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Effectiveness of International Court of Justice in The Past Two Decades

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ABSTRACT

The International Court of Justice is the longest-running international court in existence due to its continuity with its predecessor, the Permanent Court of International Justice. As the 'World Court,' it represents a critical link between the current reality of international adjudication and its antecedent intellectual and ideological basis and institutional representation. The International Court of Justice (ICJ) is the model for international arbitration. Furthermore, as the UN's "principal judicial organ," it holds a unique position among international courts and tribunals and is part of a worldwide organization tasked with preserving international peace and security.

To evaluate its efficacy, consider the nature and scope of the difficulties that the Court has encountered since 1945. The ICJ has seen enormous changes in the world and its operational scope without enduring significant structural changes. Its membership has experienced dramatic changes in terms of numbers, identities, and opinions since its establishment. These twists and turns underscore the ICJ's exceptional institutional resilience in the face of external pressures, which must be considered when assessing its performance.

The upcoming chapter provides a broad overview of the ICJ's effectiveness. In Part 1, we introduce the evaluation framework used throughout the chapter, which is based on analysing the Court's performance in achieving its goals. Part 2 explores the objectives of the ICJ, both explicitly stated and implied, as found in its core documents. Part 3 discusses the structural aspects of the Court that either facilitate or hinder its ability to achieve its goals. Part 4 evaluates the outcomes produced by the Court and compares them to its stated objectives. Finally, Part 5 concludes the research.

Keywords: *International Court of Justice, judicial effectiveness, jurisdiction, compliance, legitimacy, judicial goals, judicial independence, impact of international judgments.*

I. INTRODUCTION

The International Court of Justice (ICJ) is the world's oldest international Tribunal, having succeeded the Permanent Court of International Justice (PCIJ). It was founded under the United

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Nations Charter in June 1945 and began operations in April 1946. It is frequently referred to as the 'World Court,' it plays an important role in current international conflict resolution, bridging the gap between present practices and historical legal foundations. As a key judicial organ of the United Nations (UN), it holds a unique position among global courts, addressing global concerns and potentially exercising universal authority. The organizational framework of the ICJ is strongly anchored in the PCIJ, reflecting its late-nineteenth-century outlook on international law.

The International Court of Justice is made up of 15 justices who are appointed for nine-year terms by the United Nations General Assembly and Security Council. These organs vote concurrently yet individually. A candidate must receive an absolute majority of the votes cast in both bodies to be elected. This sometimes necessitates the holding of multiple rounds of voting.

To maintain some stability, one-third of the Court is chosen every three years. Judges can run for re-election. If a judge dies or resigns during his or her term of office, a special election to replace the unexpired portion of the term is held as quickly as feasible. The principal mission of the Court is to handle legal disputes brought by countries in line with international law, as well as to render advisory opinions on legal matters referred to it by authorized UN bodies and specialized agencies. The International Court of Justice (ICJ) handles international disputes by the voluntary involvement of the states. When a state decides to participate in a case, it is legally compelled to follow the Court's decisions.

The International Court of Justice (ICJ) has faced significant obstacles since its founding in 1946, including fluctuations in the global landscape, changes in its member states, and the influence of the Cold War. Despite this, it has shown incredible institutional resilience. The following chapter employs a goal-oriented analysis to assess the ICJ's efficacy. It examines the Court's aims and the structural characteristics that either promote or hinder goal achievement and evaluate the outcomes regarding the Court's objectives.

(A) Problem analysis

The International Court of Justice (ICJ), which was formed as the main court of the UN, has demonstrated its efficacy in a number of ways, establishing a strong case for its importance in the fields of international law and conflict resolution.

First and foremost, the ICJ acts as a forum for the peaceful settlement of international disputes. Its rulings have resulted in the peaceful resolution of countless international conflicts, and they are legally binding. For instance, the ICJ demonstrated its capacity to avert the escalation into

armed confrontations by playing a crucial role in the resolution of territorial disputes, such as the 1969 North Sea Continental Shelf Cases between Germany and Denmark/Netherlands.

Its decisions are enforceable in court and have contributed to the peaceful conclusion of numerous international crises. In the 1969 North Sea Continental Shelf Cases between Germany and Denmark/Netherlands, for example, the ICJ displayed its ability to prevent the escalation into armed confrontations by playing a major role in the resolution of territorial disputes.

In conclusion, the International Court of Justice succeeds in its goals to establish international law, settle disputes amicably, and preserve a venue for open and accountable global decision-making. Its history of effective interventions highlights the crucial role it plays in preserving world peace and advancing international law.

