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## **INTERNATIONAL COURT OF JUSTICE: JURISDICTION AND ADVISORY OPINION**

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### **1) INTRODUCTION**

The United Nations Charter established the International Court of Justice (ICJ) in 1945 to serve as the principal judicial organ of the United Nations. The ICJ's primary functions include settling legal disputes submitted by states and providing advisory opinions on legal questions referred to by authorized international organizations and agencies. The Court's jurisdiction, based on the consent of the states involved, allows it to

adjudicate a wide range of contentious issues, from territorial disputes to matters of international humanitarian law. Additionally, its advisory opinions play a crucial role in clarifying international legal principles and guiding the actions of international entities. This major paper delves into the intricate workings of the ICJ's jurisdiction and advisory opinions, highlighting their significance in international law and justice.<sup>1</sup>

## 2) **JURISDICTION**

The International Court of Justice Statute, Article 36, is the cornerstone for the Court's jurisdiction. It outlines the conditions under which the International Court of Justice (ICJ) can hear cases and issue judgments. The article has several paragraphs, each addressing different aspects of jurisdiction:

Paragraph 1 establishes that the ICJ's jurisdiction comprises all cases the parties refer to and all issues expressly addressed in the United Nations Charter or existing treaties and conventions.<sup>2</sup>

Paragraph 2 allows states to recognize the Court's jurisdiction as compulsory in specific types of disputes, such as those concerning the interpretation of a treaty, any questions of international law, and the determination of facts that, once confirmed, would signify a violation of an international obligation. States can make declarations accepting this compulsory jurisdiction, known as "optional clause declarations."<sup>3</sup>

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<sup>1</sup> International Court of Justice, "The Court," <https://www.icj-cij.org/court/>. (Accessed December 28, 2024).

<sup>2</sup> Ibid.

<sup>3</sup> Ibid.

Paragraph 3 provides that declarations made under paragraph 2 may be subject to conditions or reservations imposed by the states making them.<sup>4</sup>

Paragraph 4 addresses the procedure for settling disputes regarding the Court's jurisdiction.<sup>5</sup>

The ICJ derives its jurisdiction from several sources, primarily the Statute of the ICJ, which is an integral part of the United Nations Charter. The Court's jurisdiction can stem from:

1. Special Agreement (Compromis): States involved in a dispute may agree to refer the case to the ICJ through a special agreement. This agreement explicitly grants the Court jurisdiction over the specific matter in question.<sup>6</sup> For example, in the *Corfu Channel Case (United Kingdom of Great Britain and Northern Ireland v. Albania)*, the parties submitted the dispute to the ICJ through a special agreement. The ICJ delivered a binding judgment on April 9, 1949.<sup>7</sup>
2. Treaties and Conventions: Many international treaties and conventions designate the ICJ as the arbiter of disputes arising under those agreements. When states ratify such treaties, they implicitly accept the Court's jurisdiction for disputes related to the treaty.<sup>8</sup> The *Gabcikovo-Nagymaros*

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<sup>4</sup> International Court of Justice, "The Court," <https://www.icj-cij.org/court/>. (Accessed December 28, 2024).

<sup>5</sup> Ibid.

<sup>6</sup> International Court of Justice, "Basis of the Court's Jurisdiction," <https://www.icj-cij.org/basis-of-jurisdiction>. (Accessed December 28, 2024).

<sup>7</sup> International Court of Justice, "Corfu Channel Case (United Kingdom of Great Britain and Northern Ireland v. Albania)," <https://icj-cij.org/case/1>. (Accessed December 28, 2024).

<sup>8</sup> International Court of Justice, "Basis of the Court's Jurisdiction," <https://www.icj-cij.org/basis-of-jurisdiction>. (Accessed December 28, 2024).

