establishments and general sets of laws of the world.

The ICJ sits at Peace Palace in The Hague. From six principal organs of the UN, it is the single one that is not situated in New York. Its authorised operational dialects are French and English.<sup>4</sup> All member states in the UN are ipso facto members to the ICJ Statute. Non-member states of the UN can also submit and get involved with the Statute, subject to the terms which are controlled by the UNGA on advice of the UNSC. The ICJ formally reports to the UNGA. The Court sits in the Peace Palace, alongside different organizations and judicial institutions dealing with the international laws. The court has capacities to settle lawful debates as per the international laws, presented by the nations.

### **BACKGROUND OF THE INTERNATIONAL COURT OF JUSTICE**

Uncommon carnage of the World War I prompted to the establishment of the League of Nations, set up in 1919 at the Paris Peace Conference, as principal overall intergovernmental association aimed toward keeping up harmony and aggregate safety in the world. The foundation of Permanent Court of International Justice (PCIJ) was mandated by the League's

<sup>2</sup>*History of the Court*, ICJ (April 01, 2021, 10:05 AM), <https://www.icj-cij.org/en/history>.

<sup>3</sup>*Members of the Court*, ICJ (April 01, 2021, 10:15 AM) <https://www.icj-cij.org/en/members>.

<sup>4</sup> I.C.J. Statute art. 39, ¶ 1.

Covenant, that will arbitrate any global debate submitted to it by the conflicting countries, and give advice upon any question alluded to it by League of Nations.<sup>5</sup> Following the pinnacle of movement in 1933, the PCIJ started to decrease in its exercises because of the developing global pressure and non-interference that described the period. The World War II led to the shut down the Court, which have given its last requests and verdicts in 1940. In 1942 the USA and the Great Britain together proclaimed to help for building up and restoring the global court after the war.

In 1943, the United Kingdom of Great Britain, led a board of law specialists of different countries i.e. "Inter-Allied Committee" and assembled them to talk about this issue.<sup>6</sup> The PCIJ met for a last time in October 1945 and set out to move its files to its replacement at Peace Palace. The adjudicators of the PCIJ all resigned with the appointment of the adjudicators for ICJ occurring at first session of the UNGA and the UNSC. In April 1946, the PCIJ was officially terminated. Rules of the International Court of Justice, which are mentioned in the Article 92 of the UN Charter, is a vital part of the UN Charter. "In June 1945, the UN Charter established the International Court of Justice and it began its working in April 1946."<sup>7</sup>

## **COMPOSITION, BENCH AND CHAMBERS OF THE INTERNATIONAL COURT OF JUSTICE**

### **1. COMPOSITION**

The ICJ is composed of fifteen judges/adjudicators chosen for a term of nine years, by the UNGA and UNSC from list of individuals nominated by the member states in the Permanent Court of Arbitration.<sup>8</sup> The Article 4 to Article 19 of the ICJ Statute sets out the election procedure of judges and other members. Five adjudicators are appointed in every 3 years to guarantee the progression inside the court. If an adjudicator deceases, the practice has commonly been to choose an appointed authority in an extraordinary election for completing the remaining term of the judge. Judges of the ICJ are addressed as His/ Her Excellency. No two appointed authorities can be from the same state. The individuals in the court shall work

<sup>5</sup> League of Nations Covenant art. 14.

<sup>6</sup> *The Moscow Conference 1943*, YALE LAW SCHOOL (April 02, 2021, 10:10 AM), <https://avalon.law.yale.edu/wwii/moscow.asp>.

<sup>7</sup> *Supra* note 2.

<sup>8</sup> *Supra* note 3.

based on standard types of development and vital sets of laws of the world as per Article 9 of the court's statute.

