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## **THE FUNCTIONING OF INTERNATIONAL COURTS AND TRIBUNALS**

International courts and tribunals play a key role in upholding the rule of law at the global level. They contribute to the peaceful resolution of disputes between states, the protection of human rights, and the prosecution of international crimes. This article examines the main international judicial bodies, their structure, jurisdiction, and functioning. Additionally, I will explore specific cases and critically reflect on their effectiveness, drawing attention to both successes and systemic shortcomings.

The International Court of Justice (ICJ) is the principal judicial organ of the United Nations. It performs both judicial and advisory functions, resolving disputes between states and providing advisory opinions on legal issues. The Court consists of 15 judges elected by the UN General Assembly and the Security Council for nine-year terms. The ICJ is located in The Hague, Netherlands. A notable case is "Nicaragua v. United States" (1986), where the U.S. was found guilty of violating international law [1]. In my opinion, this case demonstrates that even powerful states can be held accountable, although enforcement remains a serious issue. However, it also reveals the limitations of the ICJ, as the lack of binding enforcement mechanisms often renders its decisions ineffective in practice. This points to a critical flaw in the international legal system: justice can be acknowledged but not always executed. Moreover, it raises a broader concern about the inequality of states in international law—smaller or less powerful countries often comply under pressure, while stronger ones can afford to ignore rulings with minimal consequences.

Another recent example is the case "Iran v. United States" (2023) concerning U.S. sanctions and violations of the 1955 Treaty of Amity. The ICJ ruled in favor of Iran, stating that some U.S. sanctions were illegal. While the decision was legally significant, the United States largely ignored the ruling, again raising questions about the ICJ's practical authority. I believe this illustrates the ongoing challenge of legal enforcement and how international decisions often lack the necessary force to ensure justice when politics intervene. It's frustrating as a global citizen to see decisions made in good faith be openly disregarded.

The European Court of Human Rights (ECtHR) ensures compliance with the European Convention on Human Rights. It considers complaints from individuals, non-governmental organizations, and states regarding violations of rights guaranteed by the Convention. The Court's decisions are binding on member states. It is based in Strasbourg, France. A landmark case is "Loizidou v. Turkey" (1996), in which Turkey was found guilty of violating property rights [2]. I believe this case underscores the importance of protecting individual rights even in complex geopolitical contexts. It is particularly powerful because it illustrates how supranational courts can challenge state actions and offer redress for individuals, which is something domestic courts often fail to do when politics interferes with justice. However, its impact depends heavily on political will and the broader human rights culture within the violating state. This disparity is especially evident in the implementation phase—some states comply promptly, while others delay or reject enforcement altogether, which undermines the court's legitimacy and effectiveness.

A more recent case is "Mammadov v. Azerbaijan" (2019), where the ECtHR found repeated violations of political rights. Despite numerous rulings, Azerbaijan delayed implementation, showing again how limited enforcement options restrict the Court's authority. I find it disheartening

that states can delay justice simply through bureaucracy. It shows that legal victory does not always translate to real-world change.

The Permanent Court of Arbitration (PCA), established in 1899, is the oldest international arbitration institution. It provides dispute resolution services between states, between states and private parties, and between international organizations. The PCA is also located in The Hague. A significant case involved the dispute between India and Pakistan over the Indus River [3]. In my view, this illustrates the usefulness of neutral arbitration mechanisms in preventing escalation of regional tensions. The PCA's ability to facilitate dialogue and deliver fair outcomes is valuable, especially in emotionally charged disputes like those involving water rights. Still, more needs to be done to ensure broader state participation and to promote awareness of the institution's potential as a peaceful alternative to confrontation. Personally, I think the PCA should invest more in public outreach and transparency to boost confidence in its neutrality and efficiency, particularly among developing nations that may distrust global institutions. Furthermore, it could enhance procedural inclusivity by creating accessible platforms for civil society and indigenous groups affected by international disputes.

The PCA also handled the South China Sea arbitration (Philippines v. China, 2016), where it ruled in favor of the Philippines against China's expansive territorial claims. However, China rejected the ruling, which demonstrates again that arbitration outcomes can be undermined by powerful non-compliant states. This case is an example of how legal victories can feel hollow when states are free to ignore them. It leaves citizens and affected parties disillusioned about the promises of international law.

