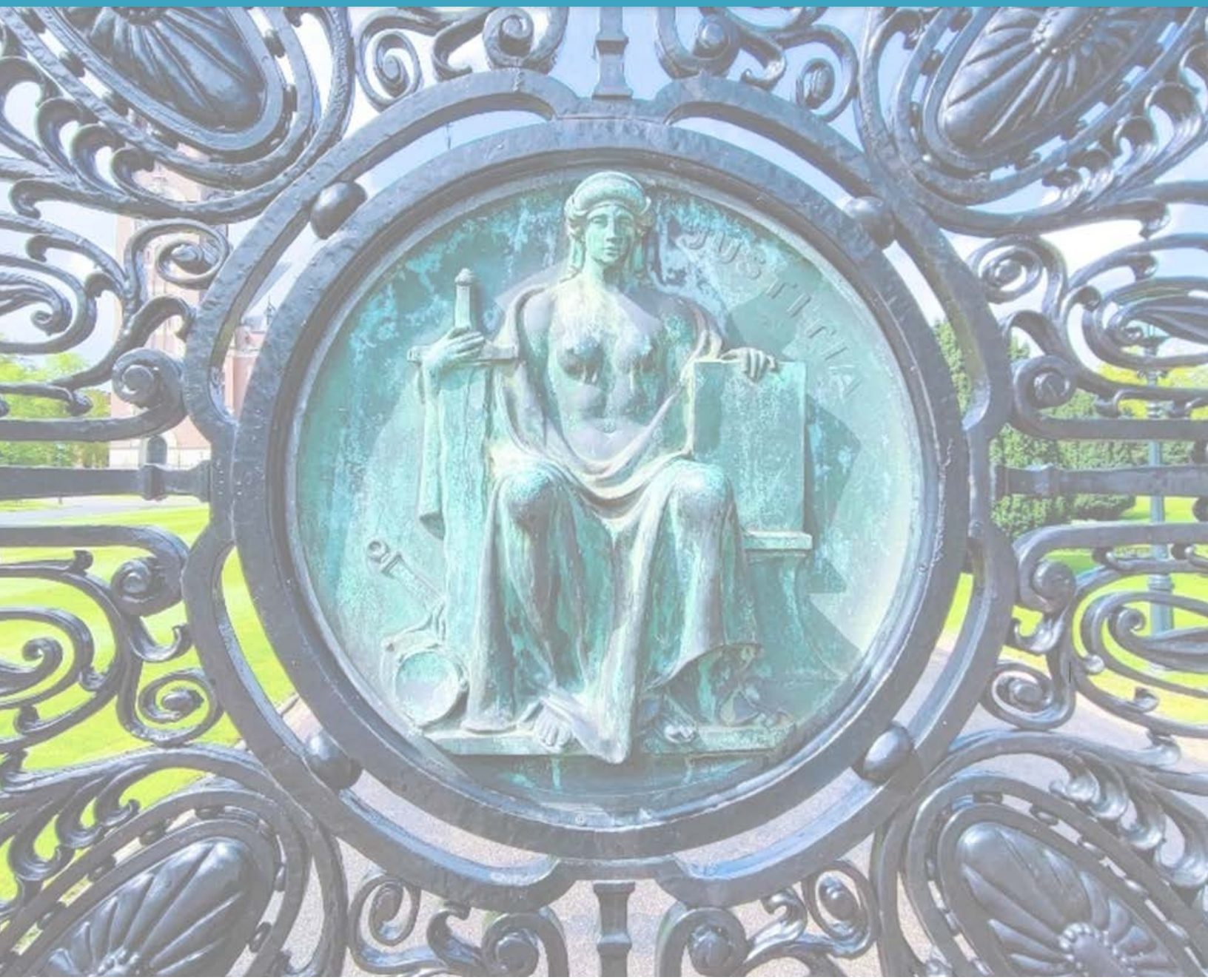
REPORT

WEBINAR SERIES

"REINVENTING THE WORLD COURT"

MARCH – SEPTEMBER 2026



CIL
CENTRE FOR INTERNATIONAL LAW
National University of Singapore

EXECUTIVE SUMMARY



5 November 2026

On the occasion of the 80th anniversary of the International Court of Justice ("ICJ"), the principal judicial organ of the United Nations, a three-part Webinar Series titled "Reinventing the World Court" was designed by the Centre for International Law (International Dispute Resolution programme) and Professor Makane Moïse Mbengue, under the direction of Dr Nilufer Oral. The topics of the three webinars were:

1) "Reassessing the ICJ: Institutional Design, Representation and Legitimacy"
2) "Behind the Bench: the ICJ's procedural frameworks and judicial practice"
3) "A World Court for the Future"

In sequence, the webinars considered the design, function, and operation of the Court from the perspective of the ICJ as an institution, the procedural frameworks of the Court, and the Court in the context of 21st century challenges.

The Webinar Series was directed by Dr Nilufer Oral, Director of CIL, and convened by Ms Celine Lange, Lead of CIL's International Dispute Resolution programme, and Professor Makane Moïse Mbengue, from the University of Geneva, who acted as the moderator across the three webinars.

The present synthesis report provides an account of the ideas and issues debated over the course of the three webinars in chronological order. It highlights areas of convergence and divergence, and the range of proposals provided concerning the ICJ as an institution, its procedure, or on placing it as a future-oriented Court. Since the webinars were conducted under the Chatham House rule, positions described are not identified with particular individuals. Each section of the report is organised thematically. The report ends with a brief conclusion.

The International Dispute Resolution programme thanks the various stakeholders involved in ensuring the success of the Webinar Series, including Professor Mbengue, the expert panellists, the experts who provided concluding remarks to the panels, the CIL Events team, and the hundreds of participants in the series.

This report was prepared by Mr Abhijeet Shrivastava, Professor Makane Moïse Mbengue, and Ms Celine Lange. They would like to thank Mr Jorge Escalona Gálvez for his contribution to the preparation of this report during his time at CIL.

This report does not mark the closure of the conversation on the topic; rather, it acts as an invitation for further discourse and engagement with the work of the ICJ. The programme will continue to organise events concerning the ICJ and other international courts and tribunals. The work of the programme can be followed at <https://cil.nus.edu.sg/research/international-dispute-resolution/>.

Readers should not rely on this report as a substitute for legal advice or official sources. The views expressed herein do not necessarily reflect those of the institutions of the individuals involved or the editors of the report. References to specific cases, proceedings, or decisions are for informational purposes only and do not constitute endorsement or commentary.

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FIRST WEBINAR: REASSESSING THE ICJ: INSTITUTIONAL DESIGN, REPRESENTATION AND LEGITIMACY



1. Scope of the webinar

1. The First Webinar in the series was titled "Reassessing the ICJ: Institutional Design, Representation and Legitimacy".

2. As reflected in the title, the purpose of this webinar was to underscore the Court as an "institutional animal". It is worth recalling that parties appear before the ICJ as equals to have disputes settled in accordance with international law. The critical question, however, was whether the principle of sovereign equality was also fully reflected in the Court's institutional architecture. The official programme anticipated discussions on questions concerning its design, composition, representation, and legitimacy.

3. Over the course of the webinar, there was a vigorous exchange of views on these questions, evincing a spectrum of positions and different appetites for reform. Yet the speakers did not consider that the Court required fundamental reconstruction, but rather, converged on its continuing success, while advocating specific reforms.

4. In this vein, this section highlights views expressed on the issue of diversity on the bench **(2)**; perceptions of bias in the Court's operation **(3)**; other discrete ethical problems **(4)**; the fact that the Court's legitimacy may be mainly defined by its adjudicative quality **(5)**, and wider perspective on the Court's past and future **(6)**, followed by a conclusion **(7)**.

