

The International Court of Justice

The International Court of Justice is the principal judicial organ of the United Nations. Its seat is at the Peace Palace in The Hague (Netherlands). It began work in 1946 when it replaced the Permanent Court of International Justice which had functioned in the Peace Palace since 1922. It operates under a Statute largely similar to that of its predecessor, which is an integral part of the Charter of the United Nations. The ICJ is an important topic in GS-2 section of the UPSC Mains Exam.

What are the Functions of the Court

The Court has two functions:

- To settle in accordance with international law the legal disputes submitted to it by States
- To give advisory opinions on legal questions referred to it by duly authorized international organs and agencies.

Composition

The Court is composed of 15 judges elected to nine-year terms of office by the United Nations General Assembly and Security Council sitting independently of each other. It may not include more than one judge of any nationality. Elections are held every three years for one-third of the seats, and retiring judges may be re-elected. The Members of the Court do not represent their governments but are independent magistrates. The judges must possess the qualifications required in their respective countries for appointment to the highest judicial offices, or be jurists of recognized competence in international law.

As of 2018, the composition of ICJ is as follows:

Composition of the International Court of Justice				
Name	Nationality	Position	Term Began	Term Ends
Abdulqawi Yusuf	Somalia	President	2009	2027
Xue Hanqin	China	Vice-President	2010	2021
Peter Tomka	Slovakia	Member	2003	2021
Ronny Abraham	France	Member	2005	2027

Mohamed Bennouna	Morocco	Member	2006	2024
Antônio Augusto Cançado Trindade	Brazil	Member	2009	2027
Joan Donoghue	United States	Member	2010	2024
Giorgio Gaja	Italy	Member	2012	2021
Julia Sebutinde	Uganda	Member	2012	2021
Dalveer Bhandari	India	Member	2012	2027
Patrick Lipton Robinson	Jamaica	Member	2015	2024
James Crawford	Australia	Member	2015	2024
Kirill Gevorgian	Russia	Member	2015	2024
Nawaf Salam	Lebanon	Member	2018	2027
Yuji Iwasawa	Japan	Member	2018	2021
Philippe Gautier	Belgium	Registrar	2019	2026

Jurisdiction of the ICJ

According to Article 93 of the UN charter, all the 193 members of the UN are automatically parties to the court's statute. Those nations that are not members of the UN may become parties to the court's statute with the help of the Article 93 procedure. Once a state is a party to the court's statute, it is entitled to participate in cases before the court. However, it does not necessarily mean that being a party to the statute gives the ICJ jurisdiction regarding disputes involving those parties does not automatically give the court jurisdiction over them.

The issue of jurisdiction is considered in the three types of ICJ cases: contentious issues, incidental jurisdiction, and advisory opinions.

Contentious issues

Adversarial proceedings seeking to settle a dispute is what is called contentious cases. In such cases, the ICJ produces a binding ruling between states that agree to submit to the ruling of the court. Only states may be parties in contentious cases. Individuals, corporations, component parts of a federal state, NGOs, UN organs and self-determination groups are excluded from direct participation in cases

Incidental Jurisdiction

Until rendering a final judgment, the court has the competence to order interim measures for the protection of the rights of a party to a dispute. One or both parties to a dispute may apply the ICJ for issuing interim measures.

Incidental jurisdiction of the court derives from Article 41 of the Statute of it. Such as the final judgment, the order for interim measures of the court is binding on state parties to the dispute. The ICJ has the competence to indicate interim measures only if the prima facie jurisdiction is satisfied

Advisory Opinions

The advisory procedure of the Court is open solely to international organizations. The only bodies at present authorized to request advisory opinions of the Court are five organs of the United Nations and 16 specialized agencies of the United Nations family. On receiving a request, the Court decides which States and organizations might provide useful information and gives them an opportunity of presenting written or oral statements.

The Court's advisory procedure is otherwise modelled on that for contentious proceedings, and the sources of applicable law are the same. In principle, the Court's advisory opinions are consultative in character and are therefore not binding as such on the requesting bodies. Certain instruments or regulations can, however, provide in advance that the advisory opinion shall be binding.

In principle, the court's advisory opinions are only consultative in character but they are influential and widely respected. Certain instruments or regulations can provide in advance that the advisory opinion shall be specifically binding on particular agencies or states, but inherently, they are non-binding under the Statute of the Court. This non-binding character does not mean that advisory opinions are without legal effect, because the legal reasoning embodied in them reflects the court's authoritative views on important issues of international law

Advisory opinions have often been controversial because the questions asked are controversial or the case was pursued as an indirect way of bringing what is really a contentious case before the court.