The International Tribunal for the Law of the Sea (ITLOS) was established under the 1982 United Nations Convention on the Law of the Sea. It deals with disputes concerning the interpretation and application of the Convention, including maritime boundaries, fisheries, and marine environmental protection. ITLOS is based in Hamburg, Germany. A well-known case is the maritime boundary dispute between Ghana and Côte d'Ivoire (2017) [4]. I think this case highlights the growing relevance of maritime law and the need for clear legal guidance in resource-rich zones. The ITLOS ruling helped avoid further conflict and provided a framework that other states can follow. Yet, I believe such tribunals must do more to balance state interests with environmental sustainability, especially as marine ecosystems face increasing pressure from economic exploitation. I also think there's a need for ITLOS to incorporate more environmental science expertise in its deliberations, as decisions in maritime disputes often have significant ecological consequences. In addition, ITLOS should adopt a more proactive role in issuing advisory opinions on climate change-related maritime claims, which are becoming more frequent in the era of rising sea levels and melting ice caps.

In 2019, ITLOS issued a provisional measure in the case of the seizure of Ukrainian naval vessels by Russia. Although temporary, such measures reflect the Tribunal's growing willingness to intervene in urgent geopolitical disputes. From my perspective, this is a hopeful sign of the Tribunal's evolving role. I think ITLOS has the potential to shape maritime norms more dynamically if it continues to act swiftly in urgent matters.

International criminal tribunals, such as the International Criminal Tribunal for the former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda, were created to prosecute individuals responsible for serious violations of international humanitarian law. They have significantly contributed to the development of international criminal law. For instance, ICTY convicted Radovan Karadžić for genocide and other crimes [5]. Personally, I see this as a critical step in establishing accountability for crimes against humanity and deterring future violations. The conviction of high-profile figures like Karadžić shows that international justice can reach even the most powerful. However, these tribunals often face accusations of selective justice, and I think greater efforts must be made to ensure impartiality and to prosecute crimes regardless of the political status of the accused. Additionally, I believe there should be stronger victim participation in the justice process, including reparations and public acknowledgment of harm, which are essential for healing and long-term reconciliation. Beyond that, a permanent mechanism should be

explored to swiftly address atrocity crimes without relying on ad hoc tribunals that take years to establish and fund. The International Criminal Court (ICC), a permanent successor to ad hoc tribunals, recently issued an arrest warrant for Russian President Vladimir Putin in relation to war crimes in Ukraine. This move has sparked global debate about political bias, enforcement feasibility, and the role of the ICC in current conflicts. Personally, I think this is a bold step that demonstrates the ICC's commitment to justice, but it also reveals how international law is still deeply entangled with geopolitics. Without universal jurisdiction and support, such actions remain largely symbolic.

The Inter-American Court of Human Rights (IACtHR) is a regional judicial body based in San José, Costa Rica, tasked with enforcing the American Convention on Human Rights. It hears cases brought by individuals and states regarding human rights violations within the Americas. A landmark case is "Barrios Altos v. Peru" (2001), where the Court held Peru responsible for extrajudicial killings and ruled that amnesty laws protecting perpetrators were incompatible with the American Convention. I find this case particularly significant because it reinforced the principle that states cannot shield human rights violators through domestic laws. It also had a profound impact on transitional justice in Latin America, influencing similar legal reforms in other states. However, implementation remains inconsistent. Despite the binding nature of IACtHR rulings, some states delay compliance or contest judgments. In the 2018 case "Guzmán Albarracín v. Ecuador," the Court ruled in favor of a victim of sexual violence, emphasizing the state's duty to prevent gender-based violence in educational institutions. This decision advanced jurisprudence on gender rights. I believe the IACtHR is unique in addressing cultural and structural human rights violations. Still, its effectiveness hinges on strong civil society engagement and the political climate of the respondent state. To improve compliance and outreach, I think the Court should enhance collaboration with domestic judiciaries and human rights defenders, promoting legal education and awareness in local contexts.

Despite their achievements, international courts face criticism. Key challenges include lengthy procedures, politicization, and difficulties in enforcement of decisions. To enhance efficiency, the following reforms are proposed: Streamlining procedures and enforcing time limits; Increasing transparency in proceedings and judicial appointments; Expanding jurisdiction to cover cybercrime and environmental disputes; Strengthening enforcement mechanisms through international organizations [6]. In my opinion, without reliable enforcement, even the most just decisions risk becoming symbolic rather than transformative. The gap between legal rulings and their implementation undermines public trust in international justice. I would argue for the development of stronger international enforcement tools, possibly through cooperation with regional bodies or economic sanctions, to compel compliance and give real weight to tribunal decisions. Furthermore, I think civil society and non-state actors should be more involved in pushing for accountability, both in initiating proceedings and monitoring implementation of decisions. Moreover, academic and legal communities should be more involved in drafting reform proposals and advocating for the modernization of tribunal practices. Without a robust, independent, and well-funded international judiciary, much of the global justice system remains theoretical and dependent on goodwill rather than obligation.