2. Diversity on the bench

5. This sub-section highlights **(a)** general considerations concerning questions of diversity and representation on the bench. It subsequently considers the debate on **(b)** geographical, **(c)** gender and **(d)** linguistic forms of representation, as well as **(e)** views on the necessity and appropriate modes of reform.

(a) General considerations

6. In examining questions of representation on the bench, it was argued that it would be useful to refer to the experience of investor-State dispute settlement ("ISDS"). In particular, insights could be transposed from the reform discussions at Working Group III of the United Nations Commission on International Trade Law ("UNCITRAL").

7. In the context of the rapid growth of ISDS, concerns have arisen about its legitimacy, including the lack of diversity among adjudicators. The emphasis in arbitration on party autonomy, flexibility, and the limited regulation of appointments had not produced sufficiently diverse tribunals. This confirmed the importance of empirical data about arbitral appointments, and challenged the "myth of meritocracy", according to which an open and formally merit-based system would organically generate representative results. States publicly supportive of diversity do not necessarily appoint diverse arbitrators, while arbitral institutions played an increasing role towards progress on this front. Thus, systems of appointment may reproduce structural limitations.

8. While this raised issues of fairness and symbolism, research showed that diversity could also improve the quality of decision-making, particularly by enhancing its epistemic basis. A diverse bench would incorporate a wider range of experiences, perspectives, and analytical approaches to adjudication. On this view, diversity would contribute not just to legitimacy through appearance, but also to the substantive decision-making quality of a body like the ICJ.

9. Discussions happening in other forums, therefore, may require the ICJ to admit cross-fertilisation, incorporating lessons emerging from other areas of dispute settlement, such as ISDS. At the same time, States as clients do not necessarily treat issues of diversity as an obstacle to obtaining a fair resolution of their claims by the Court.

(b) Geographical representation

10. In ISDS, disparities in geographical representation were illustrated by contrasting the growing number of cases involving African States, with comparatively few appointments of Sub-Saharan African arbitrators. Thus, participation in disputes and representation among adjudicators may diverge significantly. It was argued that similar empirical scrutiny should inform discussions of legitimacy at the ICJ.

11. Moreover, a distinction was made between geographical representation, and the representation of the principal legal systems of the world. Diversity should not be reduced to a common or civil law dichotomy, and other legal traditions should also be considered.

12. It was recalled that the Statute of the Court contains certain requirements on the matter. According to Article 2, Judges must possess "high moral character"

and "recognized competence in international law", while Article 9 provides that the electors "shall bear in mind" that "the representation of the main forms of civilization and of the principal legal systems of the world should be assured" at the Court. Although the Statute did not create quotas for different regional groups of the UN, States nevertheless, through electoral practice, political negotiation and informal understandings, have generally produced a comparatively balanced geographical composition.

13. It was queried whether it would be appropriate to further advocate for measures to enhance sub-regional diversity, especially in situations where more than one Judge hails from closely connected sub-regions from within a UN regional group. It was considered that disturbing the foregoing informal system, which has worked reasonably well, may be a risky endeavour.

(c) Gender representation

14. Similarly to geographic imbalance, there was empirical data from the ISDS context demonstrating the historically low proportion of women in ICSID arbitration. This reflects a general trend of the exclusion of qualified non-male candidates from judicial and arbitral appointment processes, including at the ICJ. However, unlike the explicit requirement of ensuring an equitable geographical representation, there was no provision in the Statute or other texts concerning the Court affirming the need for other forms of diversity, including gender representation.

15. Nevertheless, the Court as currently composed, features the historically highest proportion of women in within its membership.[1] With the latest election of Ambassador Rena Lee to the Court, there are signs that gender balance may incrementally continue to rise within the Court, enhancing gender parity. While the election for membership to the Court, being a political process, may not guarantee diversity as an outcome, States interested in appointing Judges ad hoc in particular cases may take account of gender diversity considerations. That could, in turn, enhance their visibility for other States, increasing the prospects of meritorious candidates in elections for membership at the Court.

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[1] Note: as of the date of the webinar, five out of the fifteen sitting Members of the Court were women, namely, Vice-President Sebutinde and Judges Xue, Charlesworth, Cleveland, and Okowa.

(d) Linguistic representation

16. The discussion on diversity also captured other aspects of representation, such as on linguistic means. According to Article 39(1) of the Statute, English and French are the official languages of the Court. It was noted that this has direct implications over the work of the Court, including interpretive choices. In the *LaGrand (Germany v. the United States)* judgment (2001), the ICJ pronounced on the binding effect of its provisional measures' orders, examining in its treaty interpretation the expressions used in the English and French versions of the Statute. In so doing, however, the Court did not look at the equally authentic versions of the Statute in Arabic, Chinese (Mandarin), Spanish, and Russian. The Court's bilingual structure, therefore, privileges English and French and can influence its jurisprudential method through linguistic preferences.

17. Although English and French remain the official languages of the Court, it was also observed that representation of jurists working in English has been predominant, and potentially disproportionate. While various Members of the Court may be fluent in French, only a handful have recently produced their judicial outputs in French. Likewise, while a few Members continue to provide inputs and outputs in French, the absence of a sufficient number of colleagues primarily operating in French may deprive them of opportunities of effective legal and linguistic deliberations. Despite the Members of the Court acting as equals, the decline in French representation at the bench may give rise to concerns about the extent to which the Court's appearance and function continues to reflect a truly bilingual tradition. Thus, besides the question of whether more languages should be enabled in the Court's design, consideration could also be given to ensuring that the French heritage of the Court is not marginalised in the future.

(e) Appropriate reforms

18. Although the speakers broadly agreed on, or did not contest, the importance of diversity, they diverged on the necessity and appropriate form of any reform.

19. One view referred to the discussions at UNCITRAL Working Group III, including the proposal for a permanent multilateral investment court. In this respect, it was emphasised that diversity was distilled in the proposal as a formal institutional criterion, rather than just as a political aspiration. The ICJ could draw from such innovations being tested in other forums. Other reforms

could include making the nomination process for Judges more open to scrutiny or screening, increase participation in it, and institutionalise diversity in a manner that ensures its sustainability over time, rather than making it depend on individual elections.

20. While admitting to the importance of other forms of representation, for e.g., gender diversity, the view was expressed that its proponents should recognise the underlying realities of an international society of States. The contemporary political environment, characterised by significant pressure on international law and institutions, may not be an opportune moment for radical revision of or innovation with the ICJ Statute. Performing "surgery" on the Court's heart could endanger rather than strengthen it. Thus, seeking to improve the Court's legitimacy primarily through changes to its composition could be unsuccessful.

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Performing "surgery" on the Court's heart could endanger rather than strengthen it.

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21. Finally, caution was expressed about the risk of reductive categories constraining the analysis of diversity. For instance, a person may hold a particular nationality, while being educated or practising in other legal systems, possess a distinct cultural or family background, speak a range of languages, or work extensively across additional regions. Thus, rigidly classifying adjudicators according to their passport nationality may reveal comparatively little about the experiences they bring to decision-making. The ICJ, being the "World Court", should be prepared to engage with the complexity of diversity when considering equitable representation.

3. Bias on the bench

22. Another issue that captured the speakers' focus was the existence, or the appearance, of bias on the bench. This sub-section highlights the views exchanged on the risks of **(a)** national biases of individual Judges; the **(b)** concerns of biases developing over the course of campaigning; and **(c)** the appropriate policy for recusals from a given case.

(a) National bias

23. While domestic judicial systems proceed from the expectation that Judges should not be biased or appear biased, it was argued that the ICJ institutionally accommodates considerations of nationality through the presence of national Judges and Judges ad hoc.