An informal agreement among all countries is that those fifteen seats of ICJ judges would be appropriated by geographical places; "Western countries would have five seats, African countries would have three seats (counting one judge from Francophone, one from Anglophone, one from Arab), Eastern European countries will get two seats, three Asian countries will get three seats and Latin American and Caribbean countries will have two seats."<sup>9</sup> A general observation is that the five permanent members from UNSC (France, Russia, China, UK and USA) have usually had its adjudicator serving at the Court.

## 2. QUALIFICATION OF JUDGES

For a person to be judge in ICJ, he shall hold noteworthy legal position or be a well renowned attorney in his home country. He/ she shall have adequate knowledge of international laws. All appointed authorities shall be of high good character and should pay little heed to ethnicity. Judges of ICJ cannot hold some other post like counsel. The adjudicators from ICJ have their own understanding of such standards and permit them to be associated with outside assertion and hold proficient posts until there is no irreconcilable situation.

## 3. REMOVAL OF JUDGES

An appointed authority can be removed from office by unanimous vote of the other adjudicators of ICJ. Sometimes, impartiality of ICJ adjudicators has been doubted. For instance, during the Nicaragua case<sup>10</sup>, USA gave dispatch mentioning that it cannot present delicate material to the ICJ on account of presence of judge from the Soviet coalition. Adjudicators may convey joint decisions or offer his/her dissenting thoughts. Judgements and advisory statements are voted upon by majority and in case of tie, the President gives casting vote.

<sup>9</sup> D. HARRIS, CASES AND MATERIALS ON INTERNATIONAL LAW 839 (7th ed. 2012).

<sup>10</sup> Nicaragua v. U.S.A., 1986 I.C.J. Rep. 14.

#### 4. AD HOC JUDGES

In order to keep up correspondence in the status of the parties, the ICJ Statute gives that, where an adjudicator of citizenship of one of the parties of the case, is perched on the seat, the conflicting party may choose an extra adjudicator. Such an appointed authority need not be public adjudicator, however ought to be national of that party which isn't on the bench. "Moreover, both the sides may pick such an adjudicator if neither of them has its people sitting on the bench. The Ad hoc adjudicators so picked by the parties have similar rights and obligations as other judges of the Court for the span of the procedures.<sup>11</sup> It is hence conceivable that maximum of seventeen judges may sit on one case.<sup>12</sup> Ad hoc adjudicators ordinarily (however not generally) vote for the party that selected them and in this way counteract one another."<sup>13</sup> The Ad hoc adjudicators help the other adjudicators of the bench to understand the sides of the parties more clearly.

#### 5. THE BENCH

"All the adjudicators of the Court, including specially appointed adjudicators, establish the Bench of the Court for a case. No adjudicators can be excused from the bench, except if, in the assessment of other authorities, he/she has stopped to satisfy the necessary conditions."<sup>14</sup> Also, an individual from the Court can pronounce that he/she ought not to partake in the choice in specific case. It is open to the President of ICJ to recommend that for some uncommon reasons one of the individuals from the Court ought not to participate in specific case and should give his/her notification as needs be. If there should arise an occurrence of difference between the appointed authority concerned and the President, the issue will be settled by choice of the Bench.

#### 6. CHAMBERS

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<sup>11</sup> I.C.J. Statute art. 31, ¶ 2.

<sup>12</sup> *Judges Ad Hoc*, ICJ (April 4, 2021, 11:30 AM), <https://www.icj-cij.org/en/judges-ad-hoc>.

<sup>13</sup> Posner E.A., *Is ICJ Biased?*, 34 JOURNAL OF LEGAL STUDIES OF CHICAGO 34 (2004).

<sup>14</sup> I.C.J. Statute art. 18.

Usually, the entire bench i.e. all the fifteen adjudicators of ICJ sit for hearing a case. Yet in last fifteen years, it has once in while sat as chamber i.e. division. “The court can shape more minor chambers, which are composed of at least three adjudicators. There are two kinds of chambers: one for the exceptionally classified cases, and the other for the arrangement of ad hoc chambers to hear any particular case.”<sup>15</sup> As per Article 26(1) of the Statute of ICJ, a distinct chamber was set up in 1993 to manage ecological issues (but that it has not yet been utilized). “The Ad hoc chambers are all the more often conveyed. The verdicts given by the chambers that have lesser authority as compared to full bench verdicts, may lessen a legitimate translation of general international law submitted to it, by an assortment of social and lawful points of view.”<sup>16</sup> The utilization of chambers may urge more noteworthy response to the court and hence upgrade resolution of global issues.

