

Examining Article 36 of the United Nations Charter, the Judicial Responsibility of the International Court of Justice in Settling Disputes Between Countries in International Lawsuits

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ABSTRACT

Field and Aims: This article focuses on Article 36 of the UN Charter and examines the jurisdiction and responsibilities of the International Court of Justice (ICJ) in resolving disputes. The aim is to strengthen the resolution of International disputes and enhance the role of the ICJ in the United Nations.

Method: This research uses the normative legal research method to analyze the provisions and cases through qualitative analysis of documentary data and library materials.

Finding and Conclusion: findings indicate that the International Court of Justice has jurisdiction over cases referred to it and matters specified in the UN Charter and relevant treaties. The jurisdiction of the ICJ includes treaty interpretation, dealing with issues of international law, determining breaches, and awarding reparations. The court's decisions are binding and require compliance by states. Article 36 leads to declaratory judgments, compensation, and restitution in integrum. However, the jurisdiction of the ICJ is limited and relies on the consent of states for effectiveness.

1. Introduction

The International Court of Justice (ICJ) is the principal judicial organ of the United Nations, established in 1945. It is responsible for the peaceful settlement of disputes between states and can also provide advisory opinions on legal matters. The Court's jurisdiction is based on the consent of the states involved in a specific dispute. It has the authority to interpret treaties, address issues related to international law, determine breaches of international obligations, and determine compensation for such breaches. The ICJ hears and determines contentious cases, contributing to the development of international law through its decisions. The Court's composition, procedures, and practices are outlined in its Statute, and it plays a crucial role in adjudicating disputes and providing authoritative opinions on matters referred to it by international organizations and the UN General Assembly.

This article examines how Article 36 of the United Nations Charter determines the jurisdiction and responsibility of the International Court of Justice (ICJ) in the resolution of disputes and legal cases between countries. Previous studies have conducted research on the history, role, and functions of the ICJ, but the Court faces challenges that significantly impact its activities, particularly regarding countries that are unwilling to comply with its judgments. This article analyzes the responsibilities of the ICJ in legal cases between countries by studying Article 36 of the United Nations Charter.

The main objective of this research is to thoroughly examine Article 36 of the United Nations Charter and analyze the judicial responsibility of the ICJ in the resolution of disputes and legal cases between countries. This research has been conducted to provide recommendations and proposals to improve the activities of international dispute resolution and strengthen the role of the ICJ in this field, specifically to the International Court of Justice and the United Nations.

Literature review

The judicial responsibilities of the Court regarding legal claims between countries include settlement of disputes and providing advisory opinions. International courts, such as the International Court of Justice, primarily function to settle disputes between States (Capurro Robles et al., 2009). They have the authority to hear cases and make decisions on legal matters between countries. Additionally, international courts may also have the right to provide advisory opinions to international organizations (Brinkhorst and Schermers, 1977). These opinions serve as guidance on legal issues and help inform decision-making processes. The role of international courts is not limited to dispute settlement alone. They also have the potential to promote peace and security globally (Spain, 2011). Such as: the effect of political corruption on the rule of law in the legal system of countries, which affects the decisions of governments in international peace and security (Mahmoudi, 2023). This broader understanding of the judicial function recognizes the need for international courts to adapt and evolve in order to better serve the needs of nations and the global community (McGuire and Macdonald, 1996).

The recent research on the judicial responsibility of the International Court of Justice in lawsuits between countries includes studies on the advisory jurisdiction system of the ICJ and its influence on the settlement of international disputes (Li, 2023). Another area of research focuses on the role of the ICJ in multilateral disputes and its engagement with community norms, particularly in relation to standing and intervention procedures (McIntyre, 2022). Additionally, there is research on the ICJ's role in holding states accountable for lapses in their international agreements on

environmental protections and regulations, although the jurisprudence of the ICJ in this area is still evolving (Freire, 2022). Furthermore, there are studies on the jurisdiction of the ICJ, including its interpretation of treaties, issues of international law, breaches of international obligations, and compensation for defects in international commitments (Olatunji Isau, 2017). Finally, there is research on the implementation of shared responsibility in the ICJ and the procedural challenges that arise in cases involving multiple entities (Paparinskis, 2013).