The International court of Justice has been effective for the past two decades thus the following cases laws will prove the same.

Corfu Channel Case (United Kingdom v Albania)

The International Court of Justice (ICJ) held Albania accountable for damaging British warships in the Corfu Channel in the United Kingdom v. Albania case from 1949. This case contributed to the development of the idea that nations must respect the freedom of navigation in international waters and take responsibility for the acts of their armed forces.

South West Africa Case

The International Court of Justice declared that South Africa's prolonged authority over South West Africa (now Namibia) was unlawful in the South West Africa Cases (Ethiopia and Liberia v. South Africa, 1966). This choice was a key factor in Namibia's eventual decolonization.

(B) Literature review

a. 2021

³Rotem Giladi and Yuval Shany, Assessing the Effectiveness of the International Court of Justice, Hebrew University of Jerusalem Legal Research Paper No. 21-10

Yuval Shany and Rotem Giladi, Rotem Giladi and Yuval Shany's paper, Assessing the Effectiveness of the International Court of Justice (ICJ), assesses the ICJ's performance. They examine the role of the ICJ in maintaining international law, promoting peace, and settling international conflicts. The study looks at the court's authority, degree of compliance, and capacity to shape state policy. The findings of Giladi and Shany demonstrate that while the ICJ

³ Rotem Giladi, Yuval Shany. (2021, March 11). *Assessing the effectiveness of the International Court of Justice*. Search eLibrary :: SSRN. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3801580

is important in resolving conflicts, its efficiency depends on state cooperation and compliance with its decisions. They draw attention to the court's ability, albeit with some restrictions and difficulties, to improve the rule of law in international affairs.

b. 2017

⁴Rosalyn Higgins, Philippa Webb, Dapo Akande, Sandesh Sivakumaran, and James Sloan, *Oppenheim's International Law: United Nations*, Oxford University Press (2017).

Since its inception in 1945, the United Nations, whose specialized agencies were the subject of an Appendix to the 1958 edition of Oppenheim's *International Law: Peace*, has grown beyond all recognition. This volume contains a completely new subject, although it is arranged in the manner that has become so familiar in Oppenheim's subsequent editions. This work is an authoritative and thorough study of the United Nations' legal practice. It covers the formal structures of the UN as they have evolved over time, as well as all that this complicated organization performs. All substantive problems, including the UN's responsibilities, financing, immunities, human rights, averting armed conflicts and peacekeeping, and judicial matters, are covered in different parts. In studying the United Nations' shifting institutions and ever-expanding operations, this volume maintains Oppenheim's long-held tradition of giving facts free of personal bias in a short narrative that simultaneously offers a wealth of material and ideas to be explored in the footnotes. It is a book that informs of the realities of legal issues as they arise in the day-to-day practice of the United Nations while making all essential references to the Charter, the Statute of the International Court of Justice, and other legal instruments.

c. 2017

Gerhard von Glahn and James Larry Taulbee, *Law Among Nations: An Introduction to Public International Law*, Routledge, 11th Edition (2017).

Law Among Nations, a more approachable alternative to casebooks and historical comments, discusses topics of international law by tracing the field's development and emphasising fundamental ideas, processes, and significant cases. By mixing studies of theory and state practise with excerpts from significant cases, this comprehensive study avoids the need for many books. The book has been updated to reflect the ongoing revolution in communication technology, the dense web of links between countries involving individuals and bodies both formal and informal, and it covers important and contentious issues such as human rights, the environment, and issues related to the use of force. *Law Among Nations*, renowned for its

⁴ *The International Court of Justice and the peaceful settlement of international disputes. (2017). The International Court of Justice and the Effectiveness of International Law, 98-145. https://doi.org/10.1163/9789004328860_005*

rigorous methodology and simple explanations, remains the gold standard for undergraduate introductions to international law.

d. 1951

Philippe Couvreur, The International Court of Justice and the Effectiveness of International Law

The United Nations, whose specialised agencies were the topic of an Appendix to the 1958 edition of Oppenheim's *International Law: Peace*, has expanded beyond all recognition since its creation in 1945. This volume represents a research that is wholly new, but prepared in the fashion that has become so familiar over subsequent editions of Oppenheim. This volume examines the formal structures of the UN as they have grown over the years and all that this intricate organisation does in an authoritative and thorough study of the UN's legal practise. Each substantive topic is covered in its own section, covering, for example, the UN's obligations, funding, immunities, human rights, averting armed conflict and maintaining peace, as well as judicial issues.