24. This institutional framework could give rise to concerns about the appearance of impartiality when the interests of a State involved in proceedings intersect with the national affiliations or perceived positions of Members of the Court. In Yugoslavia's parallel proceedings against several States of the North Atlantic Treaty Organization in the *Legality of Use of Force* cases, some of the respondents had nationals already serving on the Court. Based on the voting patterns of Judges in the *Marshall Islands* cases concerning nuclear disarmament, the national security positions of the States from which certain Judges came could create, at the minimum, an appearance of alignment or bias.

25. The ICJ was characterised as a system responding to potential national partiality through parity. Where a party lacks a Judge of its nationality on the bench, it may elect to appoint a Judge ad hoc. This mechanism, however, can become more complicated in disputes involving multiple States aligned on one side, because one side may effectively benefit from several Judges with national connections while the opposing party would have only one. Thus, in *Whaling in the Antarctic (Australia v. Japan: New Zealand intervening)*, Australia appointed a Judge ad hoc while New Zealand already had a national Judge on the Court. This problem, however, is not new, as we see a historical illustration already in the *SS Wimbledon case (the United Kingdom and others v. Germany)* before the Permanent Court of International Justice ("PCIJ").

26. At the same time, given the discussion on diversity above, it was recalled that nationality cannot exhaust the analysis of a Judge's possible biases, since other dimensions of identity, background, and affiliations may shape appearances.

27. It was also emphasised that there was a distinction between actual bias, and the appearance of bias; the concerns raised principally concerned the latter.

28. It was queried whether bias may operate differently in case of dual nationals. In any event, it was recalled that for electoral purposes, Article 3(2) of the Court's Statute provides rules for determining nationality for electoral purposes in case of dual nationals. Similarly, Article 10(3) of the Statute addresses situations where more than one national of the same State obtains the necessary majority in the UN General Assembly and Security Council. Only the eldest among the nationals would be considered elected.

(b) Concerns about campaigning by the Judges

29. It was observed that ICJ election campaigns have become longer, more public, and sometimes more intensive. The candidates may seek meetings with a large number of UN Member States to secure electoral support. There may be a possible conflict of interest concern where a State voting in an election is also a party to proceedings pending before the Court. Serving Judges contemplating re-elections may, likewise, be conscious of States whose support is relevant to their re-election. However, concrete evidence of a resulting problem in decision-making could not be pointed to on this basis. Rather, given the increasing number of States participating in ICJ proceedings, the issue could be examined prospectively.

(c) Recusal policies

30. It was suggested that issues of biases should not be evaluated by seeing the Court as a collective, but by focusing on the responsibilities of individual Judges and States. Preserving legitimacy, independence, and impartiality is a continuous duty.

31. It was argued that the Court's practice on recusal or withdrawal was not sufficiently strict regarding a Judge's involvement in matters connected to the dispute. For e.g., the existing threshold narrowly examined whether the Judge's involvement concerned precisely the same case. For instance, Judge Elaraby's presence on the bench was challenged in the *Wall* advisory proceedings, given

his past diplomatic activities concerning issues allegedly closely connected to the context. Yet the Court found that there was no evidence that he had "previously taken part" in the specific case at issue. This may give rise to concerns about the need for greater self-discipline on the part of individual Judges, as well as greater institutional initiative on the part of the Court, in applying recusal principles that seem desirable to preserve the appearance of the Court's independence and impartiality.

32. The situation in the *Wall* advisory proceedings where a Judge was challenged illustrates this. Thus, greater self-discipline by individual Judges, as well as greater institutional initiative from the Court in applying recusal principles seemed desirable to preserve the appearance of the Court's independence and impartiality.

4. Other discrete ethical issues

33. The speakers also discussed a range of other institutional and ethical problems in the Court's functioning, including, **(a)** the impact of the Court's changing composition during different stages of a proceeding; **(b)** the phenomenon of "double-hatting" by sitting Members of the Court; and **(c)** the possibility of a rule temporarily limiting candidates for judgeship from acting as counsels before the Court.

(a) Changes in the composition of the Court during a proceeding

34. It was considered that one of the comparatively under-discussed institutional features of the ICJ is the possibility that the composition of the Court may change significantly during lengthy proceedings in a given case.[2]

35. For e.g., in the *South West Africa* cases, although the Court in its 1962 judgment upheld its jurisdiction and found the claims admissible, it later found that the applicants could not establish a legal interest in the case in its 1966 judgment, by a 7:7 vote (President's casting vote being decisive). This abrupt change was widely attributed to a change in the Court's composition. Similarly, in *Nicaragua v. Colombia*, the Court in its 2016 judgment decided that it was fit to proceed to the merits of the parties' delimitation dispute. Yet, in its 2023

[2] Note: as per Article 13 of the ICJ Statute, the seats of five out of fifteen Members of the Court are up for election every three years; each Member has a 9-year-term.

judgment, it held there was no need for delimitation, as Nicaragua's extended continental shelf could not, in principle, overlap with Colombia's maritime zones within 200 nautical miles from its baselines. Here, too, the fact that the composition of the Court changed between different stages of the proceedings was relevant.

36. Thus, what may appear to be a technical feature of judicial terms and election cycles may have material strategic consequences for litigants. For e.g., in *Qatar v. United Arab Emirates*, many Judges had expressed doubts about the Court's jurisdiction already at the provisional measures stage. In such circumstances, one could speculate that there was an incentive for the respondent to file preliminary objections expeditiously, before an anticipated change in composition. Conversely, where a party may be expecting the Court's composition to become more favourable in the near future, it may be incentivised to prolong proceedings.

(b) Moonlighting by Judges in arbitrations

37. During the presidency of Judge Abdulqawi Yusuf, the Court had internally decided that its Members would not normally engage in arbitral appointments, especially not in ISDS, simultaneously during their tenure as Members of the Court. It was considered whether such a restriction should be formalised and strengthened.

38. In this regard, a clearer separation was advocated between an individual's service as an ICJ Judge and their simultaneous service as an arbitrator, linking it to ISDS debates concerning conflicts of interest, issue conflicts, and "double-hatting"; see UNCITRAL Working Group III's Codes of Conduct. Besides concerns about affecting judicial workload, it may not be appropriate for ICJ Judges to simultaneously sit privately as arbitrators where the same States or closely connected issues may arise across different proceedings. This is distinct from former Members of the Court partaking in arbitration after their terms conclude. A harder and clearer rule may be necessary.

(c) Freezing rule on acting as counsel

39. It was queried whether there should be a "freezing" rule restricting candidates contesting elections for judgeship, temporarily, from acting as counsel before the Court during their campaigning for judgeship. This proposal could address two

concerns: candidates had the appearance of gaining an advantage by simultaneously appearing regularly before the institutions where they seek election; and the candidates' substantial prior involvement in pending proceedings risking withholding them, if elected to the Court, from sitting over several cases for a significant period (as this would constitute a case-specific conflict of interest).

40. On the converse, however, a mandatory freezing could disadvantage candidates who cease taking professional work in good faith but are ultimately not elected. Moreover, the Court's calendar is not known in advance to candidates contesting for judgeship. Thus, if proceedings happen to coincide with the period preceding elections, these candidates may be placed in a difficult professional and political situation should they be compelled not to fulfil their prior commitments as counsel. At the same time, there were also examples of candidates voluntarily declining ICJ counsel work during campaigns as an act of personal self-restraint, suggesting that where counsels perceive an ethical dilemma, they may err on the side of caution without the need for regulation. In this regard, further reflection would be necessary on such a proposal.

