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Q1(d)

What is the structure and functions of International Court of Justice?

UPSC Civil Services Mains 2023 · PSIR GS 2 · 10 marks · Contemporary Global Concerns

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

Core demand of the question

- Discuss the structure and functions of the International Court of Justice
- Keep the answer within a 10-mark length

Revision summary

The ICJ is the UN's principal judicial organ, with 15 judges elected by the Assembly and the Council.

Contentious cases are between States that have consented to jurisdiction.

Advisory opinions answer legal questions from authorised UN bodies.

Article 38 lists the sources the Court applies.

Enforcement of judgments can go to the Security Council, which limits the Court against the P5.

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 its own Statute. It settles legal disputes between States and gives **advisory opinions** to authorised UN organs.

Body

Structure

- The Court has 15 judges elected for nine-year terms by the General Assembly and the Security Council, voting separately.
- Five seats are filled every three years. No two judges may be nationals of the same State.
- Chambers, including a Chamber of Summary Procedure, may sit for particular cases.
- Only States may be parties in contentious cases. International organisations are not litigants there.
- The Registry is the permanent secretariat. Official languages are English and French.

Functions

- Contentious jurisdiction decides legal disputes when States consent, by special agreement, by a treaty clause, or by an optional-clause declaration under the Statute.
- Advisory jurisdiction answers legal questions put by the General Assembly, the Security Council, or other authorised organs and specialised agencies.

- The Court applies treaties, custom, general principles, and, as subsidiary means, judicial decisions and teachings of publicists, as listed in **Article 38** of the Statute.
- Judgments are binding on the parties to that case. **Article 94** of the Charter allows a party to seek Security Council action if the other side fails to comply.

Limits

- Consent is the gate. Powerful States often withhold it or ignore political disputes that they refuse to treat as legal.
- The Security Council's enforcement role means the Court cannot police the P5 by itself.
- **Advisory opinions** are not judgments, though they carry legal and political weight.

Flow diagram

UN Charter and ICJ Statute -> 15 judges The Hague

15 judges The Hague -> Contentious cases States

15 judges The Hague -> Advisory opinions

Contentious cases States -> Article 94 UNSC

Conclusion

The ICJ is a 15-judge UN court for inter-State law and for **advisory opinions**. Its structure is elective and professional. Its functions depend on State consent and, for enforcement, on a Security Council that is itself political.

Facts & figures

Fifteen judges

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

Seat

The Peace Palace, The Hague, continuing the location of the Permanent Court of International Justice.

Article 38 Statute

Treaties, custom, general principles, and subsidiary judicial writings as sources of law.

Article 94 UN Charter

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

Advisory opinions

Non-binding legal answers that still shape later practice, as in wall and nuclear-weapons requests.