*Project Case (Hungary/Slovakia)* is an example of a case in which the ICJ had jurisdiction based on a treaty. The case involved a dispute over a dam project on the Danube River, and the ICJ ruled on the matter in 1997.<sup>9</sup>

3. Compulsory Jurisdiction: Under Article 36, paragraphs 2 and 3 of the ICJ Statute, states may declare that they recognize the Court's jurisdiction as mandatory. That means they consent to the ICJ's jurisdiction in certain disputes without needing a separate agreement for each case. These declarations are known as "optional clause declarations."<sup>10</sup> The *Nicaragua v. United States* case exemplifies the ICJ's compulsory jurisdiction. Nicaragua brought the case against the United States, invoking the Court's jurisdiction under Article 36, paragraph 2 of the ICJ Statute.<sup>11</sup>
4. Jurisdiction Ratione Personae and Ratione Materiae: The ICJ also has jurisdiction based on the personal (ratione personae) and subject matter (ratione materiae) scope of the dispute, as outlined in the Statute and relevant international agreements.<sup>12</sup> The *South West Africa Cases (Ethiopia v. South Africa; Liberia v. South Africa)* are examples where the ICJ had jurisdiction based on the dispute's personal and subject matter scope. The

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<sup>9</sup> International Court of Justice, "Gabcikovo-Nagymaros Project (Hungary/Slovakia), <https://www.icj-cij.org/case/92>. (Accessed December 28, 2024).

<sup>10</sup> International Court of Justice, "Basis of Court's Jurisdiction," <https://www.icj-cij.org/basis-of-jurisdiction>. (Accessed December 28, 2024).

<sup>11</sup> International Court of Justice, "Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America), <https://www.icj-cij.org/case/70>. (Accessed December 28, 2024).

<sup>12</sup> International Court of Justice, "Basis of Court's Jurisdiction," <https://www.icj-cij.org/basis-of-jurisdiction>. (Accessed December 28, 2024).

cases involved issues of racial discrimination and apartheid in South West Africa (now Namibia).<sup>13</sup>

Does the ICJ have the jurisdiction to hear cases that occurred before its establishment in 1946? Research suggests that ICJ's jurisdiction relied on the consent of the states involved, and it can only adjudicate disputes that arise after the parties accepted the Court's jurisdiction. For instance, there are situations where the ICJ has jurisdiction over disputes based on treaties or conventions that were in force before the Court's establishment. In such a case, deriving jurisdiction from the treaties or conventions may include a compromissory clause referring disputes to the ICJ. An illustrated example of the ICJ's jurisdiction is the *South West Africa Cases* involving Ethiopia and Liberia against South Africa. In these instances, jurisdiction depends on Article 37 of the ICJ Statute. This article specifies that if a treaty or convention currently in force refers to a tribunal established by the League of Nations or to the Permanent Court of International Justice, that matter shall, as between the parties to the Statute, refer it to the International Court of Justice.<sup>14</sup>

In another situation, Japan surrendered to the Allied Powers in 1945 and signed the Japan Peace Treaty in 1951, also known as the San Francisco Peace Treaty. Does the ICJ have the jurisdiction to hear disputes about the interpretation and application of the Japan Peace Treaty? The ICJ has jurisdiction following Japan's acceptance of the compulsory jurisdiction of the ICJ over differences regarding the interpretation and application of this

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<sup>13</sup> International Court of Justice, "South West Africa Cases (Ethiopia v. South Africa; Liberia v. South Africa), <https://icj-cij.org/case/46>. (Accessed December 28, 2024).

<sup>14</sup> Ibid.

treaty.<sup>15</sup> In this case, the jurisdiction depends on Article 22, Treaty of Peace with Japan, which allows disputes referring to the ICJ.<sup>16</sup>

The ICJ's jurisdiction described above demonstrates that approaches to jurisdiction before and after the establishment of the ICJ differ, as shown in Diagram 1, A Reflection of ICJ's Jurisdiction below.