5. Legitimacy is also defined by the Court's adjudicative quality

41. The view was expressed that the elements discussed above were relevant, but not exhaustive, for assessing the legitimacy of the Court. Rather, **(a)** other factors concerning the Court's adjudicative function, **(b)** especially on its fact-finding capacity, must be strengthened.

(a) The Court's adjudicative function

42. The essential aspects of a Court's adjudicative function are its efficiency, the robustness of its judgments, the quality of its legal reasoning, the accuracy and persuasiveness of its findings of law, and, crucially, its ability to establish and assess facts. While the ICJ was performing satisfactorily for the most part, it could stand to improve on the last aspect, i.e., fact-finding.

(b) Fact-finding

43. It was noted that fact-finding has become especially important before the Court in cases concerning atrocity crimes and other factually complex disputes. Such proceedings may require expertise extending beyond traditional public international law. This may include knowledge of fact-finding methodologies,

preservation and assessment of evidence, forensic evidence, specialised legal knowledge, and sophisticated case management capacities.

44. It was suggested that Judges cannot handle these tasks alone; broader institutional support may be necessary. Thus, greater consideration could be given to the Court's existing power to appoint carefully selected assessors to sit without a vote, as foreseen in Article 30(2) of the Statute and Article 9 of the Court's Rules. Nevertheless, it would be important to ensure that their work is undertaken transparently and impartially, to inspire the confidence of the parties.

KEY POINTS

Legitimacy in three dimensions

Speakers started from the Court's success rather than from a crisis, and treated its legitimacy as resting on several pillars:

Composition *Diversity on the bench*	Geographical, legal-system, gender and linguistic balance (Article 9 of the Statute). *Ideas aired:* more open and scrutinised nominations; institutionalising diversity, drawing on UNCITRAL Working Group III.
Impartiality *Bias and ethics*	The appearance of bias: national Judges, Judges *ad hoc*, election campaigns. *Ideas aired:* stricter recusal practice; formalising the bar on sitting Judges acting as arbitrators; a possible "freezing" rule on candidates acting as counsel.
Adjudicative quality *Above all, fact-finding*	Efficiency, sound reasoning, and the capacity to establish and assess facts. *Ideas aired:* greater use of assessors under Article 30(2) of the Statute and Article 9 of the Rules.

Adaptation, not re-invention

6. Wider perspective on the Court

45. Over the course of the debate, the speakers provided overall assessments of the Court's design and function as an institution, including in the present-day context. Thus, their reflections addressed **(a)** the Court's performance as an institution; **(b)** the changing nature of ICJ proceedings; and **(c)** the way forward.

(a) The ICJ's performance as an institution

46. Despite the above debate on possible reforms, it was noted that there has been a substantial increase in the number of cases before the Court compared to its historical averages. The thematic range of subject-matters of these proceedings was also emphasised. This contemporary workload was seen as an indicator of its institutional success and the continuing demand for ICJ adjudication. It could also suggest that the Court is not perceived as predominantly associated with Western States, but rather, as an institution serving the wider international community. Though it shares important characteristics with arbitral tribunals, it is a more distinct, and permanent, international judicial body.

47. As the Court's institutional success generates growing demand for adjudication, it also creates a need to adapt to changing circumstances.

(b) Changing nature of ICJ proceedings

48. It was argued that contemporary cases concern not only bilateral interests of States but also, increasingly, broader public and community interests. Many of these proceedings involve multilateral litigation, which may raise issues - such as the possibility of multiple Judges ad hoc on the same side - that call for further adaptation of the Court's rules and practices, which were conceived primarily for bilateral disputes.

49. In a similar vein, there is an increasing distinction between the Court's contentious and advisory functions, though they were historically more closely connected, as apparent, for e.g., from discussions about the possibility of appointing Judges ad hoc in advisory proceedings under Article 102(3) of the Court's Rules, as compared with the seeming abandonment of this practice. In contentious proceedings, the Court speaks to and resolves a dispute between the parties, whereas in advisory proceedings, its audience may encompass the broader international community or the requesting international organisation. Accordingly, the role of State consent also operates differently in both.

(c) The way forward

50. It was argued that the ICJ possesses considerable authority over the management and development of its own procedure. As its workload began to rise, the Court also decided to adopt Practice Directions as a procedural

innovation (a document not addressed, as such, in the Statute or Rules). This initiative sought to enhance efficiency and due process in the Court's procedure.

51. In the context of any procedural challenges or considerations arising within a particular case, the parties could jointly propose modifications to the Rules for the purposes of those proceedings, under Article 101 of the Rules. However, the ultimate procedural decision lies with the Court.

52. However, the extent to which the Court can or should "re-invent" itself depends on how it conceives its judicial function; the role it believes it should play within the international legal order; how it uses its existing procedural powers to adapt its practices; and the inherent limits on its procedural powers. These are points that were considered more extensively in the Second and Third Webinars, as highlighted below.

7. Summary

53. Speakers strikingly converged on the premise that the Court did not necessarily require "re-invention", but further development and adaptation to specific institutional issues. Thus, the conversation began from the assumption of its success, rather than a crisis. The discussion demonstrated that the Court's legitimacy was multidimensional, resting on issues such as its composition, diversity, independence and impartiality, and on the success of its adjudicative function. There was a recurring debate on which reforms may be appropriate, and if so, then the form to be given to them, ranging from cautious positions (e.g., noting that the present political moment was inconducive to high-level changes) to more interventionist positions (e.g., requiring greater regulation of issues such as diversity, elections, conflicts of interest, etc.). This does not necessarily mean amendments to the Statute itself, but could also concern changes in the Rules, practices, or internal resolutions. Moreover, the cross-fertilisation of ideas between debates for reform in contexts like ISDS, and debates concerning the ICJ, was emphasised.

54. Whereas the First Webinar focused on institutional questions concerning the ICJ, the Second Webinar would turn to debates concerning its procedure.

SECOND WEBINAR: BEHIND THE BENCH: THE ICJ'S PROCEDURAL FRAMEWORKS AND JUDICIAL PRACTICE

Webinar 2 – 17 April, 3.30 pm SGT / 9.30 am CEST

Behind the Bench: the ICJ's procedural frameworks and judicial practice.



Welcome remarks:
Dr Nilufer Oral,
CIL Director



Introduction:
Celine Lange,
CIL



Moderator:
Prof. Makane Mbengue,
University of Geneva

PANEL



Dr Alfredo Crosato Neumann,
Kadir Has University,
Istanbul



Dr Tara Davenport,
CIL, National
University of Singapore



Alvin Yap,
University of Western
Australia



Conclusions:
Prof. Christian Tams,
King's College London

1. Scope of the webinar

1. The Second Webinar in the series was titled "Behind the Bench: the ICJ's procedural frameworks and judicial practice".

2. As such, the intended focus was on the ICJ's case management and procedural framework, exploring how the Court operates in practice and how its processes might evolve to meet evolving demands. Topics could include the management of complex and lengthy proceedings, the extent of the Court's powers as the master of its procedure, the balance between judicial efficiency and procedural fairness, and what lessons, if any, the ICJ might draw from the comparative practices of other international courts and tribunals.

3. Questions over the Court's powers as a master of its procedure were generated by its 2023 judgment in *Nicaragua v. Colombia*, where, extensive written pleadings (legal and scientific) had been submitted to the Court on maritime delimitation involving an extended continental shelf claim (i.e., beyond 200 nautical miles as measured from Nicaragua's baselines). Yet, the Court directed the parties shortly before the hearings to focus on specific questions of customary international law.