Methodology

The method used in this research, Normative legal research is a method that analyzes the application of regulations and cases by referring to legal norms contained in the legislation. It involves studying documents or library materials as the main data source. Researchers use qualitative analysis to analyze the data, producing descriptive-analytical data that is expressed both in writing and verbally (Davies, 2021).

Discussion

Article 36 of the United Nations Charter:

The Security Council may, at any time, recommend the parties involved in a dispute referred to in Article 33 or a similar situation to adopt settlement procedures or methods that are appropriate.

The Security Council shall take into consideration any procedures previously adopted by the parties for the settlement of the dispute.

In taking actions pursuant to the recommendations provided in this article, the Security Council shall also have in mind that legal disputes should, in general, be referred by the parties to the International Court of Justice in accordance with the provisions of the Charter of the United Nations.

Article 36 of the Charter of the International Court of Justice states:

"The jurisdiction of the Court comprises all cases which the parties refer to it and all matters specially provided for in the Charter of the United Nations or in treaties and conventions in force.

The States Parties to the present Charter may at any time declare that they recognize as compulsory ipso facto and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the Court in all legal disputes concerning:

- (a) The interpretation of a treaty;
- (b) Any question of international law;
- (c) The existence of any fact which, if established, would constitute a breach of an international obligation;
- (d) The nature or extent of the reparation to be made for the breach of an international obligation.

Such declarations shall be deposited with the Secretary-General of the United Nations, who shall transmit copies thereof to the parties to the Statute and to the International Court of Justice.

Declarations made in accordance with Article 36 of the Statute of the Permanent Court of International Justice and which are still in force shall be deemed, as between the parties to the present Statute, to be acceptances of the compulsory jurisdiction of the International Court of Justice for the period which they still have to run and in accordance with their terms.

In the event of a dispute as to whether the Court has jurisdiction, the matter shall be settled by the decision of the Court."

In summary, Article 36 outlines the jurisdiction of the International Court of Justice, indicating that it has the authority to hear cases referred to it by parties and matters specified in the UN Charter or relevant treaties and conventions. It also allows states to make declarations recognizing the Court's compulsory jurisdiction in certain types of legal disputes.

The mentioned five studies also cover different aspects of the judicial responsibilities of the International court of Justice (ICJ) in inter-state disputes.

(Li, 2023) examines the role and Impact of advisory opinions Issued by the ICJ in providing guidance and clarification on legal issues for governments.

(McIntyre, 2022) Investigates how the International court of Justice handles complex multilateral disputes and Interacts with international norms and procedures related to the participation and Intervention of parties.

In this research, (Freire, 2022) examines the evolving judicial approach of the International Court of Justice in addressing environmental disputes and the extent to which states are held responsible for their commitments in this field.

(Olatunji Isau, 2017) focuses on the authority and approach of the ICJ in interpreting and enforcing international laws, resolving disputes arising from breaches of obligations, and determining reparations for such violations.

Lastly, (Paparinskis, 2013) explores how the ICJ deals with cases of shared responsibilities among multiple parties and the procedural complexities and associated consequences in such cases.

Overall, these studies provide a comprehensive understanding of various aspects of the judicial responsibilities of the International Court of Justice, including its advisory role, participation In multilateral disputes, responsibility in environmental matters, judicial Interpretation, and challenges In cases related to shared responsibilities and multiple Institutions. They all emphasize the significance of the judicial responsibilities of the International Court of Justice, which were examined under Article 36 of the United Nations Charter.