**Diagram 1. A Reflection of ICJ's Jurisdiction  
(Pre and Post Establishment)**

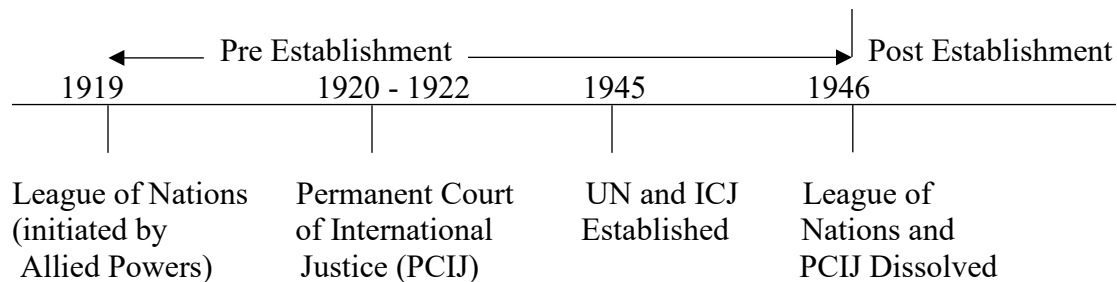


Diagram 1 above shows that the drafter crafted the ICJ Statute in 1945 and began functioning in 1946, replacing the PCIJ, which functioned from 1922 to 1946. During the pre-establishment period, PCIJ was the principal judicial organ of the League of Nations. Disputes brought before the PCIJ depended on the consent of the states involved. States had to agree to submit their disputes to the PCIJ through special agreements or compromissory clauses in treaties.<sup>17</sup>

In 1946, ICJ emerged, succeeding the PCIJ and becoming the primary judicial authority of the United Nations. The ICJ's jurisdiction also depends on the consent of the

<sup>15</sup> International Court of Justice, "Japan accepts the compulsory jurisdiction of the Court over differences concerning the interpretation and application of the Peace Treaty with Japan of 8 September 1951," <https://www.icj-cij.org/index.php/node/100134>. (Accessed December 29, 2024).

<sup>16</sup> UNTC, "Declaration accepting the jurisdiction of the International Court of Justice in respect of disputes which may be referred to the Court under the terms of article 22 of the Treaty of Peace with Japan, signed at San Francisco on 8 September 1951," <https://treaties.un.org/doc/Publication/UNTS/Volume%20137/v137.pdf>. (Accessed December 29, 2024).

<sup>17</sup> International Court of Justice, "The Court," <https://www.icj-cij.org/court/>. (Accessed December 24, 2024).

states involved through various forms, as discussed above. The transition from PCIJ to the ICJ maintained continuity in international judicial functions, but all cases under the ICJ are subject to its Statute.<sup>18</sup> The important considerations are:

- For disputes originating before the ICJ's establishment, the jurisdiction would indeed depend on the agreement of the states to refer the matter to the ICJ.
- Treaties and conventions in force before the ICJ's establishment and included compromissory clauses could still provide a basis for the ICJ's jurisdiction.

A state can challenge the Court's jurisdiction. The procedure for establishing jurisdiction is as follows: A state initiates proceedings by filing an application instituting proceedings before the ICJ. This application must state the basis of the Court's jurisdiction. The respondent state may raise preliminary objections challenging the Court's jurisdiction or the case's admissibility. The ICJ will then determine whether it has jurisdiction to proceed. If the ICJ decides it has jurisdiction, the case moves to the written and oral proceedings stage, where both parties present their arguments and evidence. The ICJ delivers a judgment on the case's merits, which includes a final determination of its jurisdiction over the matter.<sup>19</sup>

The *Nicaragua v. United States* case is an example to illustrate the procedure for establishing jurisdiction. This case demonstrates the various stages and the time taken for each state and the time taken for each stage. On April 9, 1984, Nicaragua submitted an

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<sup>18</sup> Ibid.

<sup>19</sup> International Court of Justice, "Contentious Cases," <https://icj-cij.org/contentious-cases>. (Accessed December 29, 2024).

application instituting proceedings against the United States, claiming violations of international law by the United States. The United States raised preliminary objections challenging the Court’s jurisdiction and the case’s admissibility. The ICJ held hearings on these objections from June 7 to June 13, 1984, and delivered its judgment on November 26, 1984, rejecting the objections and affirming its jurisdiction. Both parties submitted written pleadings, including memorials, counter-memorials, and replies. The written proceedings concluded in 1986. The ICJ held oral hearings from October 19 to November 6, 1986, where both parties presented their arguments and evidence. The ICJ delivered its judgment on June 27, 1986, concluding that the United States had breached international law by providing support to the Contras and placing mines in Nicaraguan harbors.<sup>20</sup>

Diagram 2, Nicaragua v. United States Proceedings Timeline, shows the summarized timetable for establishing jurisdiction.