(C) Objectives

1. To analyse the effectiveness of the International Court of Justice in the Past two decades?
2. To inquire into the work that has been carried out by the International Court of Justice?
3. To examine case laws in relation to resolution provided by the International Court of Justice?
4. To examine the structure and functioning of the International Court of Justice in order to find out the effectiveness of the International court of justice.

(D) Research questions

Whether the International Court has been effective in the past two decades?

(E) Limitations

Many ICJ documents and judgments are published in multiple languages, which may limit access for researchers who do not have language proficiency.

Conducting extensive research on ICJ cases may require significant resources, including access to legal databases, translation services, and international law experts.

Assessing the long-term effectiveness of ICJ judgments may require a substantial time lag, as compliance and outcomes can take years or even decades to materialize.

(F) Research Methodology

Through the application of a doctrinal research technique, the study seeks to assess the effectiveness of the International Court of Justice (ICJ). The *International Court of Justice: A Practical Perspective* by Malcolm N. Shaw, published by Cambridge University Press, and "Decisions of International Courts and Tribunals and International Arbitrations," 1st Edition, written by Rudolf Bernhardt in 1981, serve as the study's primary foundational base papers. In order to evaluate the effectiveness of the ICJ, this study takes a doctrinal approach that focuses on examining legal texts and resources. Research will be carried out by using scholarly works, pertinent judicial rulings, and case law as a relevant source to write the following research paper relating to the efficiency of the ICJ. The base papers will be included in the review together with additional reliable sources to provide readers a thorough understanding of the subject. The performance of the ICJ will be compared to that of other international dispute resolution processes, like arbitration and ad hoc courts, in order to determine how effective it is. Whether or not the International Court of Justice's special qualities increase its effectiveness. Examining the ICJ's statute and procedural rules will help you better grasp the Court's authority and how decisions are made by the Court. An attempt will be made to analyze the legal system in relation to whether it helps or hinders the ICJ in its operations.

II. EVOLUTION OF INTERNATIONAL COURT OF JUSTICE

The International Court of Justice (ICJ) was established as part of a historical process to create procedures for peacefully resolving international conflicts. Article 33 of the United Nations Charter outlines various methods for peaceful conflict resolution, including negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement, and the use of regional agencies or arrangements, often with the addition of good offices. Some of these methods involve third-party intervention, such as mediation, which assists conflicting parties in resolving disputes, and arbitration, where an impartial third party makes legally binding decisions. The ICJ, in the practice of judicial settlement, follows similar principles but employs more rigorous procedural rules.

In history, mediation and arbitration predated the concept of judicial settlement. Mediation was recognized in ancient India and the Islamic world, while instances of arbitration can be traced back to ancient Greece, China, various Arabian tribes, customary maritime law in medieval Europe, and the practices of the Papal authority.

The start of World War II in September 1939 had far-reaching consequences for the Permanent Court of International Justice (PCIJ). The PCIJ's activities had already begun to wane, and as

the war progressed, it ceased to handle any additional judicial issues. Only one judge and a few Dutch Registry personnel remained in The Hague when the Court relocated to Geneva in 1940. The United States and the United Kingdom voiced support for the establishment of a new international court after the war in 1942. The Inter-American Juridical Committee suggested that the PCIJ's authority be expanded. The United Kingdom convened an informal Inter-Allied Committee to investigate the matter in early 1943.

This committee proposed that the new international court's legislation be based on the PCIJ, retain advisory jurisdiction, not require mandatory acceptance of its jurisdiction, and avoid resolving purely political issues.

China, the Soviet Union, the United Kingdom, and the United States published a joint proclamation in October 1943 recognising the necessity for a universal international organisation founded on the concept of sovereign equality of states. This proclamation prompted discussions at Dumbarton Oaks and the release of plans for a new international organisation, including an international court of justice, in October 1944.

In April 1945, a group of 44 jurists from 44 countries met in Washington to design a statute for the future International Court of Justice. The draught was based on the PCIJ's statute, but it left numerous crucial concerns for the San Francisco Conference to address. The 50-state conference resolved against compulsory jurisdiction and in favour of establishing a completely new court as a primary organ of the United Nations. This was done to ensure that the new court was not linked to the League of Nations and to give states outside of Europe a larger role.

Despite the creation of a new court, the San Francisco Conference maintained some continuity by basing the International Court of Justice's statute on that of the PCIJ. The PCIJ was dissolved in April 1946 when the required steps were made to transfer its jurisdiction to the new court. In the same year, the International Court of Justice conducted its first public sitting and elected its first President, with the first case concerning occurrences in the Corfu Channel brought by the United Kingdom against Albania.