## 7. EXPENSES

Each country has to bear its own expenses for all the work for its case in the court. However, the ICJ can hold that all or some portion of one party's expenses to be paid by the other party.<sup>17</sup>

## JURISDICTION OF THE INTERNATIONAL COURT OF JUSTICE

The matter of jurisdiction in ICJ cases is of two kinds: contentious and advisory.<sup>18</sup>

### 1. CONTENTIOUS JURISDICTION

It includes countries that present the case by agreeing to the Court for a binding verdict. In this, ICJ settles debates of lawful nature that are submitted to it by the nations as per worldwide law. Worldwide associations, different institutions and private people are not qualified for establishment of procedures of the ICJ. “Article 35 of ICJ Statute lays down the circumstances under that the countries can get to the ICJ. The article 35 (1) of the ICJ Statute expresses about the availability of the court to countries that are parties to its Statute. The article 35 (2) of the ICJ Statute proposes to control admittance of case to the court

<sup>15</sup>I.C.J. Statute art. 26.

<sup>16</sup>S. Schwebel, *Ad Hoc Chambers of ICJ*, 81 AMERICAN JOURNAL OF INTERNATIONAL LAW, 831 (1987).

<sup>17</sup>I.C.J. Rules of Court, art. 97 (April 14, 1978).

<sup>18</sup>J. G. MERRILLS, INTERNATIONAL DISPUTE SETTLEMENT 116 (2011).

by countries that are not parties to its Statute. The terms under which such non-member countries can get to the court are controlled by the UNSC. The terms are subject to international agreements contained in dispute and date when this section came into the ICJ Statute and date of the agreement in dispute. There is also a clause in ICJ Statute's article 35 that no such terms shall place the parties in place of inequality before the ICJ."<sup>19</sup> The court could possibly manage the questions when the nations concerned have recognised its authority.

Some Landmark Contentious Cases: In 1980, grievance case was filed by the US that Iran was keeping US emissaries in Tehran and thereby infringing the international law.<sup>20</sup> Another case was about disagreement about the course of the sea limit in Gulf of Maine region between USA and Canada.<sup>21</sup> Then a case regarding a protest by Yugoslavia against the part conditions of the NATO with respect to their activities in the Kosovo War.<sup>22</sup> Macedonia sued Greece for rejecting of its increase to NATO that disregarded Interim Accord of 1995 between the two nations. This case was ruled in favour of North Macedonia in 2011.<sup>23</sup> Lastly, the case about an objection by India with respect to capital punishment decision against an Indian citizen, Kulbhushan Jadhav, by court in Pakistan on charges of espionage and rebellious actions.<sup>24</sup>

## 2. ADVISORY JURISDICTION

"The UNGA or UNSC may demand the ICJ for offering advisory input on any lawful inquiry. Different organs of the UN and its other specialized agencies, whenever approved by the General Assembly, can likewise demand advice from this court on legitimate inquiries emerging inside the extent of their exercises."<sup>25</sup> Since states alone are qualified to file a case in this court, the global public associations and corporates cannot sue in the court. This unique system of advisory procedure, is accessible only to five the UN organs, its fifteen specialized agencies and one related association of the UN.<sup>26</sup> Advisory procedures start by documenting of composed solicitation for advisory assessment routed to the Registrar by

<sup>19</sup> *Contentious Jurisdiction*, ICJ (April 03, 2021, 10:00AM), <https://www.icj-cij.org/en/contentious-jurisdiction>.