One innovative idea is the creation of an International Enforcement Agency under the UN to assist in implementing tribunal decisions. Such a body could use legal, diplomatic, and financial tools to apply pressure on non-compliant states, while preserving neutrality. While controversial, I think this could significantly improve the effectiveness of international courts. It's ambitious, but I believe that without bold structural changes, the international justice system risks becoming increasingly irrelevant.

Another pressing issue is the underrepresentation of marginalized communities and Global South perspectives in the leadership and jurisprudence of international tribunals. While these bodies are meant to reflect universal justice, in practice, Western legal traditions dominate their processes and staffing. I believe a conscious effort should be made to diversify the bench and include legal scholars from a broader array of cultural and regional backgrounds. This not only improves the

legitimacy of rulings but also enriches legal reasoning through the inclusion of non-Western approaches to justice. It is crucial that international courts do not become echo chambers for the most powerful but truly global instruments of justice.

International courts and tribunals are an integral part of the international legal system. They provide mechanisms for peaceful dispute resolution, protection of human rights, and accountability for international crimes. However, further reforms are necessary to enhance trust, efficiency, and universality of international justice. I firmly believe that a global commitment to reform and cooperation can overcome these shortcomings. These institutions, despite their flaws, are symbols of a collective aspiration for a more just and equitable international order. Their continued development is not just a legal necessity but a moral imperative in a world where transnational issues — from armed conflicts to environmental disasters — require principled, impartial adjudication. In my opinion, international courts and tribunals represent the conscience of the global community. Although they are not always able to impose their authority, they provide an essential platform where legal norms can challenge political interests. Their symbolic power often leads to long-term influence, even if their short-term effectiveness seems limited. It is also important to recognize that the credibility of these institutions depends not only on their decisions but also on the willingness of states to implement them. Without broad-based support and political will, no judicial body — however principled — can achieve justice on its own. Furthermore, I believe that the involvement of civil society and the promotion of legal literacy among the public can help strengthen these institutions from the ground up. When individuals understand their rights and the mechanisms available for their protection, they are more likely to engage with international law and demand accountability from their governments. This grassroots pressure can be a powerful force for compliance.

Lastly, I view international justice not as a perfect system, but as a work in progress. Like democracy, it is imperfect yet indispensable. We must not allow its current limitations to blind us to its potential. Strengthening international courts and tribunals is not just about laws and institutions; it is about protecting the dignity of every person, ensuring that no one is above the law, and affirming that justice is a universal value worth fighting for.

### References

1. International Court of Justice. Wikipedia. URL: [https://en.wikipedia.org/wiki/International\\_Court\\_of\\_Justice](https://en.wikipedia.org/wiki/International_Court_of_Justice)
2. European Court of Human Rights. Wikipedia. URL: [https://en.wikipedia.org/wiki/European\\_Court\\_of\\_Human\\_Rights](https://en.wikipedia.org/wiki/European_Court_of_Human_Rights)
3. Permanent Court of Arbitration. Wikipedia. URL: [https://en.wikipedia.org/wiki/Permanent\\_Court\\_of\\_Arbitration](https://en.wikipedia.org/wiki/Permanent_Court_of_Arbitration)
4. International Tribunal for the Law of the Sea. Wikipedia. URL: [https://en.wikipedia.org/wiki/International\\_Tribunal\\_for\\_the\\_Law\\_of\\_the\\_Sea](https://en.wikipedia.org/wiki/International_Tribunal_for_the_Law_of_the_Sea)
5. International criminal law. Wikipedia. URL: [https://en.wikipedia.org/wiki/International\\_criminal\\_law](https://en.wikipedia.org/wiki/International_criminal_law)
6. Bekyashev K.A. (ed.). Public International Law. Moscow: Yurist, 2020. [In Russian]
7. Cassese, A. International Law. Oxford University Press, 2005.
8. Shaw, M. International Law. Cambridge University Press, 2017.
9. Inter-American Court of Human Rights. Wikipedia. URL: [https://en.wikipedia.org/wiki/Inter-American\\_Court\\_of\\_Human\\_Rights](https://en.wikipedia.org/wiki/Inter-American_Court_of_Human_Rights)

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