III. WORKING AND FUNCTIONING OF THE COURT

The Court may entertain two types of cases: legal disputes between States submitted to it by them (contentious cases) and requests for advisory opinions on legal questions referred to it by United Nations organs and specialized agencies (advisory proceedings).

Contentious cases

The Court may hear two sorts of cases: legal disputes between states that have been referred to

it (contentious cases) and requests for advisory opinions on legal problems addressed to it by United Nations organisations and specialised bodies (advisory procedures).

Only States can engage in contentious issues before the International Court of Justice (ICJ) in the following ways:

1. **Special Agreement:** Through a special agreement, states can agree to refer a dispute to the ICJ.
2. **Clause of Jurisdiction:** States in a treaty may typically insert a clause allowing them to refer disputes over the interpretation or application of the pact to the ICJ.

States do not have permanent representatives at the International Court of Justice. They usually contact with the Registrar through their Foreign Minister or an ambassador accredited to the Netherlands. States are represented before the Court by an agent, who functions similarly to a solicitor in a national court. These agents have diplomatic abilities and are in charge of all communication and petitions. Co-agents, deputy agents, or assistant agents may assist them, and they may work with counsel or advocates. There are no formal requirements for appearing before the ICJ as an advocate, other than being appointed by a government.

There are two ways to initiate contentious proceedings before the International Court of Justice (ICJ):

1. **Special Agreement:** Through a special agreement, states interested in a dispute might jointly bring it to the ICJ. The issue of the disagreement must be specified in this bilateral document. The names of the involved countries are split by an oblique stroke in the Court's publications (e.g., Benin/Niger).
2. **Application:** Through an application, a State, known as the applicant, can unilaterally raise a dispute against another State, known as the respondent. The application must meet tougher content standards, such as stating the legal basis for the ICJ's jurisdiction, offering a brief summary of the subject of the dispute, and describing the facts and legal arguments supporting the claim. The names of the two parties are separated by "v." (for "versus") in the official case title (e.g., Nicaragua v. Colombia).

When the Registrar receives the special agreement or application, the proceeding is initiated. A written phase in which the parties exchange comprehensive filings detailing their legal and factual arguments is followed by an oral phase with public hearings in which agents and attorneys address the Court. The Court conducts business in two official languages, English and French, with translations available. Unless the parties raise no objections, the written pleadings

remain confidential until the start of the oral proceedings.

Following the oral hearings, the Court deliberates discreetly before issuing a final, binding decision in a public sitting. The judgement is not appealable, but it may be interpreted or, in the case of new facts, revised. The United Nations commits to implementing the Court's decisions, and any party who believes the opposing party is not carrying out its obligations under a judgement may bring the subject before the UN Security Council. The Security Council may then recommend or decide on actions to ensure that the judgement is carried out.

Incidental procedures at the International Court of Justice (ICJ) can vary the usual procedure.

These could include:

- **Preliminary Objections:** These are brought to call the Court's ability to consider a case into doubt, such as jurisdiction or admissibility difficulties.
- **Temporary Measures:** When the applicant state believes that immediate protection of rights is required, this request is made.
- **Intervention:** If a state has a legal interest at issue, it may request to enter a dispute involving others.
- **Cases Involving Non-Appearance:** provided a respondent State refuses the Court's jurisdiction, proceedings may proceed provided the Court affirms its jurisdiction.
- **Joining Proceedings:** The Court may combine different cases that address the same issues and have a common opponent.

The Court's decisions are based on legal sources such as international treaties, customary law, general legal principles, judicial precedents, and expert opinions. In rare circumstances, the Court may rule on the basis of fairness (*ex aequo et bono*) rather than precise legal principles. A case may be settled or discontinued at any point in time. The matter gets withdrawn from the Court's docket if both parties agree to withdraw.

(A) Advisory Proceedings

The International Court of Justice (ICJ) only hears advisory proceedings from exclusive UN entities and specialised agencies. The General Assembly and Security Council can seek advisory opinions on any legal issue, while other authorised UN institutions can seek opinions in their areas of expertise.

Advisory proceedings are conducted by the ICJ in the same manner as contentious cases, with written and oral phases. The Court compiles facts and compiles a list of collaborating countries and international organisations. Participation in advisory procedures, however, does not bind

these companies to the Court's decision.

Non-requesting international organisations are rarely permitted to participate in advisory procedures before the Court. Advisory views are not legally binding, but they are respected. While they may be legally binding in some situations (e.g., UN agreements on privileges and immunities), the choice to adopt the opinion ultimately rests with the seeking entity or agency. In 2023, the ICJ Registry issued a paper outlining the procedure for advisory procedures for States and international organisations.