**Diagram 2. Nicaragua v. United States Proceedings Timeline**

Stage	Start Date	End Date	Duration
Filing of Application	April 9, 1984	April 9, 1984	0 days
Preliminary Objections	June 7, 1984	November 26, 1984	5 months
Written Proceedings	1985	1986	1 year
Oral Proceedings	October 19, 1986	November 6, 1986	18 days
Judgment	June 27, 1986	June 27, 1986	0 days

Source: Nicaragua v. United States

The purpose of the procedure for establishing jurisdiction was to clarify the steps involved in determining whether the ICJ has the authority to hear a particular case. By

<sup>20</sup> International Court of Justice, “Nicaragua v. United States of America,” <https://icj-cij.org/case/70>. (Accessed December 28, 2024).



outlining this process, one can clearly understand how to establish the ICJ's jurisdiction and legal framework.

### 3) **ADVISORY OPINIONS**

The ICJ offers advisory opinions on legal questions submitted by authorized United Nations organs and specialized agencies, including key bodies such as the UN General Assembly, UN Security Council, and Economic and Social Council, and other agencies such as UNESCO, International Labour Organization, World Health Organization (WHO), the International Maritime Organization (IMO), the International Atomic Energy Agency, United Nations Industrial Development Organization, International Civil Aviation Organization, the International Telecommunication Union (ITU), UN Environment Programme, Food and Agriculture Organization, World Intellectual Property Organization, the International Fund for Agriculture Development (IFAD), United Nations Development Programme, and United Nations High Commissioner for Refugees (UNHCR).<sup>21</sup> Unlike contentious cases, where the ICJ delivers binding judgments between states, advisory opinions are non-binding and offer legal guidance on complex international issues. These opinions are instrumental in developing and clarifying international law, offering authoritative interpretations that can influence future legal and diplomatic practices.<sup>22</sup>

States and international organizations may request an advisory opinion from ICJ for several reasons: Advisory opinions help clarify complex or ambiguous areas of international law. States and international bodies may seek the ICJ's interpretation to

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<sup>21</sup> International Court of Justice, "Organs and agencies authorized to request advisory opinions," <https://icj-cij.org/organs-agencies-authorized>. (Accessed December 30, 2024).

<sup>22</sup> International Court of Justice, "Judgments, Advisory Opinions and Orders," <https://icj-cij.org/decisions>. (Accessed January 22, 2025).

understand better their rights and obligations under international treaties and conventions. Advisory opinions provide authoritative legal guidance that can influence policy decisions. By understanding the legal implications of specific actions, states, and international organizations can make informed decisions that align with international law. When treaties or international agreements contain unclear provisions, an advisory opinion can help interpret those provisions, ensuring consistent application and avoiding disputes between parties. Advisory opinions can promote international cooperation by providing a neutral and respected legal perspective on contentious issues and facilitating dialogue. Specialized agencies may seek advisory opinions to ensure that their actions and decisions comply with international law, helping to maintain global institutions. States can avoid potential conflicts and disputes by seeking an advisory opinion before taking action.<sup>23</sup>

The advantages and disadvantages of having an advisory opinion from ICJ are as follows: Advisory opinions provide authoritative interpretations of international legal principles, helping to clarify ambiguous or complex areas of international law. United Nations organs and specialized agencies can use advisory opinions to ensure their actions comply with international law, thereby enhancing the legitimacy and effectiveness of their operations. By offering legal guidance on contentious issues, advisory opinions can prevent conflicts and promote peaceful resolutions to disputes, contributing to international stability. While advisory opinions are not legally binding, their persuasive authority can influence the behavior of states and international organizations, promoting adherence to international legal standards without the rigidity of a binding judgment. Advisory opinions