<sup>20</sup> *U.S.A. v. Iran*, 1980 I.C.J. 1.

<sup>21</sup> *Canada v. U.S.A.*, 1984 I.C.J. 246.

<sup>22</sup> *Yugoslavia v. Spain*, 1999 I.C.J. 124.

<sup>23</sup> *Republic of Macedonia v. Greece*, ICJ (April 05, 2021, 09:05 AM), <https://www.icj-cij.org/en/case/142>.

<sup>24</sup> *India v. Pakistan*, I.C.G.J. 515 I.C.J. 2017.

<sup>25</sup> U.N. Charter art. 96, ¶ 2.

<sup>26</sup> U.N. Charter, chapter XIV.

Secretary-General of UN or secretary-general of the organ/agency requesting the advice from the ICJ.<sup>27</sup> To amass all the vital data about the inquiry submitted to it, the court is enabled to conduct written and oral proceedings.<sup>28</sup> At that point, the court approaches the states and global associations that are probably going to have the option to furnish data on the inquiry under the ICJ.

The associations and nations approved to take part in the procedures may submit composed assertions, and if the ICJ thinks of it as fundamental, then also by composed remarks on other's explanations. These written assertions are by and large made accessible to the general population toward the start of the oral procedures, if the court thinks about that such procedures should happen. As opposed to the contentious judgements, and besides in uncommon situations where it is explicitly given that they will have restricting power, the Court's advices are not authoritative and not binding. The UN organs, offices or associations which gets advises from the ICJ, are stays allowed to choose, as what they see fit and what impact to offer to these thoughts.<sup>29</sup> However, above all, the Court's advices convey incredible legitimate weight and good power. These help to the explanation and advancement of international laws and in this manner advance harmony among the nations. Advisory opinions have now and again been dubious on the grounds that the inquiries posed are questionable and secondly, the case which should have been a contentious case under the ICJ, was put in form of advisory procedure to dilute its impact.

### 3. LAWS OR STATUTES APPLICABLE IN THE INTERNATIONAL COURT OF JUSTICE

The UN Charter and Statute of the ICJ are the backbone for deciding the cases. When adjudicating over the cases, it applies international law as mentioned in the article 38 of the ICJ Statute.<sup>30</sup> The parties can allude to academic writings, for example, the lessons of the most profoundly qualified jurist of different countries and past legal precedents to help decipher the law. Despite the fact that the court is not officially obliged by its past precedents under

<sup>27</sup> Pieter Bekker, *The UN General Assembly Requests a World Court Advisory Opinion on Israel's Separation Barrier*, 8 AMERICAN SOCIETY OF INTERNATIONAL LAW (2003).

<sup>28</sup> *Advisory Jurisdiction*, ICJ (April 04, 2021, 11:00AM), <https://www.icj-cij.org/en/advisory-jurisdiction>.

<sup>29</sup> *How the Court Works*, ICJ (April, 04, 2021, 11:20 AM), <https://www.icj-cij.org/en/how-the-court-works>.

<sup>30</sup> PEMMARAJU S. RAO, *DISPUTE SETTLEMENT: GENERAL TOPICS- 1.2 INTERNATIONAL COURT OF JUSTICE 15* (United Nations Conference on Trade and Development 2003).

stare decisis.<sup>31</sup> The ICJ's verdict binds just to parties of that specific case. Nonetheless, the court can consider its own past verdicts. By chance if the parties give consent then, they may allow the ICJ, freedom to choose “ex aequo et bono (fair and equitable)”<sup>32</sup>, giving ICJ the opportunity to settle on an even-handed decision dependent on what is reasonable considering that situation. Yet, the provision has not been utilized in up until this point. The ICJ has adjudicated over more than 179 cases till March 2021.<sup>33</sup>