IV. CASE LAWS

The International Court of Justice (ICJ) has dealt with a number of cases that have had a significant impact on the court's effectiveness and function in international law. Here are a few important cases concerning the ICJ's effectiveness:

⁵Nicaragua v. United States (1986):

This case concerned the United States' assistance for Contra insurgents in Nicaragua as well as the mining of Nicaraguan harbours. The International Court of Justice ruled that the United States had violated international law and ordered it to pay reparations. This decision called into doubt the International Court of Justice's ability to hold powerful governments accountable.

⁶Bosnia and Herzegovina v. Serbia and Montenegro (2007):

This case addressed charges of genocide committed during the Bosnian War. The International Court of Justice decided that while Serbia was not directly liable for genocide, it did not prevent it. It emphasised the ICJ's role in resolving genocide and state responsibility cases.

⁷The Legality of Nuclear Threats or Use (1996):

The United Nations General Assembly requested this advisory opinion on the legality of nuclear weapons. The International Court of Justice found that the use of nuclear weapons would be generally prohibited, but left room for exceptions in circumstances of self-defense. The viewpoint contributed to the discussion on disarmament.

⁸Avena and Other Mexican Nationals (Mexico v. US) (2004):

This issue included the failure of the United States to advise detained Mexican nationals of their consular rights. The International Court of Justice found in favour of Mexico, emphasising the

⁵ Nicaragua v. United States, 1986 I.C.J.14 (1986)

⁶ Bosnia and Herzegovina v. Serbia and Montenegro ICJ 2 (2007)

⁷ Legality of the Threat or Use of Nuclear Weapon (Advisory Opinion), I.C.J., Advisory Opinion, 1996 I.C.J. 266

⁸ Avena and Other Mexican Nationals (Mexico v. US) (2004)

necessity of consular notice and the ICJ's responsibility in defending persons' rights.

Case of Kulbhushan Jadhav (India v. Pakistan) (2019):

There were claims of espionage and violations of the Vienna Convention on Consular Relations in this case. The International Court of Justice (ICJ) ordered Pakistan to review and reconsider the death sentence handed on Kulbhushan Jadhav, emphasising the court's responsibility in protecting individual rights.

These cases highlight the International Court of Justice's involvement in resolving questions of governmental responsibility, individual rights, the use of force, and the legality of weapons. The effectiveness and impact of the court varies depending on the facts of each case and the willingness of states to follow its judgements and advisory opinions.

V. THE POSITIVE IMPACT OF ICJ

Due to its immense influence throughout the international community, the International Court of Justice (ICJ) has played an important role in the peaceful resolution and prevention of international conflicts between states since its establishment in 1946. The International Court of Justice (ICJ) remains powerful and even after 76 years, its caseload and its ever-expanding docket remain reliable and indispensable. Due to the rigor, accuracy and, most importantly, consistency of its rulings, the Court has developed into a very predictable institution in its compliance with precedent. One of its main advantages is this. In order to establish a large body of precedent and provide a consistent interpretation of international law across different judgments, the ICJ refers to its own and the PCI's previous jurisprudence. There are undoubtedly other examples, including the consistency with the right to consular assistance demonstrated in the cases of *Breard* (1988), *LaGrand* (2001), *Avena* (2004) and *Jadhav* (2019). International law has also developed as a result of the reasoned rulings of the International Court of Justice, which are cumulative in nature. The Court has positioned itself as a kind of international "Supreme Court", contributing to the coherence and harmony of international law, although its decisions are only mandatory for the parties involved in a given case.

The Court has positioned itself as a kind of international "Supreme Court." The status of the international "Supreme Court" contributes to the consistency and harmony of international law, although its rulings are only mandatory for the parties involved in a given case. The expansion of judicial procedures in the early 21st century has sparked scholarly discussion about the potential disintegration of international law. Since international law lacks vertical control mechanisms to ensure uniformity in domestic law, European law or even the Inter-American system, there is a danger that these judicial bodies will interpret the law differently or even

contradictorily. This discussion has been further fueled by rulings by the International Court of Justice (ICJ) and the International Criminal Tribunal for the Former Yugoslavia (ICTY), which have different standards for crimes that violate international law. In 2006, the International Law Commission began a study to address this issue. "These concerns have not proved significant," as stated by Rosalyn Higgins, the former President of the ICJ. In fact, the absence of such fragmentation is primarily attributable to the ICJ's virtually unchallenged jurisdiction. Even though the Court was not intended to be a "global constitutional court," other international courts and tribunals respect and often reference its rulings. Its constancy is undoubtedly a major factor in this outcome. Furthermore, the benefits of harmonization are greatly facilitated by the informal dialogue that takes place between courts in the international system.