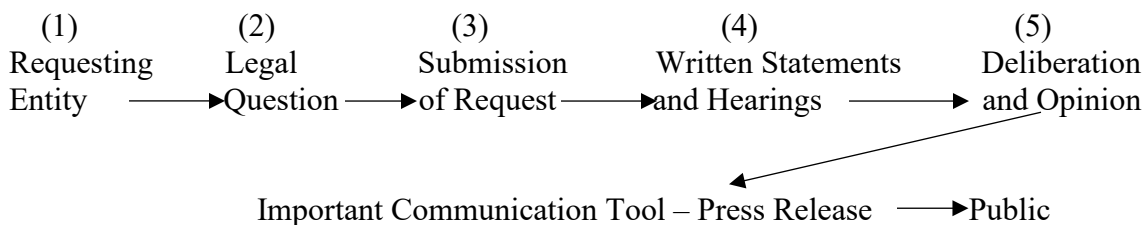
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<sup>23</sup> International Court of Justice, "Advisory Jurisdiction," <https://www.icj-cij.org/advisory-jurisdiction>. (Accessed December 30, 2024).

contribute to the progressive development of international law by addressing novel legal questions and setting precedents for future cases. However, the non-binding nature of advisory opinions means that states and organizations are not legally obligated to follow them, which may sometimes limit their practical impact. Political considerations may drive requests for advisory opinions, and the resulting opinion might further specific political agendas rather than purely legal objectives. Requesting and obtaining an advisory opinion can be resource-intensive and time-consuming, involving extensive written statements and public hearings. Furthermore, advisory opinions are limited to legal questions and do not address factual disputes, meaning they may not provide comprehensive solutions to complex legal and factual issues involving legal and factual elements.<sup>24</sup>

Diagram 3, Requesting for An Advisory Opinion, Procedure Flow Chart below shows how to request an advisory opinion from ICJ.

**Diagram 3. Requesting for An Advisory Opinion  
Procedure Flow Chart**



One notable case that went through the procedure for requesting an advisory opinion is the case concerning the legal consequences of Israel's practices in the Occupied Palestinian Territory, including East Jerusalem. The United Nations General Assembly was the requesting entity. The legal question involved the ramifications of Israel's policies and

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<sup>24</sup> International Court of Justice, "Advisory Jurisdiction," <https://www.icj-cij.org/advisory-jurisdiction>. (Accessed December 30, 2024).

actions in the Palestinian territories under occupation, including East Jerusalem. The General Assembly submitted a written request detailing the legal question and its context to the ICJ. The ICJ invited relevant parties to submit written statements and held public hearings where representatives presented their arguments. Finally, the ICJ deliberated on the submissions and issued its advisory opinion on July 19, 2024.<sup>25</sup>

Advisory opinions play a crucial role in the functioning of the international legal system. They contribute to the development of international law by clarifying legal principles and offering authoritative guidance on complex issues. While non-binding, these opinions often carry significant weight and can influence the actions of states and international organizations. For example, the ICJ's advisory opinion issued in 1996 regarding the legal implications of nuclear weapons provided critical insights into international humanitarian law and the principles regulating the use of atomic weapons.<sup>26</sup>

#### **4) CASE EXAMPLES**

Case examples provide valuable insights into the functioning and significance of the ICJ. Examining contentious cases and advisory opinions, one can understand the ICJ's role in resolving international disputes and providing authoritative legal guidance. Contentious cases involve disputes between states, where the ICJ issues binding judgments based on international law. Advisory opinions are non-binding and required by United Nations organs and specialized agencies to clarify legal questions. The examples below

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<sup>25</sup> International Court of Justice, "Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem," <https://www.icj-cij.org/case/186>. (Accessed December 30, 2024).