## **PROCEDURES IN THE INTERNATIONAL COURT OF JUSTICE: FROM REGISTERING A CASE TO ITS JUDGEMENT**

### **1. INITIATING AND REGISTERING A CASE**

Nations who wish to initiate a case, shall inform it to the Registrar of the ICJ. If court receives either the notice of a special pact or memorial submission, the Court's Registrar will inform about the application to all the concerning parties.<sup>34</sup> All the nations in UN will be communicated this through the UN Secretary-General. The Registrar imparts the application to some other states qualified come before the court.<sup>35</sup> Then specialists delegated by the concerned parties have to speak before the court. They can have the help of lawyers or attorneys. The specialists, lawyers, and attorneys of the nations under the court get all rights and protections important for the autonomous exercise of their responsibilities.<sup>36</sup>

### **2. PRELIMINARY COMPLAINTS**

Any defendant who does not want to submit to the jurisdiction or authority of the ICJ, can raise their primary objections. Such complaints should be addressed upon prior to the ICJ addressing on the merits of the requesting party. Generally, various formal proceeding is done on preliminary objections and then court delivers the verdict. Defendants usually file these complaints over the issue or suitability of the case against authority of the court. While deciding upon the jurisdiction of the case, the court can consider non-admissibility of case by referring to the scope of contentions about elements in the case, e.g., in what way that the

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<sup>31</sup>I.C.J. Statute art. 59.

<sup>32</sup> I.C.J. Statute art. 38, ¶ 2.

<sup>33</sup>*List of All Cases*, ICJ (April, 05, 2021, 10:25 AM), <https://www.icj-cij.org/en/list-of-all-cases>.

<sup>34</sup>*Supra* note 29.

<sup>35</sup> I.C.J. Statute art. 40.

<sup>36</sup> I.C.J. Statute art. 42.

issue is justiciable and is it even legal dispute or not.<sup>37</sup> A complaint can also be made on grounds that concerning parties are not appearing in front of the court.

If the case essentially entails the ICJ to rule on privileges and responsibilities of a nation(s) that has disagreed to the court's jurisdiction, the court doesn't move forward to give a verdict on merits. In event that the court chooses it has jurisdiction and case is acceptable, the respondent at that point is needed to record a memorial that includes merits of requesting's case and the court holds formal proceeding on these merits. "When case has been recorded and accepted by the ICJ, any nation (typically the requesting party) can request the court to secure status quo pending on the case. Such commands are referred to as Provisional Measures."<sup>38</sup>

### 3. APPLICATIONS TO INTERVENE BY OUTSIDERS

"A state which isn't involved with the case can mediate for a situation, on the off chance that it has statutory interest, which is probably going to be influenced by the verdict for that case."<sup>39</sup> Nonetheless, it is up to the court to choose on its application. These intercession applications are uncommon and first such effective application happened in 1991.

### 4. PROCEEDINGS

The proceedings under the ICJ happen in two stages: written procedures and oral procedures. The composed memorials and if essential, answers, are introduced to the court through the Registrar in a given format and within a fixed time set by the ICJ for this reason. The President of the ICJ, in discussion with the Registrar convenes hearing of the states involved in case prior to choosing time limit and sequence in which composed memorials and counter-memorials ought to be submitted. The court decides quantity of sittings and time designated to each party. For this reason, the court passes vital commands and makes all important plans for collecting the evidence.

The oral procedures under the watchful eye of the court include introduction of contentions by negotiators, lawyers and attorneys and furthermore listening witnesses and the specialists. "The hearings of the court are authorised by President or Vice President or if both are absent

<sup>37</sup> I.C.J. Rules of Court, art. 79 (April 14, 1978).

<sup>38</sup> I.C.J. Statute, art. 41.

<sup>39</sup> I.C.J. Statute, art. 62.

then, by the most senior adjudicator of the ICJ.”<sup>40</sup> The oral hearings are available to public and broadcasted publically except if the court decides it not to be public or except if the parties request that public shall not be known about it. Some oral hearings are not made public generally on the grounds that it is a sensitive issue that may not be appropriate for public to attend or see it. The records are made in each session and it may be endorsed by the Registrar and the President.

