



CURRENT AFFAIRS



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“ICJ: THE INTERNATIONAL COURT OF JUSTICE”

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Context: Recently the UN top court declares that the Israel's presence in West Bank and East Jerusalem is illegal.

Syllabus Mapping: Mains: GS-2: International Relations; UN organs and its mandate.

Prelims: The current events of international importance.

Basics: The International Court of Justice acts as a world court. The International Court of Justice (ICJ) is the principal judicial organ of the United Nations (UN). It was established in June 1945 by the Charter of the United Nations and began work in April 1946. The seat of the Court is at the Peace Palace in The Hague (Netherlands). *Of the six principal organs of the United Nations, it is the only one not located in New York (United States of America).*

Jurisdiction:

1) **Jurisdiction in contentious cases:** it decides, in accordance with international law, disputes of a legal nature that are submitted to it by States. **The individual cannot approach to the ICJ.**

2) **Advisory jurisdiction:** It gives advisory opinions on legal questions at the request of the organs of the United Nations, specialized agencies or one related organization authorized to make such a request.

The Court can only hear a dispute when requested to do so by one or more States. It cannot deal with a dispute on its own initiative. Neither is it permitted, under its Statute, to investigate and rule on acts of sovereign States as it chooses.

Judgments delivered by the Court or by one of its Chambers in disputes between States are **binding** upon the parties concerned.

The ad hoc international criminal tribunals:

The International Court of Justice has no jurisdiction to try individuals accused of war crimes or crimes against humanity. As it is not a criminal court, it does not have a prosecutor able to initiate proceedings. This task is the preserve of national courts, the **ad hoc criminal tribunals established by the United Nations (such as the International Residual Mechanism for Criminal Tribunals**

(IRMCT), mandated to take over residual functions from the International Criminal Tribunal for the former Yugoslavia (ICTY).

Composition: The Court is composed of **15 judges**, who are elected for terms of office of **nine years** by the United Nations General Assembly and the Security Council. It is assisted by a Registry, its administrative organ. **One of Indian Judge is serving in ICJ.**

Significance of ICJ:

- **Peaceful Settlement of Disputes:** The ICJ provides a forum where states can resolve their disputes peacefully through adjudication, reducing the likelihood of conflict escalation. For example, “**Nicaragua v. United States**” case in 1986.
- **Development of International Law:** Through its judgments and advisory opinions, the ICJ contributes to the development and clarification of international law principles and rules. UNCLOS case of South China sea.
- **Upholding International Justice:** By adjudicating cases involving state responsibility and accountability, the ICJ plays a crucial role in upholding international justice and promoting the rule of law in interstate relations. It declares the Isarel occupation of West Bank illegal.
- **Advisory Opinions:** The ICJ issues advisory opinions on legal questions referred to it by UN organs and specialized agencies, providing authoritative interpretations of international law. Ex, The ICJ was asked by the UN General Assembly to provide an opinion on the legal consequences arising from the construction of a wall by Israel in the Occupied Palestinian Territory. The Court found that the construction of the wall violated international humanitarian law and called for its dismantlement.
- **Promotion of Rule-Based International Order:** The ICJ’s decisions contribute to promoting a rule-based international order by resolving disputes based on legal principles rather than power politics.

Criticism of ICJ:

- **Limited Enforcement Mechanism:** The ICJ relies on states to voluntarily comply with its judgments. If a state chooses not to comply, there are limited effective measures to enforce the ICJ’s decisions.
- **Political Influence:** Critics argue that the ICJ, like other international organizations, can be influenced by political considerations. Which questions the impartiality of ICJ.
- **Selective Jurisdiction:** The ICJ’s jurisdiction is based on consent, which means that states must agree to submit to its jurisdiction for a case to be heard. This can lead to situations where powerful states or states with significant influence may avoid ICJ jurisdiction, limiting its ability to resolve certain disputes. Ex, the US.

- **Complexity and Length of Proceedings:** ICJ cases can be complex and lengthy, often spanning several years. This can reduce the court's effectiveness in providing timely resolutions to urgent international disputes.
- **Limited Accessibility:** The ICJ is primarily a forum for states, and access to the court is generally restricted to states and certain international organizations. This can limit the ability of individuals, non-state actors, and smaller states to seek justice or resolution through the ICJ.

Potential Solutions to make the ICJ more effective:

- **Enhancing Enforcement Mechanisms:** Strengthening mechanisms for enforcing its judgments by creating incentives for compliance through diplomatic pressure, international sanctions, or reinforcing the role of the UN Security Council in enforcing ICJ decisions.
- **Promoting Transparency and Accountability:** This can be achieved by publicizing deliberations and reasoning behind judgments, can enhance accountability and reduce perceptions of political influence.
- **Addressing Selective Jurisdiction:** To encouraging more states to accept the ICJ's jurisdiction or exploring mechanisms to expand the court's mandate in resolving disputes that are critical to international peace and security.
- **Improving Accessibility:** Enhancing accessibility by providing support to smaller states and non-state actors to participate effectively in ICJ proceedings can help address concerns about unequal access to justice.
- **Capacity Building and Outreach:** Supporting capacity building initiatives and outreach programs to promote understanding of international law and the role of the ICJ among legal professionals, academics, and civil society can foster broader acceptance and support for the court's decisions.
- **Reforming Composition and Diversity:** Ensuring diversity in the composition of ICJ judges to reflect a broader representation of legal traditions, cultures, and geographic regions can enhance the court's legitimacy and credibility.

Conclusion:

By addressing the criticism, the ICJ can bolster its role as a cornerstone of the international legal order, promoting peaceful dispute resolution and upholding the rule of law in international relations. Above mentioned potential solutions require collaboration among states, international organizations, and civil society to ensure a fair and effective international judicial system.

Prelims Question:

Q.1. With reference to the International Court of justice (ICJ), which the following statements is/ are correct?

1. The President of ICJ is elected by the UNGA.

2. In ICJ, individuals cannot appeal against the genocide and war crimes.
3. The ICJ is the only UN principal organ have the power to issue binding orders and resolution

Select the correct answer using the code given below:

- 1 Only
- 1 and 2 Only
- 3 Only
- 2 and 3 Only

Answer: a.

Q.2 Consider the following statements:

1. No Indian became president of ICJ.
2. No Indian judge served as judge of ICJ.
3. No Indian case is heard by ICJ till present time.

How many of the above given statements with reference to India's relationship with ICJ are correct?

- (a) Only one
- (b) Only two
- (c) All Three
- (d) None.

Answer: d.

Mains Question:

“The World is grappled with many regional conflicts which has the potential to destabilize the world peace, in this scenario the role of the ICJ becomes more crucial than ever before”. Elaborate (250 words) 15 marks.

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