<sup>26</sup> International Court of Jurisdiction, "Legality of the Threat or use of Nuclear Weapons," <https://www.icj-cij.org/case/95>. (Accessed December 30, 2024).

highlight the ICJ's contribution to the development of international law, the resolution of conflicts, and the promotion of global peace and security.<sup>27</sup> As of April 2024, there were 195 cases on the General List for consideration by the Court, including contentious cases (disputes between states) and advisory opinions (legal questions referred by UN organs and specialized agencies).<sup>28</sup>

A Contentious Case Example:

*Application of the International Convention for the Suppression of the Financing of Terrorism and of the International Convention on the Elimination of All Forms of Racial Discrimination (Ukraine v. Russian Federation)*

On 16 January 2017, Ukraine applied with the ICJ to commence proceedings against the Russian Federation, alleging violation of the 1999 International Convention for the Suppression of the Financing of Terrorism (ICSFT) and the 1965 International Convention on the Elimination of All Forms of Racial Discrimination (CERD). Ukraine invoked Article 24 of the ICSFT and Article 22 of CERD. Ukraine alleged that the Russian Federation failed to take preventive measures and suppress the commission of offenses of terrorism financing, in particular, the acts and armed activities in Eastern Ukraine perpetrated by armed groups linked to the Donetsk People's Republic (DPR) and the Luhansk People's Republic (LPR). Ukraine also mentioned the events of 2014 in Crimea after the Russian Federation took control of the peninsula. Ukraine claimed that the Russian Federation carried out racial discrimination against Crimean Tatars and ethnic Ukrainians, depriving them of their political, civil, economic, social, and cultural rights, which violated

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<sup>27</sup> International Court of Justice, "List of All Cases," <https://www.icj-cij.org/list-of-all-cases>. (Accessed December 30, 2024).

<sup>28</sup> International Court of Justice, "Cases," <https://www.icj-cij.org/cases>. (Accessed December 30, 2024).

CERD. On 19 April 2017, the ICJ issued an order indicating provisional measures requested by Ukraine. The Court ordered the Russian Federation to (a) stop any activities that limit the Crimean Tatar community's ability to preserve its representative institutions, including the Mejlis, and (b) ensure the availability of Ukrainian language education. On 31 January 2024, the Court issued its judgment. The Court determined that the Russian Federation did not take steps to examine the details provided by Ukraine regarding individuals allegedly committing an offense under Article 2 of ICSFT and violated Article 9, paragraph 1 of the Convention. The Court also determined that the Russian Federation did not meet the requirements set forth in Article 2, paragraph 1(a), and Article 5(e)(v) of CERD in the implementation of the educational system in Crimea post-2014, particularly concerning Ukrainian Language education. Additionally, the Court found that the Russian Federation's continued limitations on the Mejlis violated its obligations under paragraphs 106(1)(a) and 106(2) of the provisional measures order dated 19 April 2017.<sup>29</sup> The judgment also called for reparations payable to Ukraine for the damage caused by these violations.<sup>30</sup>

An Advisory Opinion Case Example:

*Question of the Delimitation of the Continental Shelf between Nicaragua and Colombia beyond 200 nautical miles from the Nicaragua Coast (Nicaragua v. Colombia)*

In September 2013, Nicaragua filed an application requesting the Court to delimit the boundaries of the continental shelf of Nicaragua beyond 200 nautical miles from the

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<sup>29</sup> International Court of Justice, "Application of the International Convention for the Suppression of the Financing of Terrorism and of the International Convention on the Elimination of All Forms of Racial Discrimination (Ukraine v. Russian Federation), <https://icj-cij.org/case/166>. (Accessed December 30, 2024).

<sup>30</sup> Ibid.

Nicaraguan coast. The case is one based on the principles of customary international law and the reflection of the provision of Article 76, paragraphs 2 to 6 of the United Nations Convention on the Law of the Sea (UNCLOS). On 13 July 2023, the ICJ ruled that, under customary international law, a state's right to a continental shelf that extends more than 200 nautical miles must not infringe upon the 200 nautical mile zone of another state from its baselines. The Court established the maritime boundary favoring Nicaragua, confirming its sovereignty over the disputed area. The judgment clarified that a state's entitlement to an extended continental shelf must respect the naval zones of neighboring states within the specified distance.<sup>31</sup>

## **5) INTERACTION WITH OTHER INTERNATIONAL BODIES**

The ICJ often collaborates with other international organizations and judicial bodies to resolve disputes and uphold international law. That interaction is crucial for maintaining global peace and order, as it ensures that conflicts are addressed through legal means rather than through force.