Cases that have been settled using Article 36 of the Statute of the International Court of Justice have resulted in various outcomes. The Court has the competence to indicate remedies for breaches of international obligations, including the nature and extent of reparation to be made. The Court's decisions are binding on the parties involved, and states are obligated to follow and comply with the Court's judgments. The Court can provide declaratory judgments, award damages, and order restitutio in integrum. The outcomes of these cases have played a role in the bargaining process and have contributed to the resolution of disputes. The use of chambers within the ICJ has also emerged as a new instrument of international adjudication for settling disputes.

The main arguments for the use of the International Court of Justice (ICJ) to resolve disputes between countries are its role as an authoritative and respected judicial tribunal. The ICJ is considered the most authoritative court for the interpretation of general rules of international law, and its decisions are regularly cited by other global, regional, and national courts. It has addressed numerous important disputes among states and issued advisory opinions that have greatly shaped and influenced the development of international law. On the other hand, the main arguments against the use of the ICJ include the lack of enforcement power and the requirement for mutual consent from the states involved in the dispute. The ICJ's jurisdiction is also limited, and it cannot resolve most disputes between states. Additionally, certain reservations and jurisdictional bases may limit the court's competence in certain cases.

Paragraph 36 of the United Nations Charter grants special significance to the role of the International Court of Justice (ICJ) in the settlement of international disputes by states. This paragraph states:

The Court shall have jurisdiction over any dispute of a legal nature that arises between states and that the parties refer to it, provided that the states involved take measures to preserve their sovereign rights, and this principle applies without prejudice to disputes where the United Nations Security Council has clear authority.

States may bring their disputes of a legal nature for settlement by the International Court of Justice.

This provision allows states to categorize and resolve their disputes of a legal nature through the judicial process at the ICJ. Not only does this provision contribute to the improvement of international relations, but it also helps provide mechanisms for the maintenance of peace and the avoidance of the use of armed force in resolving disputes.

Furthermore, another importance of researching the judicial responsibility of the ICJ in the settlement of international disputes is that such research assists in better understanding the interpretation of relevant portions of the United Nations Charter that are related to the judicial responsibility of the ICJ. This understanding aids in the protection of international rights and obligations, facilitates the deepening of international judicial practice, and strengthens the role of the ICJ in addressing global disputes.

Conclusion

This article examines how Article 36 of the United Nations Charter determines the jurisdiction and responsibility of the International Court of Justice (ICJ) in resolving disputes and legal cases between countries. The research is aimed at making recommendations and suggestions for improving international dispute resolution activities and strengthening the role of the International Court of Justice in this regard, especially the International Court of Justice and the United Nations. The court's judicial responsibilities for legal proceedings between countries include settling disputes and providing advisory opinions. International courts, such as the International Court of Justice, Act primarily to resolve disputes between governments. The role of international courts is not limited to dispute resolution alone. Recent research on the judicial responsibility of the International Court of Justice in cross-country litigation includes studies on the International Court of Justice's advisory jurisdiction system and its impact on international dispute resolution. The method used in this normative legal research is a method that analyzes the application of regulations and cases by referring to the legal balance set out in the law. The states parties to the present Charter may at any time declare that they accept the jurisdiction of the court in all legal disputes. Such notices will be deposited with the secretary-general of the United Nations, and he will send copies of them to the parties to the statute and the International Court of Justice. In the event of a dispute in the jurisdiction of the court, the matter is settled by a court vote. It also allows states to make statements identifying the court's compulsory jurisdiction in certain types of legal disputes. The main reason for using the International Court of Justice (ICJ) to resolve disputes between countries is its role as a credible and respected judicial tribunal. This article allows states to classify and settle their legal disputes through the judicial process in the International Court of Justice. In addition, another importance of investigating the judicial liability of the International Court of Justice in resolving international disputes is that such investigations contribute to a better understanding of the interpretation of relevant parts of the United Nations Charter relating to ICJ judicial liability. The understanding helps to support international law and obligations, facilitates the deepening of international judicial procedure and strengthens the role of the International Court of Justice in addressing global disputes.

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