4. Against this backdrop, speakers considered three interconnected dimensions of ICJ procedure: its foundations, functions, and frontiers. The underlying inquiries were whether the Court's procedure primarily served efficiency or legitimacy; how far it could shape such procedure in balance with any limits imposed by State sovereignty, and whether such procedure should be self-contained, or informed by general procedural principles and comparative practice.

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Efficiency and legitimacy are not necessarily a dialectic; one may reinforce or balance the other.

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5. This section describes the views expressed on a proposal that the ICJ should be expressly empowered to summarily dismiss claims manifestly lacking legal merit **(2)**; on proposals concerning the use of experts in the Court's management of complex scientific and technical evidence **(3)**; and on suggestions for enhanced compliance mechanisms or monitoring at the ICJ **(4)**. It then highlights views on the limits of the ICJ's powers as the master of its own procedure and how this could impact the realistic form of the proposals **(5)**; before synthesising cross-cutting themes across the discussion **(6)** and offering a conclusion **(7)**.

2. Summary dismissal of claims manifestly lacking legal merit

6. The first point of discussion was a proposal being developed that the Court should have summary dismissal powers on the merits. Here, the **(a)** rationale for the proposal, its **(b)** textual basis and **(c)** anticipated criticisms are highlighted.

(a) Rationale for summary dismissal

7. It was proposed that the Court should be empowered to dismiss claims at a preliminary stage on a pure question of law on its merits. This would be different from existing preliminary objections concerning jurisdiction and admissibility. Rather, it would enable the Court to dismiss a legally untenable claim without requiring factual or evidentiary determinations. The rationale of this proposal would be to avoid unnecessary expenditure of time, legal effort, and financial resources, where the claim manifestly fails as a matter of law.

8. It was queried how this would differ from an objection on jurisdiction *ratione materiae*, as that may also involve legal questions. It was suggested that the proposal would cover not just objections that impact jurisdiction, but those that address the substantive legal validity of the claim itself.

(b) Textual basis for summary dismissal

9. The ICJ's Statute and Rules do not presently confer this power. Article 79 of the Rules enables a preliminary adjudication of jurisdiction and admissibility, but not on questions ordinarily reserved for the merits.

10. The ICJ's 2023 judgment in *Nicaragua v. Colombia* was highlighted as generally exemplifying the need for the power to make early determinations on legal questions, where appropriate. There, the Court managed its oral hearings

through Articles 61(1) of the Rules, a provision that concerns the organisation of the hearing. However, it does not expressly establish a procedure for separating a pure merits question from the remaining dispute and only operates once the dispute reaches a relatively advanced stage.

11. It was noted that the International Centre for the Settlement of Investment Disputes ("ICSID") in the 2006 iteration of its Arbitration Rules introduced a procedure permitting the early determination of claims manifestly lacking legal merit; a body of practice has developed around it. For its part, the PCIJ Statute envisaged in Article 29 a Chamber of Summary Procedure intended to facilitate the rapid resolution of disputes. Further historical research could be useful on the contemplated function of this procedure, and why it was not carried over in the same form to the ICJ.

(c) Anticipated criticisms

12. The arguments in favour of the proposal would prioritise time saving, cost saving, docket management for a heavily utilised ICJ, and institutional efficiency, i.e., focusing the Court's and the UN's resources on cases genuinely requiring full adjudication.

13. The critique, however, would emphasise the importance of due process and ensuring that the parties are afforded sufficiently full opportunities to present their case. It was suggested that this concern could be mitigated by giving both parties an adequate opportunity to make submissions on the relevant question of law.

14. Moreover, it was suggested that it may be preferable for such a procedure to be initiated by the parties rather than the Court *suo motu*, as otherwise, the Court could be critiqued for having proactively prejudged the merits.

15. It was envisaged that a preliminary merits procedure could itself become a source of delay, as another procedural phase, contrary to its intent. Possible measures to address this included integrating the mechanism into preliminary objections, or avoiding automatic bifurcation, so that other aspects of the proceedings continue in parallel. Though perhaps ambitious, the proposal may be justified by the growing pressure on ICJ resources.

3. Enhancing the use of experts in the Court's assessment of complex scientific and technical evidence

16. There were also proposals concerning the Court's assessment of scientifically and technically complex evidence. In this respect, it was evaluated whether, when, and which experts could the ICJ refer to in enabling its fact-finding. After providing **(a)** some background, this sub-section highlights discussions concerning three categories of experts, namely, **(b)** party-appointed experts; **(c)** Court-appointed independent experts; and **(d)** "phantom" experts. Possible **(e)** future courses of action and the role of experts in **(f)** advisory proceedings was also considered.

(a) Background

17. International courts and tribunals are increasingly confronting scientific and technical issues, especially in environmental disputes, law of the sea cases, and climate change proceedings. Yet, Judges are usually expert international lawyers or diplomats and may not possess specialised scientific knowledge. Thus, it is important for the ICJ, like other courts and tribunals, to reflect on its fact-finding concerning complex scientific and technical evidence.

(b) Party-appointed experts

18. It was noted that the most common method for the ICJ's referral to specialist evidence was reliance on party-appointed experts. Yet, this raised questions about their independence, since party experts may function partly as advocates, causing doubt about the neutrality of their input. In the *Pulp Mills case*, the ICJ criticised the use of technical specialists appearing as counsels: had they been presented as experts, witnesses, or both, they could have been questioned by the opposing party and the Court.

19. More generally, there is no requirement under the Statute or Rules for party-appointed experts to be independent or impartial. Therefore, where the party-appointed experts of opposing sides reach contradictory conclusions, Judges may then have to assess which is more persuasive, without necessarily possessing specialist expertise themselves. A promising practice in this regard may be the coordination or conferencing between these experts, as seen in the *Corfu Channel* case, where they were directed to meet in an effort to reduce areas of disagreement.

(c) Court-appointed experts

20. By contrast from the above, the Court's framework permits certain forms of independent expertise. For e.g., Article 30(2) of the Statute foresees that the Court may appoint assessors who may sit with the Court without voting. Yet, the mechanism has essentially remained unused. In the *Western Sahara* advisory proceedings, Judge Petrén criticised the Court for not having sought specialist assistance regarding Islamic law and North African history.

21. The Court also possesses powers under Article 50 of the Statute to entrust an individual or body with answering an inquiry or providing an expert opinion. However, this power has been used only sparingly. In *Pulp Mills*, the Court was presented with extensive and conflicting scientific material concerning the environmental impact of certain measures; yet it chose to evaluate the material itself, something criticised strongly by dissenting Judges.

22. Comparative lessons could be drawn from dispute settlement under UNCLOS. Under Article 289, specialist scientific or technical assistance can be facilitated. Experts may be appointed to sit with a court or tribunal without voting rights. Annex VII arbitral practice was instructive, for showing usage of this provision in contexts such as hydrographic expertise, maritime boundary issues, the status of maritime features, coral reef damage, and navigational safety. The *South China Sea Arbitration* was an example of a tribunal actively securing independent expertise in areas outside ordinary judicial competence.

(d) "Phantom" experts

23. It was noted that the ICJ reportedly has a practice of receiving informal assistance from specialists such as cartographers, hydrographers, geographers, and linguists, without transparently identifying those individuals or their role. This, however, is criticised on the basis that the parties cannot know precisely what expertise influenced the Court, implicating transparency and procedural fairness.

24. Recently, during the climate change advisory proceedings, the Court disclosed that its Members had met with members of the Intergovernmental Panel on Climate Change ("IPCC") to enhance their understanding of climate science. While this may be welcomed in principle, the Court did not identify precisely which IPCC members participated, nor the legal basis under which the engagement occurred.

25. These developments, often characterised as concerning "phantom" experts, raised concerns about procedural transparency and due process.