The ICJ acts as the foremost judicial branch of the United Nations. It collaborates with various UN entities, including the General Assembly and the Security Council, in resolving legal disputes and providing advisory opinions on international matters. The ICJ's rulings often influence UN resolutions and actions, contributing to international law enforcement.<sup>32</sup>

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<sup>31</sup> International Court of Justice, "Question of the Delimitation of the Continental Shelf between Nicaragua and Colombia beyond 200 Nautical Miles from the Nicaraguan Coast (Nicaragua v. Colombia), <https://icj-cij.org/case/154>. (Accessed December 31, 2024).

<sup>32</sup> Shabtai Rosenne, "The International Court of Justice and the United Nations," in *The Law and Practice of the International Court, 1920-2005*, vol. 1, 4<sup>th</sup> ed., (Leiden:Martinus Nijhoff Publishers, 2006), 315-330.

The ICJ also interacts with regional courts, such as the European Court of Human Rights (ECHR) and the Inter-American Court of Human Rights (IACHR). These regional courts frequently deal with cases involving human rights violations and other local issues, while the ICJ focuses on broader international disputes. The collaboration between these courts helps to ensure a comprehensive approach to justice and human rights protection.<sup>33</sup> For instance, in the *Avena and Other Mexican Nationals case*, the ICJ determined that the United States did not comply with the Vienna Convention on Consular Relations. This decision aligns with the human rights focus of the IACHR.<sup>34</sup>

The roles of the ICJ and the ICC are distinct yet complementary. The ICJ addresses legal disputes between nations, whereas the ICC prosecutes individuals for severe offenses like genocide, war crimes, and crimes against humanity. The two courts may work together in cases where state actions lead to individual criminal responsibility, ensuring justice serves both the state and personal levels.<sup>35</sup> For example, in the *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem* case, both the ICJ and ICC have been involved, with the ICJ issuing provisional measures and the ICC investigating potential war crimes.<sup>36</sup>

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<sup>33</sup> Giorgio Gaja, "Relationship of the ICJ with Other International Courts and Tribunals," in *The Statute of the International Court of Justice: A Commentary*, 3rd ed. Andreas Zimmermann, Christian J. Tams, Karin Oellers-Frahm, and Christian Tomuschat (Oxford: Oxford University Press, 2019), 445.

<sup>34</sup> International Court of Justice, "Avena and Other Mexican Nationals (Mexico v. United States of America)," I.C.J. Reports 2004, 12 (2004), <https://www.icj-cij.org/case/128/judgments>. (Accessed January 1, 2025).

<sup>35</sup> Andreas Zimmermann, Christian J. Tams, Karin Oellers-Frahm, and Christian Tomuschat, eds., *The Statute of the International Court of Justice: A Commentary* (Oxford University Press, 2019).

<sup>36</sup> International Court of Justice, "Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem," I.C.J. Reports 2023, 12 (2023), <https://www.icj-cij.org/case/128/judgments>. (Accessed December 30, 2024).



The proliferation of international courts and tribunals presents challenges and opportunities for the ICJ. On one hand, it can lead to fragmentation and overlap in jurisdiction, creating confusion and inefficiencies. On the other hand, it provides multiple avenues for conflict resolution and strengthens the international legal system. The ICJ must navigate these complexities to maintain relevance and effectiveness in the global legal landscape.<sup>37</sup>

## 6) **IMPACT AND RELEVANCE**

The ICJ plays a crucial role in developing and clarifying international law through its jurisdiction and advisory opinions. The impact of the ICJ's advisory opinions is significant, as they provide authoritative interpretations of international questions, guiding states and international organizations in their conduct. These opinions, although non-binding, carry substantial weight in shaping international legal norms and fostering cooperation among nations.<sup>38</sup>

