

# World court of justice

Law



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The International Court of Justice or the World Court seeks to settle disputes between member nations (of the United Nations) and offers advisory opinions on any legal questions put forth by the General Assembly, the Security Council, or other agencies authorized to do so under the UN charter. (Wikipedia) This paper attempts to find out when the first world court was formed, and whether these courts are made impotent because their judgments lack binding authority. The paper will also discuss what advisory opinions are, and try to find out the procedural differences between the world court and the courts in the United States.

Addressing the plenary session of the UN General Assembly in 1999, the then President of the International Court of Justice, Judge Stephen M. Schwebel mentioned that issues like peaceful settlement of international disputes, disarmament and the law of war, were discussed at the First Hague Peace Conference in 1899. In 1907, at the second Hague Peace Conference the creation of a permanent court of international justice was proposed. However, this proposal did not come through as the members disagreed on the procedure for the selection of judges. With the start of the First World War, this proposal took a back seat. Later, it was under the League of Nations that the Permanent Court of International Justice, or the first world court was set up in 1922. (Schwebel, 1999). The Second World War marked the end of this court and its last hearing was held in February, 1940.

(Permanent Court of International Justice (PCIJ)

Overview). This court served as the immediate predecessor of the International Court of Justice.

The International Court of Justice follows the procedures laid out in its Statute, and in the Rules of Court adopted by it under the Statute. This

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includes a written phase in which the parties file and exchange pleadings, and an oral phase consisting of public hearings at which agents and counsel address the Court. After the oral proceedings, the Court deliberates in-camera, and then delivers its judgment at a public sitting. (International Court of Justice website)

The biggest difference between the International Court of Justice and courts in the United States pertains to the binding authority of the court and the constraints on the judges. The functioning of the International Court of Justice is determined by the conditions it claims to regulate and also its composition. The Court reflects the chaotic and heterogeneous aspects of the international society, and because of this, it tends to produce a transactional justice that has more to do with trade-offs than with conformity to the rule of law. (Chemillier-Gendreau, 1996).

One of the main responsibilities of the International Court of Justice is advisory opinion. The advisory opinions of this court are highly respected interpretations of the law. While in specific cases, they may be binding, generally they are not authoritative, and therefore, non-binding under the statute of the court. (Wikipedia)

As the website of the International Court of Justice suggests, this procedure is open only to international organizations, namely the five organs of the United Nations and 16 specialized agencies of the United Nations family. These opinions are consultative in nature. When the court receives a request, it decides which states or organizations can provide useful information, and allows them to present written or oral statements. Since 1946, the court has given advisory opinions on 25 cases including issues concerning the legal consequences of the construction of a wall in the <https://assignbuster.com/world-court-of-justice/>

occupied Palestinian territory, admission to United Nations membership, reparation for injuries suffered in the service of the United Nations, and the legality of the threat of use of nuclear weapons among others.

While the courts in the United States have the authority to enforce their judgments, the International Court of Justice does not. Among the permanent members of the UN Security Council, the United Kingdom is the only one that has signed a clause agreeing to commit herself in advance to the automatic jurisdiction of the Court, in any dispute with another state accepting the same obligation. Other powerful countries like USA and China have not done so. The USA has even blatantly refused to comply with the Court's judgement, when the court ruling went against it for damages caused to Nicaragua, by sabotage operations led by Contra mercenaries, supported by Washington. (Chemillier-Gendreau, 1996).

There is need for member states to respect and accept the verdict of the Court. Otherwise, the International Court can have no real powers and powerful nations may dominate the smaller ones in an unfair manner, thus making a mockery of justice and international law.

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