(e) Future courses of action

26. Based on the above, it was suggested that a more systematic strategy of handling experts and scientific or technical evidence is advisable. In particular, this could include structured interaction among party-appointed experts, procedures requiring them to identify and narrow down areas of disagreement, as well as transparency wherever the Court relies on specialist assistance (no "phantom" experts). It was further suggested that the Court should make greater use of independent external experts.

(f) Experts in advisory proceedings

27. It was queried whether the above discussion and proposals were relevant for advisory proceedings. It was suggested that the same procedural concerns may not arise with equal force in advisory proceedings. For e.g., due process issues may operate differently because advisory proceedings do not have the formal bilateral structure. There is uncertainty, therefore, about the extent to which the discussion would be pertinent for advisory proceedings.

4. Compliance mechanisms or monitoring for ICJ decisions

28. Another theme addressed by the speakers was the question of compliance processes for the Court's decisions. In this respect, the discussion addressed **(a)** the current post-judgment procedures at the Court; **(b)** recourse to the UN Security Council ("UNSC"); **(c)** a comparative overview of compliance at other institutions; **(d)** ICJ practice concerning compliance; and **(e)**, on this basis, a proposal for establishing a reporting mechanism for compliance at the Court.

(a) Post-judgment procedures at the Court

29. It was recalled that Articles 59-60 of the Statute establish the binding and *res judicata* effect of its judgments, but not a systematic post-judgment mechanism. The Statute enables requests for interpretation and revision of judgments; however, this is not a recourse for supervising compliance as such. Referring to the *Avena* case, it was argued that there are limits on using interpretation proceedings under Article 60 to obtain compliance rulings. Revision under Article 61, likewise, has a distinct and narrowly defined function.

(b) Recourse to the UNSC

30. It was noted that Article 94(2) of the UN Charter was the principal provision relevant to compliance, permitting recourse to the UNSC where a party failed to perform obligations arising from an ICJ judgment. However, in practice, the mechanism has rarely been used, and can encounter political limitations, especially where UNSC permanent members are involved.

(c) Comparative overview of compliance mechanisms

31. It was argued that other international adjudicative systems have more structured compliance mechanisms. For e.g., looking at human rights bodies, the Inter-American Court of Human Rights has an extensive history of supervising post-judgment compliance, developed through its own procedural practice. The implementation of the judgments of the European Court of Human Rights is supervised by the Committee of Ministers, representing a distinct model in which monitoring occurs institutionally, but outside the Court. World Trade Organization ("WTO") compliance proceedings offered another example of structured post-decision review. Similarly, some arbitration agreements expressly authorise tribunals to determine subsequent questions concerning award compliance.

(d) ICJ practice concerning compliance

32. Despite the absence of a dedicated compliance system, it was argued that there were situations where compliance issues returned to the ICJ, even if not necessarily framed as such. In the *Gabčíkovo-Nagymaros Project* case, there was a special ad hoc jurisdictional arrangement permitting the parties to return to the Court for compliance; the case remains on the Court's General List. Similarly, assuming there was a sufficiently broad basis of jurisdiction, parties may also seek to institute a later dispute before the ICJ concerning implementation, albeit as a new case. There are also certain cases where the Court determined responsibility, while leaving it for the parties to negotiate compensation, if they failed to reach agreement, allowing a further reparations phase in the case, such as in *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)*.

33. At the same time, cases like *Nuclear Tests (New Zealand v. France)* show that the Court's procedural approach may limit creative attempts to examine

compliance with previous judgments, through the ICJ's existing framework for interpretation under Article 60 of the Statute.

(e) Proposal for a reporting mechanism at the ICJ

34. In view of the above, it was proposed that there should be a systematic post-judgment reporting mechanism at the Court. As to its basic model, States would periodically report on steps taken towards compliance. The mechanism could receive reports, make them public, and maintain a dialogue regarding compliance. This could have the advantage of keeping States engaged with the Court after judgment, enhancing its transparency and its institutional legitimacy.

35. It could be countered that such compliance monitoring may conflict with the UNSC's function under Article 94(2). Yet it could be argued that Article 94(2) does not necessarily confer exclusive competence on the matter to the UNSC. Similarly, there may be a view that supervising implementation may be a function more fitting for an executive body. It was considered that conceptions of the proper judicial role may differ across legal traditions.

36. It was noted that there may be other limitations of this proposal. For e.g., an intrusive monitoring mechanism may make States more reluctant to accept the ICJ's jurisdiction; compliance monitoring may require further resources and judicial involvement; it may prolong the proceedings, keeping them open after judgment; and, likewise, it could generate additional controversies concerning the meaning of the original judgment. Thus, the proposal had to be carefully evaluated.

5. The extent of the ICJ's powers as the master of its own procedure

37. In light of the proposals discussed previously, the question arose whether the suggested reforms were **(a)** within the Court's powers or required external action, and if so, then what; as well as **(b)** reflections on the limits of the Court's power as the master of its own procedure. These are discussed in sequence.

(a) Specific form and forum of the proposed reforms

38. With respect to the proposal that the Court be authorised to summarily dismiss claims for manifestly lacking legal merit, it was suggested that the most realistic

route may be amending the Rules of the Court, particularly the provisions governing preliminary objections. It was noted that unlike changes in other forums, such as amendments to the ICSID Arbitration Rules, the approval of States Parties was not necessary as the Court was authorised to devise its own Rules under Article 30(1) of its Statute. Yet this may create a legitimacy challenge, insofar as the ICJ may have less information on how amendments to the Rules would be received.

39. Regarding the proposals on the Court's use of experts, it was suggested that amendments to the Court's Rules or Practice Directions could be appropriate. Practices used already in individual cases, such as mandatory joint expert conferencing, could be converted into generally applicable procedural guidance. Reform, however, ultimately depends on the willingness and consensus of the Court. Members from inquisitorial legal traditions may be more comfortable with Court-directed expertise than those from adversarial legal traditions. States, for their part, could request the appointment of independent experts in scientific and technical disputes, or seek other forms of specialist assistance (e.g., special chambers). Their repeated demand may influence the Court's practice. The growing technical complexity of cases makes reform increasingly more difficult to avoid.

40. Finally, regarding the proposal for a compliance reporting mechanism at the ICJ, amending the Rules was suggested as the way forward. It was queried whether this function is better reserved for another organ, such as the UN General Assembly ("UNGA"), if not the UNSC. The view was expressed that a carefully designed procedure could be characterised as falling within the judicial function without encroaching on other organs' functions. The recent inclusion of a provisional measures reporting requirement under the ICJ Rules demonstrates this; albeit such monitoring occurs during the proceedings. Alternatives outside the Court could include a UNGA mechanism or regional arrangements where compliance is reported or discussed. It was argued that external supervision, however, even if simpler and more expedient, may not be the most effective.

(b) Limits on the Court's power as the master of its own procedure

41. While noting that Article 30(1) of the Statute enables the Court to develop its own Rules of procedure, it was emphasised that the proposition that the Court

is the master of its own procedure needs to be qualified. As per Article 30(1), the Court may frame Rules for carrying out its functions; yet procedural rules must remain compatible with the Statute and its functions. Thus, the above reforms would have to satisfy this requirement. Besides, the Court may give effect to a particular reform through other means, e.g., Practice Directions, a chance in judicial practice, or case-specific judicial orders.

6. Synthesis of cross-cutting themes in the debate

42. The different proposals suggested by the speakers addressed various aspects of procedural concerns, each concrete, rather than in the abstract. There were considerations of case management and early disposal of claims, the administration of justice and truth-seeking during proceedings, and post-judgment implementation and compliance.