Advisory opinions issued by the ICJ contribute to the evolution of international law by clarifying ambiguities and filling gaps in the existing legal frameworks. They help in the interpretation of treaties, the development of customary international law, and the resolution of legal disputes. For example, the ICJ's advisory opinion on the legal consequences of separating the Chagos Archipelago from Mauritius in 1965 emphasized

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<sup>37</sup> Marina Velickovic, "Ethical challenges of using trial transcripts for research purposes: A case study of the International Criminal Tribunal for the Former Yugoslavia," *London Review of International Law*, Volume 11, Issue 3, November 2023, <https://academic.oup.com/lril/article/11/3/381/7596407?login=false>. (Accessed January 1, 2025).

<sup>38</sup> Teresa F. Mayr and Jelka Mayr-Singer, "Keep the Wheels Spinning: The Contributions of Advisory Opinions of the International Court of Justice to the Development of International Law," *Zeitschrift für ausländisches öffentliches Recht und Völkerrecht* 76, no. 2 (2016): 425-450, [https://www.zaoerv.de/76\\_2016/76\\_2016\\_2\\_a\\_425\\_450.pdf](https://www.zaoerv.de/76_2016/76_2016_2_a_425_450.pdf). (Accessed January 2, 2025).

the significance of self-determination and influenced subsequent legal and diplomatic actions.<sup>39</sup>

The relevance of the ICJ's advisory opinions plays a pivotal role in global governance by providing authoritative interpretations of international law that guide state and international organizations. For example, the ICJ's advisory opinion in 2004 regarding the legality of building a barrier in the Occupied Palestinian Territory had significant implications for international relations and human rights. The opinion clarified the legal obligations of Israel under international law and influenced subsequent diplomatic efforts and resolutions by the United Nations.<sup>40</sup>

The ICJ's advisory opinions also stimulate academic and practical discourse in international law. A notable example is the *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965* advisory opinion. This opinion not only clarified the legal status of the Chagos Archipelago but also sparked extensive academic debate and legal analysis on issues of self-determination and decolonization. Many scholarly articles, legal textbooks, and court cases widely cited this opinion, demonstrating its impact on academic research and practical legal applications.<sup>41</sup>

The ICJ's advisory opinions profoundly impact the development and interpretation of international law and global governance. Their relevance is evident in how they shape legal norms, guide state behavior, and foster international cooperation. As the global

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<sup>39</sup> International Court of Justice, "Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965," <https://www.icj-cij.org/case/169/advisory-opinions>. (Accessed January 2, 2025).

<sup>40</sup> International Court of Justice, "Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory," <https://www.icj-cij.org/case/131/advisory-opinions>. (Accessed January 2, 2025).

<sup>41</sup> International Court of Justice, "Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965," <https://www.icj-cij.org/case/169/advisory-opinions>. (Accessed January 2, 2025).

landscape evolves, the ICJ's role in providing authoritative legal guidance remains essential for maintaining a just and orderly international system.

## 7) **CONCLUSION**

The ICJ stands as a central pillar in the architecture of international law, offering unparalleled expertise in adjudicating disputes and providing advisory opinions. The ICJ resolves contentious issues through its jurisdiction and advisory functions and contributes to the progressive development of international legal principles. While non-binding, the Court's advisory opinions hold significant sway in guiding state behavior and shaping the legal landscape.

Examining landmark cases, such as the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory* and the *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965*, highlights the ICJ's crucial role in interpreting international law and influencing global governance. These cases demonstrate the Court's ability to address complex issues, from self-determination to human rights, and its impact on international diplomacy and policy-making.

Moreover, the ICJ's interaction with other international bodies and organizations ensures a cohesive approach to global legal challenges. This collaboration reinforces the Court's relevance and amplifies its influence in promoting worldwide justice and the rule of law.

In conclusion, the ICJ's jurisdiction and advisory opinions contribute to maintaining an orderly and just international system. As global challenges evolve, the ICJ's role in providing authoritative legal guidance remains pivotal in fostering international cooperation, stability, and peace.

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