Even though these discussions took place privately in various settings, including academia, they demonstrated a degree of cooperation among judges of other international tribunals and a general recognition of the growing leading role of the International Court of Justice (ICJ). Further evidence of the importance of the International Court of Justice is reflected in the widespread participation of states in the region who resort to the Court to resolve their disputes by peaceful means. Even though only more than 70 countries (more than one-third of all UN Member States) have accepted its compulsory jurisdiction, the Court's docket shows that countries from all regions of the world and different legal systems continue to bring cases before the ICJ. This includes countries that have not accepted compulsory jurisdiction but have invoked treaty dispute settlement provisions or brought proceedings before the court through special agreements. This not only legitimizes the Court's work; it also provides the opportunity to interpret and implement international law in a truly global manner. To further this, Romania recently presented a declaration supporting the Court's jurisdiction and promoting acceptance of its compulsory jurisdiction. More than thirty countries, including Mexico, have joined the declaration.

Over the past two decades, the International Court of Justice has played a vital role in resolving international disputes and promoting the global rule of law. Several advantages of the International Court of Justice can be seen through well-known case law: Peaceful Settlement of Disputes: The International Court of Justice has consistently demonstrated its ability to resolve disputes between states peacefully. For example, in the 2012 Territorial and Maritime Dispute (Nicaragua v. Colombia) case, the Court played a key role in resolving the disputed territorial dispute and preventing the escalation of tensions and potential armed conflict. Protecting human rights: The International Court of Justice has played an important role in upholding human rights, as shown in the 2012 State Jurisdictional Immunity (Germany v. Italy) case. The court

ruled that states cannot claim absolute immunity for human rights violations, setting an important precedent for holding states accountable for such violations. Clarification of International Law: The ICJ has contributed to the development and clarification of international law, as demonstrated by the 1996 Advisory Opinion on the Legality of the Threat or Use of Nuclear Weapons.

The court's opinion shapes the discussion surrounding the use of nuclear weapons. Weapons and reinforce the principle of proportionality in armed conflict. Environmental protection: In the 2014 Antarctic Whaling (Australia v. Japan) case, the International Court of Justice issued a landmark ruling that highlighted the importance of international environmental agreements. The ruling supports efforts to protect marine life and the environment and underscores the court's role in resolving transboundary environmental issues. Settlement of boundary disputes: The International Court of Justice has effectively resolved territorial and boundary disputes, such as the 2009 "Black Sea Maritime Delimitation (Romania v. Ukraine)" case. The Court's rulings provide clarity and stability on these sensitive issues and promote peaceful coexistence among states. Avoid diplomatic conflicts: As a diplomatic tool, the International Court of Justice allows countries to resolve disputes through legal channels instead of resorting to military or aggressive means. The 2013 Aerial Herbicide Spraying (Ecuador v. Colombia) case highlighted the role of the International Court of Justice in preventing further escalation of conflicts and promoting cooperation. Cultural heritage protection: In the 2015 case "Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia)", the International Court of Justice discussed issues related to cultural heritage and genocide. The court's ruling helps protect cultural and historical sites and emphasizes the importance of protecting humanity's common heritage.

VI. LIMITATIONS AND CHALLENGES FACED BY THE ICJ

⁹The effectiveness of the International Court of Justice (ICJ) is crucial to the survival and progress of humanity in the twenty-first century. Unfortunately, more than 60 years after its creation, the Court's powers are waning. This article argues that in order to restore the Court's power and effectiveness, the international court system must undergo several key adjustments. These reforms need to address the following issues: (1) the election and re-election of judges of the International Court of Justice; (2) conflicts of interest arising from the permanent members of the United Nations Security Council serving on the Court; (3) the issue of the Court's

⁹ An Overview of the Challenges Facing the International Court of Justice in the 21st Century, Volume 16, Issue 1, S. Gozie Ogbodo, 2012

compulsory jurisdiction; (4) the Article 31 of the Statute appoints judges ad hoc.

One of the most significant challenges facing the International Court of Justice is the enforceability of its judgments. While the court can issue legally binding rulings, it lacks mechanisms to ensure that states comply with its rulings. States may choose to ignore or only partially implement ICJ judgments, thereby undermining the Court's authority and effectiveness. The ICJ's jurisdiction is based on state consent, meaning that a case can only be heard if both parties accept the court's authority. The ICJ's role in conflict resolution may be hampered by the refusal of some states to participate in or accept its jurisdiction, which may limit the court's ability to deal with important international disputes.