43. Equally significant was the absence of certain proposals: there were no calls for major reform concerning the Court's general working methods, nor were delays treated as a standalone problem. Similarly, no changes were proposed on interventions and transparency in the broadest sense. This may indicate a degree of confidence in the institution. As such, the ICJ was portrayed as an institution in need of targeted adjustment; not wholesale reconstruction.

44. The common positive premise beneath the proposals may also be further examined. The summary dismissal power proposal assumes that the Court's docket pressure will continue to rise, and it may need a mechanism for dismissing frivolous cases. The proposals on expert evidence take for granted that the Court will continue attracting increasingly complex disputes. The compliance monitoring proposals, likewise, assume that traditional implementation of judgments will become important for States. Moreover, the proposals reflected a willingness for cross-fertilisation, i.e., considering the comparative practices of other courts, tribunals, and institutions.

45. It was asked which of the proposals may materialise at a future "ICJ at 100" event, i.e., by its centenary in 2046. The view was expressed that reforms on evidence may be the most difficult to avoid, given increasing expectations of consistency, transparency, and procedural fairness. It was considered relatively less likely that the summary dismissal proposal would be adopted, as alternatives may be developed to achieve the same end of efficiency (e.g., shorter

deadlines, fewer pleadings, stronger judicial discretion on which issues the parties should focus on, etc.). Lastly, though compliance was a significant concern, it was possible that actors other than the Court itself may assume that responsibility. The Court, for its part, could formulate remedies more precisely, and draft operative paragraphs more concretely.

46. All this said, however, it became clear from the discussion that efficiency and legitimacy are not necessarily a dialectic; one may reinforce or balance the other. For instance, the early dismissal of cases may improve efficiency but not at the cost of due process; independent expertise may improve efficiency and legitimacy by providing a stronger evidentiary basis; compliance monitoring may prolong the proceedings but strengthen the practical legitimacy of adjudication.

47. Besides the specific issues discussed, it remained open for future conversations to address other contemporary problems such as fast-track procedures, the treatment of AI-generated evidence, and the procedural use of algorithms.

7. Summary

48. As with the First Webinar, it was noteworthy that the speakers did not advocate wholesale or drastic reform of the Court. The intention behind their specific proposals (summary dismissal on the merits, independent expert evidence, compliance monitoring) concerned aspects of the Court's procedure that needed fine-tuning, rather than requiring a re-invention of the Court itself. A delicate balance has to be struck in ensuring a balance between efficiency and due process across the areas identified in the webinar; often, a proposal could be justified on both bases. There were also numerous routes or forms through which suggested reforms could be adopted, notably, the Rules and Practice Directions of the Court, which it develops as the master of its own procedure. However, the Rules cannot be contrary to the Statute, conscribing the Court's powers. As pressures on the Court grow, - higher number of cases, involving complex evidence, and possible non-compliance - the ICJ and States must remain open to experiences and innovations from other institutions, courts, and tribunals.

THIRD WEBINAR: A WORLD COURT FOR THE FUTURE

Webinar no. 3 – 24 September 2026

5 pm SGT / 11 am CET / 10 am London

A World Court for the Future



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Moderator: Prof. Makane Mbengue, University of Geneva



Conclusions: Prof. Philippe Sands KC, University College London



Welcome/Concluding remarks: Dr Nilufer Oral, CIL Director

1. Scope of the webinar

1. The third and final webinar in the series was titled "A World Court for the Future".

2. The previous webinars in the series examined the ICJ from the perspective of its institutional design and procedure. The third webinar primarily considered how the Court may remain resilient and relevant, so that it may operate effectively in an increasingly complex international legal order.

3. The intended focus of the webinar was a debate on whether the development of international law lay at the heart of the Court's function; whether it possessed the necessary institutional means to perform this function effectively; and whether its performance of this function was generally desirable, or feasible amidst the current geopolitical climate.

4. In this respect, this section describes the vigorous exchange on the Court's role and limits in the development of international law **(2)**. Moreover, it was considered whether and how the Court may be more receptive to the voices of individuals, especially in public interest contexts **(3)**. There were also questions about defining "development" further, besides its oft connotation of judicial activism **(4)**. Following this, speakers addressed whether and in what ways the Court may require "re-invention" **(5)**, and on the converse, the need to protect the Court in its present form against political backlash **(6)**. The session closed with a general conclusion **(7)**.

2. The ICJ's role in the development of international law

5. The speakers addressed **(a)** current litigation trends at the Court; **(b)** situations where the Court arguably contributed to the development, rather than only the identification, of international law; **(c)** whether the development of international law is a part of its mandate; and **(d)** the tension between predictability and creativity in this regard.

(a) Current litigation trends

6. It was observed that the ICJ has seen a surge of proceedings instituted to enforce *erga omnes* and *erga omnes partes* obligations, such as under the Convention on the Prevention and Punishment of the Crime of Genocide, 1948 ("Genocide Convention") or the Convention against Torture and Other Cruel, Inhuman or

Degrading Treatment or Punishment, 1984. In such proceedings, there has been an unprecedented number of States seeking third-party intervention under Articles 62 and 63 of the Court's Statute. Moreover, there have been urgent requests for provisional measures in a range of contentious proceedings, which act as early substantive battlegrounds. Lastly, there have been a number of significant requests for advisory opinions, which can take precedence on the Court's docket, and heavily impact the judicial workflow.

(b) Instances of the development of international law

7. It was argued that recent instances demonstrate the Court's contributions to the development of international law, including on methodological matters. The systemic integration of distinct international legal rules was considered a striking example.

8. In its advisory opinion on the *Obligations of States in respect of Climate Change*, the Court established a presumption that a State not party to climate change treaties may, in certain instances, be considered as having satisfied its customary obligations if its practice is consistent with standards under the treaties. In case of inconsistency, the State would bear the full burden of proving that its policies conform to its customary obligations. This, in effect, made the obligations under climate change treaties a benchmark for non-State Parties' obligations under customary law. Similarly, in its advisory opinion on the *Right to Strike under ILO Convention No. 87*, the Court lowered the operational threshold for the application of Article 31(3)(c) of the Vienna Convention on the Law of Treaties, 1969. It opined that interpreting a treaty rule by taking account of external rules is permissible even if not all States Parties have agreed to be bound by the external rule, provided that it reflects a "common understanding" between them. Through such findings, the Court did not just identify but also developed the substance of international legal norms.

(c) The Court's mandate

9. The speakers had different views on whether the development of international law formed part of the Court's mandate, properly understood.

10. On one hand, Article 38(1) of the Statute, which recognises the sources of law the Court must apply, denotes that the Court's "function is to decide in accordance with international law such disputes as are submitted to it". By

contrast, Article 38(2) foresees that the Court may decide disputes *ex aequo et bono*, where the parties agree to that effect. Despite its name as the International Court of "Justice", it was ultimately a court of "law", and therefore, must function within these defined limits, refraining from the development of international law. Although there were proposals that law-creating powers must expressly be conferred upon the Court, the Committee of Jurists drafting the Statute(s) ultimately rejected this idea, showing that judicial law-making authority was deliberately withheld by States.

11. On the other hand, it was recalled that the UNGA, in Resolution 171 (II) (1947) recognised the imperative that "the Court should be utilized to the greatest practicable extent in the progressive development of international law". In this regard, it was argued that since the inception of the UN, it was understood that the Court can and should contribute to the development of international law. Lastly, it was noted that requests for advisory opinions on abstract legal questions, for instance concerning nuclear weapons or climate change, explicitly highlight the Court's law-making function. To maintain its legitimacy, the Court and epistemic communities must consciously build trust around this law-making capacity.