## 5. NON- APPEARANCE OF PARTY

In such cases where a party is absent, the court tries to gather data concerning the situation of non-appearing nation from different sources, including the official comments on the nation. The court additionally communicates these issues to non-appearing party for its affirmation. “The absence of refusal is adequate for the court to be fulfilled that the charges of facts on which bases, the applicant has applied its case are very much established. On the account of non-appearance of state(s), other state(s) in the case, can demand the court to rule the case in its favour.”<sup>41</sup> Nevertheless, the court should be completely fulfilled, not just on the grounds that it has authority to decide as per articles 36 and 37 of the Statute of the ICJ, yet in addition that the case has all grounds of established facts and statutes.<sup>42</sup>

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## 6. DRAFTING THE JUDGEMENT

Once the court shapes an expansive thought of verdict and the greater part learned, then the drafting council of three adjudicators from ICJ is made. The primary draft verdict is furtive and is available to additional conversations and proposals. The drafting board re-examines the draft for two readings and conversation by all the adjudicators. At the end of the second reading, a concluding vote is taken. Every decision is taken by an absolute majority of adjudicators present. Abstentions are not permitted. In the event that an adjudicator is not able to attend that meeting, his/her vote can be sent by correspondence. In the event of equal number of votes on both sides, the President gives casting vote.

<sup>40</sup>PEMMARAJU, *supra* note 30, at 20.

<sup>41</sup>PEMMARAJU, *supra* note 30, at 22.

<sup>42</sup> I.C.J. Statute, art. 53.

The court may give an explanatory judgment or judgment requiring execution. A decisive judgment covers all the inquiries about authority, clarification regarding international agreements concerning the applicability of the lawful guidelines or relationships, and inquiries of whether there has been an encroachment of rights. The ICJ may likewise proclaim absence of jurisdiction, or it might pronounce that question has just been settled because of behaviour of the respondent. In resultant to the unique conditions in the case, the court can force responsibility upon the concerning states to look for mediation and methods of negotiation in compliance with common decency.

## 7. JUDGEMENT AND REMEDIES

The verdict expresses explanation behind the decision and contains names of the adjudicators who participated in the decision. “The adjudicators who do not completely share thinking of the bench, and the ones who have contradicting opinions, are qualified for convey their dissenting judgement or opinion.”<sup>43</sup> The article 59 of the ICJ Statute clarifies that the verdicts of the court have binding power over those states, and in regard of that contentious case. This implies that verdicts of the ICJ do not have status of precedent.

Nonetheless, the decisions of the ICJ and reasons given for the situation and interpretation of the relevant laws have high influential worth. Each adjudicator may give concurring opinion (i.e. agree with result of verdict but have different rational behind it) or dissenting opinions (in the event that they have contradicting the major part). The verdict is ultimate, and so no further appeal is possible. It is binding on all the parties in the case. “A judgement may be revised on request done by the concerning nation, if some incorrect fact is there in the case or the verdict, or if it’s concerning the nature of unequivocal element at point at which the verdict was declared.”<sup>44</sup>

## 8. ENFORCEMENT OF THE ICJ VERDICT

Generally, decisions in contentious cases submitted by both the parties; are binding on both the parties. The duty of enforcement of the judgement of the court lies with the UNSC.<sup>45</sup> The

<sup>43</sup> PEMMARAJU, *supra* note 30, at 23.

<sup>44</sup> I.C.J. Statute art. 61.

<sup>45</sup> U.N. Charter art. 94, ¶ 2.

