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Q2(c)

Describe the composition of the International Court of Justice (ICJ). Discuss its voluntary jurisdiction

UPSC Civil Services Mains 2022 · PSIR GS 2 · 15 marks · Contemporary Global Concerns

Contemporary Global Concerns: Democracy, human rights, environment, gender justice, terrorism, nuclear proliferation.

Core demand of the question

- Describe the composition of the International Court of Justice (ICJ). Discuss its voluntary jurisdiction
- Write at 15-mark length

Revision summary

Fifteen judges serve nine-year terms after parallel Assembly and Council elections.

Legal-system representation is a Statute goal; ad hoc judges fill nationality gaps.

- **Contentious jurisdiction is consent-based:** compromis, treaty, or optional clause.

Article 36(2) declarations usually carry **reservations** and reciprocity.

Advisory opinions and **Article 94** enforcement sit beside, not inside, that voluntary core.

Introduction

The International Court of Justice is the principal judicial organ of the United Nations. It sits at The Hague under the UN Charter and the ICJ Statute. Composition is elective. Jurisdiction in contentious cases is voluntary.

Body

Composition

- **Article 3** of the Statute provides 15 judges. No two may be nationals of the same State.
- Judges are elected for nine-year terms by the General Assembly and the Security Council, voting independently. Five seats turn over every three years.
- The Statute asks for representation of the main forms of civilisation and the principal legal systems, not for a simple P5 court, though practice has often included a judge from each permanent member.
- Ad hoc judges may sit when a party has no national on the bench.
- Chambers, including a Chamber of Summary Procedure, may hear particular cases. Official languages are English and French.
- Only States may be parties in contentious proceedings. The Registry is the permanent secretariat.

Voluntary jurisdiction

- Consent is the gate. A State may accept jurisdiction by special agreement (compromis), by a treaty clause, or by a declaration under the optional clause of **Article 36(2)** of the Statute.
- Optional-clause declarations are often riddled with **reservations** as to time, subject, and reciprocity. The Court still needs a matching title of jurisdiction.
- Forum prorogatum and transfer from the Permanent Court of International Justice supply other consent paths.
- Advisory opinions requested by the General Assembly, the Security Council, or authorised agencies are not judgments between States. They do not rest on the same bilateral consent.

What voluntary means in practice

- Powerful States can stay outside a case, as the United States did after Nicaragua in the 1980s by limiting its optional-clause exposure.
- Judgments bind the parties to that case. **Article 94** of the UN Charter points enforcement toward the Security Council, which remains political.
- Voluntary jurisdiction is therefore a legal technique of a society of sovereigns, not a world supreme court.

Flow diagram

ICJ Statute -> 15 judges elected
ICJ Statute -> Article 36 optional clause
Article 36 optional clause -> Consent reservations
Consent reservations -> Contentious case
15 judges elected -> Contentious case

Conclusion

The ICJ is a 15-judge UN court elected by the Assembly and the Council. Its contentious jurisdiction exists only where States have consented, especially through the optional clause with **reservations**. Composition is professional and representative in design. Power still sits at the consent gate.

Facts & figures

Fifteen judges

Nine-year terms; elections by the General Assembly and the Security Council voting separately.

Article 36(2) Statute

Optional clause by which a State may declare in advance that it accepts compulsory jurisdiction vis-à-vis other declarants.

Reservations

States often exclude categories of dispute, periods of time, or require reciprocity, which narrows 'compulsory' jurisdiction.

Article 94 UN Charter

A party may have recourse to the Security Council if the other party fails to perform a judgment.

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