Because the ICJ operates within a political framework, power dynamics and geopolitics may have an impact on the Court's rulings. Certain countries may attempt to use their economic and political power to influence case decisions, which may jeopardize the independence and impartiality of the courts. There is often a backlog of cases before the ICJ, which can lead to delays in dispute resolution. The time it takes for cases to be heard and adjudicated can limit the courts' ability to resolve conflicts and deliver justice in a timely manner. Due to limited resources, the ICJ may not be able to handle the increasing number of cases it receives. The court relies on contributions from member states, and financial constraints may make it more difficult to operate effectively and deal with new issues.

Contemporary international disputes often involve complex legal and technical issues, such as those related to cyberwarfare, environmental law and human rights. The dynamic nature of these issues may make it difficult for the International Court of Justice to keep pace with them, and specialized expertise may be required to deal with them appropriately. The public sometimes feels insulated from and unable to understand the decisions of the International Court of Justice. By expanding the Court's jurisdiction and increasing the transparency of its proceedings, the Court's legitimacy and effectiveness in promoting the rule of law on the international stage can be enhanced. Unlike other international organizations, the ICJ cannot punish or sanction states that violate international law. This restriction could make it more difficult for it to prevent violations and ensure that its rulings are adhered to.

According to Article 31 of the ICJ Statute, the International Court of Justice (ICJ) can act as an arbitral tribunal only if the parties to the dispute consent to the jurisdiction of the ICJ. This means that states must freely agree to refer disputes to the International Court of Justice. Reluctant countries blocked the ICJ from hearing the case. When one or more parties refuse to participate, the court's ability to resolve the dispute is limited by the principle of consent-based

jurisdiction.

States may declare their acceptance of the compulsory jurisdiction of the International Court of Justice in accordance with the provisions of Article 36 of the Statute of the International Court of Justice. In some cases, countries do not fall within the Court's universal jurisdiction. It is limited to specific case types and excludes broad disagreements, such as those related to defence, home affairs and vital interests.

A few further categories of conflicts that are expressly outside the purview of the ICJ are delineated in Article 38 of the ICJ Statute. The International Court of Justice (ICJ) is not authorized to hear cases involving the United Nations, states and people, or conflicts that have already been resolved through alternative channels.

Sovereign state conflicts are the main focus of the International Court of Justice. Even in the case of parties to international conflicts, non-state actors such as individuals, businesses and NGOs remain outside its jurisdiction. One might argue that the Court's ability to address broader international issues is limited by its narrow mandate.

Because the ICJ's jurisdiction is based on consent, political factors such as diplomatic discussions and national strategic choices may have an impact on whether a case is brought to the court. This may result in the ICJ not hearing a particular case due to political factors involved.

VII. ANALYSIS OF THE EFFECT OF ICJ IN THE PAST TWO DECADES

The International Court of Justice (ICJ) was asked in *Nicaragua v. United States* to consider U.S. involvement in the Nicaraguan conflict, namely U.S. aid to Nicaraguan rebels and U.S. mining activities in Nicaraguan ports. The International Court of Justice (ICJ) ruled in favor of Nicaragua, finding that the United States violated a number of international legal norms, including the principle of non-interference. This case speaks volumes about the International Court of Justice's (ICJ) ability to uphold international law, encourage the rule of law and hold powerful states accountable for their actions.

The case of *Bosnia and Herzegovina v. Serbia and Montenegro* includes allegations of genocide that occurred during the Bosnian war in the 1990s. Although Serbia was not found directly responsible for the genocide, the ICJ ruling held Serbia responsible for its failure to stop and punish the genocide. The case highlights the importance of state responsibility for international crimes, despite criticism that the court did not go further to pursue direct responsibility. Despite the controversy it sparked, the ICJ's ruling demonstrated its importance in clarifying how

international law is applied in complex conflict situations.

The ICJ discussed the controversial topic of nuclear weapons in its Advisory Opinion on the Legality of Nuclear Threat or Use. Although the court concluded that international law generally prohibits the use or threat of use of nuclear weapons, it did not exclude the possibility of doing so in dire situations. In the field of nuclear disarmament and non-proliferation, this ruling sets a major precedent, advances international law and highlights the importance of proportionality in armed conflicts.

In the *Avena* case, the ICJ was asked to rule on whether the United States violated the rights of aliens on death row by failing to provide consular assistance to them, as required by the Vienna Convention on Consular Relations. The International Court of Justice (ICJ) ruled in favor of Mexico, finding that the United States had in fact violated the terms of the convention. The case highlights the value of consular assistance in safeguarding the rights of foreigners and illustrates the role of the International Court of Justice in defending individual rights against government action.