UNSC can impose economic sanctions if the party does not cooperate with the decision.<sup>46</sup> Further under exceptional conditions, it can also use UN peacekeeping forces for enforcement of the decision.<sup>47</sup> If UNSC is not able to enforce even after all this, then the matter can go to the UNGA and the membership of that country who is not accepting the decision, can be revoked subject to provisions mentioned in the ICJ Statute and the UN Charter.<sup>48</sup>

### **FUNCTIONS OF THE INTERNATIONAL COURT OF JUSTICE**

The function of the ICJ is to settle statutory quarrels submitted by the countries called contentious cases, as per the international law. In such contentious cases, the ICJ can give commands and verdicts that are usually binding on both the parties. Another function of the ICJ is to offer advices on statutory inquiries, submitted to it by approved UN organs and its specialized offices, known as advisory proceedings. In advisory proceedings, the ICJ can give requests and advices that are not binding on the parties but are of huge persuasive importance.<sup>49</sup>

### **CONCLUSION**

The International Court of Justice has been examined many times, concerning its decisions, its methodology, and about its overall position. Contentious Jurisdiction is restricted to situations where the two parties have consented to submit to the court's judgement, thus examples of animosity will in general be naturally raised to and settled by the UNSC. As per the sovereignty guidelines of the international laws, no country is predominant or second rate in comparison to the other. In this way, there is no substance that could compel the countries into exercising of the laws or penalize the countries in event that any infringement of international law happens. Hence, lack of binding power in some cases implies that the 193 member nations of the UN don't need to implement the authority of the ICJ.<sup>50</sup> Additionally, being a member in the UN and the ICJ doesn't give a programmed jurisdiction to the court over

<sup>46</sup> U.N. Charter art. 41.

<sup>47</sup> U.N. Charter art. 42.

<sup>48</sup> U.N. Charter art. 5.

<sup>49</sup> UN Documentation, *International Court of Justice Documentation*, UN (April 06, 2021, 10:00AM), <https://research.un.org/en/docs/icj>.

<sup>50</sup> H. Lauterpacht, *THE DEVELOPMENT OF INTERNATIONAL LAW BY INTERNATIONAL COURT*, 1958, p. 3.

those nations, however it's the assent of each country to follow court's authority which is important.

Human rights associations, private companies and common people cannot have their cases taken to the ICJ. Besides the advices, the UN agencies similarly cannot raise any contentious case against any one. The sufferers of wrongdoings against humanity or human rights, for example, minor ethnic gatherings or native people's groups, cannot sue in the ICJ. Lately, adjudication over very diverse issues and intricacies of the international laws have been done by the ICJ. Either the "Applications Instituting Proceedings- on source of the optional provision", or via "Special Agreements/ Compromise", have been the two ways through which the above type of issues were submitted to the ICJ.<sup>51</sup> Global institutions are stacked by such large number of expectations and too little force.

The International Court of Justice doesn't have full power over disputes, as the permanent members of UNSC have option to veto on implementing the verdicts of the ICJ.<sup>52</sup> Other international courts are "International Criminal Court (hereafter referred as ICC) at Hague, European Union Courts, International Tribunal for the Law of the Sea, and many more."<sup>53</sup> Contrasting to the International Court of Justice, the ICC work freely from UN.<sup>54</sup> The dualistic structure makes it difficult for courts to have successful and aggregate authority. Most international disputes are these days liked to be tackled by diplomacy and negotiation. Still, the ICJ will remain an essential, even if restricted, instrument in settling disputes between the states and work for the global public interest.

<sup>51</sup> Antônio Trindade, *Introductory Note- Statute of the ICJ*, UNITED NATIONS (April 05, 2021, 10:00AM), <https://legal.un.org/avl/ha/sicj/sicj.html>.

<sup>52</sup> "World Court: Completing the Circle", TIME, 1960, p.1.

<sup>53</sup> *International Courts and Tribunals*, UNITED STATES DEPT. OF JUSTICE (April 05, 2021, 11:00AM), <https://www.justice.gov/jmd/ls/international-courts>.

<sup>54</sup> UN Documentation: International Law, *What is the International Criminal Court (ICC) and what is its relationship with the UN?*, DAG HAMMARSKJOLD LIBRARY (April 06, 2021, 09:05AM), <https://ask.un.org/faq/97157>.