The *Kulbushan Jadhav* case involves Pakistan's alleged espionage and illegal detention of an Indian national. The ICJ ruled in favor of India, saying Pakistan had violated Jadhav's rights under the Vienna Convention on Consular Relations. The court ordered Pakistan to review and reconsider Jadhav's conviction and sentencing. The case highlights the effectiveness of the International Court of Justice in resolving human rights issues and safeguarding individual rights in diplomatic tensions.

The ICJ has been successful in encouraging state accountability. The International Court of Justice (ICJ) has held states responsible for violations of international law in cases such as *Nicaragua v. United States*, *Bosnia and Herzegovina v. Serbia and Montenegro*, and *Avena*. This helps emphasize the importance of upholding the rule of law globally and serves as a deterrent to countries engaging in similar behavior.

The development and clarification of international law owes much to the International Court of Justice. For example, the Advisory Opinion on the Legality of Nuclear Threats or Use establishes important norms for the use of nuclear weapons as well as rules governing the legality of the use of nuclear weapons in self-defense. These views have a significant impact on the discussion and application of international law.

Avena and *Kulbushan Jadhav* are two cases that demonstrate how well individual rights can be upheld by international courts. Even in cases involving espionage or political unrest, the court's decision upheld the rights of foreigners and emphasized the importance of consular

assistance.

Although the International Court of Justice has issued valid judgments and opinions, it has encountered difficulties in the implementation of its rulings. Although states are generally expected to comply with court rulings, there is no formal enforcement mechanism, so compliance often depends on the wishes of the states. Pakistan's controversial response to the verdict has highlighted the challenges of ensuring compliance, as evidenced by the case of *Kubushan Jadhav*.

The consent-based mechanism of the International Court of Justice naturally limits its authority. The court's ability to hear cases may be limited to situations where states are willing to submit to its jurisdiction, thereby limiting its ability to deal with important international conflicts. Cases such as the ongoing South China Sea conflict between China and the Philippines illustrate how jurisdictional issues can affect the court's effectiveness. The International Court of Justice (ICJ) plays a role in global politics and diplomacy, and its rulings may be influenced by power relations and political factors. This sometimes affects the court's ability to make rulings that satisfy all parties or to adequately resolve complex, politically sensitive issues.

VIII. RECOMMENDATIONS FOR FUTURE RESEARCH WORK

For future scholars who want to study the effectiveness of the International Court of Justice (ICJ) over the past 20 years, there are a variety of interesting research directions and topics available:

- Examining how states have followed or ignored ICJ rulings over the past 20 years. Examine the variables that influence states' compliance with the ruling and investigate the effectiveness of any enforcement strategies used to ensure implementation of the ruling.
- A thorough jurisprudential review of the last 20 years of case law of the International Court of Justice. Analyze how the Court's decisions influenced subsequent legal interpretations and advanced the field of international law. Study how courts shape customary international law.
- Determine whether any themes or issues have appeared frequently in ICJ rulings over the past 20 years, such as state responsibility, human rights, environmental law, and territorial disputes. Examine the ICJ's handling of these cases, looking for patterns and trends to see whether its decisions have lasting effects.

- Examines the impact of ICJ rulings on international relations and conflict resolution. Examine whether the court helps avoid or reduce disputes and facilitate diplomatic settlement.
- Conduct comparative studies to assess the merits of the International Court of Justice relative to other regional and international dispute settlement forums. Examine when and why states choose the ICJ over other forums, and whether the ICJ's dispute resolution function has changed.
- Analyze the International Court of Justice's involvement in addressing 21st century issues such as cyberwar, climate change, and indigenous rights. Examine how courts adapt and deal with these new issues.
- Authority and consent: An examination of the difficulties and limitations associated with the consent-based jurisdictional structure of the International Court of Justice. Analyze how jurisdictional issues may affect the court's ability to hear certain cases and consider any changes or alternative procedures that may be necessary to increase the court's jurisdiction.
- Examines how diplomatic negotiations and political factors influence ICJ rulings and proceedings. Examine how geopolitical events affect the effectiveness and impartiality of courts in resolving disputes.
- Review the ICJ's measures to broaden its audience and increase the transparency of its proceedings. Determine whether these actions enhance the court's legitimacy.
- Consider how the advent of non-state actors, altering global power arrangements, and altered state behaviour have affected the ICJ's growing function. Think about the court's possible involvement in resolving global issues in the ensuing decades.