(d) Dichotomy between predictability and creativity

12. Besides the issue of whether the development of international law fell within the Court's mandate, the question arose whether this phenomenon was desirable. It was argued that States submit disputes to the Court seeking an authoritative determination of rights. Thus, there must be a sharp distinction between legal development as an organic consequence of the adjudication of rights and obligations, versus development as a primary and deliberate objective.

13. In any event, it was suggested that caution should be exercised before dismantling political compromises or overriding explicit treaty texts in the name of development. For instance, treaties like UNCLOS reflect politically delicate and hard-fought "package deals"; compromises that should not be erased by the Court in the name of the "living instrument" doctrine or progressive development. In this regard, the silence of States in response to the Court's activism cannot, by itself, be interpreted as legal acquiescence. Many developing

States, indeed, lack the institutional capacity to respond to every legal development continuously.

14. Finally, it was considered that any State seeking the development of international law in a given case may assume the risk that the same interpretive methodology may be applied against its own interests, or in the favour of the other party in a future case. The positions of States in mass interventions in distinct cases involving different respondents, for e.g., showed that a view taken in one case may be inconsistent with another. Litigation positions, therefore, cannot supply jurisprudential consistency; this is the Court's responsibility.

3. Mindfulness of individuals' voices and public interests

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We are about to die. Will you listen to us? Will this Court advise them to listen to us?

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15. It was argued that a "World Court for the Future" ought to adapt to modern realities by centering individual rights and public interest. In this respect, **(a)** it was discussed why the Court should be mindful of individuals; **(b)** how this reflects in public interest litigation; and **(c)** what such a court must prioritise moving forward.

(a) The ICJ as mindful of individuals

16. It was recalled that in their statement to the ICJ in the climate change advisory proceedings, Sailosi Ramatu (the resident of a village in Fiji) asked: "We are about to die. Will you listen to us? Will this Court advise them to listen to us?"

17. It was, thus, considered that the voices of individuals should have significance to the Court. Despite its formally inter-State character, individuals continuously attempt to participate, for instance by writing letters to the registry and e-mailing Judges.

18. Similarly, it was suggested that individual rights are at stake not just in proceedings concerning human rights or criminal law treaties or diplomatic protection, but also in traditional territorial and maritime disputes. In *Maritime Dispute (Peru v. Chile)*, for e.g., the Court determined issues affecting local fishing rights, community livelihoods, and administrative identity. The Court's historical reluctance to admit individual voices was, arguably, attributable, to tradition, deference to States, and resource constraints. However, procedural creativity and evolving legal reasoning to accommodate individual voices and public interest was achievable without dismantling the Court's core jurisprudence.

(b) Procedure enabling public interest

19. It was noted that there has been a recent practice of using judicial mechanisms to protect public goods (for e.g., human rights, the climate, and peace) on behalf of unrepresented groups to achieve structural change, which may be described as public interest litigations. This practice is reflected in the exercise of standing on an *erga omnes partes* basis, provisional measures proceedings, mass interventions under Article 63 of the Statute, advisory proceedings, and possible future growth in *amicus curiae* participation.

20. It was admitted that there may be criticisms surrounding these developments, such as on the basis of normative concerns (desirability), procedural capacity (workload), and conceptual uncertainty. It was proposed, however, that the Court has shown receptiveness to possible issues, for example by making efficient time allocations for States in the climate change advisory proceedings or in respect of mass interventions.

(c) World Court of the future: openness

21. On these bases, it was argued that a World Court of the future, to remain relevant and responsive, would have to be creative, adjusting procedural rules to enable individual voices to be heard, enhancing democratic legitimacy. Such a Court would be bold, tackling the most pressing global and political issues of the time, adaptable, responding to voices beyond the walls of the Peace Palace alongside global realities. It would fulfil the true promise of its name, i.e., the International Court of *Justice*.

4. The temporal and distributive scale of development

22. In a similar vein to the above, it was suggested that "development" must not be considered solely in the sense of the "progressive development" of international law. Rather, development must also be examined by reference to **(a)** the distributive and **(b)** temporal scales of international adjudication. It was also necessary to **(c)** reflect on the active role of the Global South in this respect. These aspects **(d)** together gave rise to a call for essential capacities for a future World Court.

(a) Development as a distributive project

23. It was argued that legal development is never neutral. Instead, it redistributes authority, constrains domestic policy space, and creates new obligations and possibilities. The benefits and costs of legal development, therefore, are distributed unequally across States. Thus, certain questions must be asked: what kind of development is occurring and on whose terms? Who possesses the financial and legal resources to litigate? Whose lived experiences reach the bench? Which forms of knowledge are recognised as legally relevant?

(b) The temporal scale of adjudication

24. It was further suggested that international law excels at recognising discrete legal "events". Nevertheless, it struggles with addressing slow, cumulative and distributed harms, for instance climate destruction, long-term starvation, and structural violence. In this regard, an analogy was made to the distinction between Chronos (sequential, event-based time) and Kairos (the opportune, qualitative moment) to demonstrate how traditional adjudication, which focuses on a specific materialised harm, can omit or be unfit for addressing slow forms of violence. Waiting for cumulative harm to crystallise into a formal dispute can enable irreparable, devastating harm.

25. In this respect, the Court's provisional measures jurisprudence was a welcome development, as it was a critical temporal mechanism for intervening against urgent risks before final merits determination.

(c) Global South agency

26. It was argued that the view of Global South States as passive recipients of international law must be revised. Rather, they are active agents who

strategically invoke collective interests, test legal doctrines, and reshape the grammar of international law. The question, therefore, should not be how the Court could become responsive to a passive Global South, but rather which actors are actively seeking to shape what international law means and what it should become.

(d) Essential capacities for a World Court of the future

27. In view of the above, it was proposed that there are three essential qualities for a World Court of the future: temporal capacity (the ability to recognise and intervene against cumulative, irreversible harm early); epistemic capacity (the ability to hear, evaluate, and integrate non-traditional forms of knowledge and lived experience); and finally, institutional capacity (contextual sensitivity to accommodate regional differences and diverse traditions without sacrificing jurisprudential coherence or its authority as the UN's principal judicial organ).

KEY POINTS

Three capacities for a World Court of the future

I	II	III
TEMPORAL	**EPISTEMIC**	**INSTITUTIONAL**
To recognise cumulative, irreversible harm, and to intervene against it early.	To hear, evaluate and integrate non-traditional forms of knowledge and lived experience.	To accommodate regional differences and diverse traditions without sacrificing coherence, or its authority as the UN's principal judicial organ.

5. Discrete specific suggestions for the Court's future

28. As highlighted already in section 3(c) and 4(d) above, the discussion featured certain proposals for "re-inventing" or strengthening certain values or aspects of the Court on a macro level. This sub-section highlights specific discrete proposals on a micro level for the Court's future, including **(a)** strengthening its fact-finding capacity; **(b)** increasing its engagement with non-state actors; **(c)** reviving the use of Chambers; and **(d)** enabling individual opinions to be authored anonymously.

(a) Strengthening the Court's fact-finding capacity

29. It was argued that the Court's fact-finding capabilities are severely limited. Judges should not have to rely solely on UN or non-governmental organisations' ("NGO") reports in complex and atrocious genocide cases. Rather, the Court could begin to establish independent fact-finding panels, utilise assessors, or designate judge-led fact-finding mechanisms to cross-examine witnesses and rigorously test evidence.

(b) Engagement with non-state actors

30. It was suggested that, to maintain long-term legitimacy in public opinion, the Court should consider publishing expressions of interest and submissions from NGOs or the corporate sector on its website, following the practice set by the International Tribunal for the Law of the Sea, without granting them formal participant status, e.g., in the climate change advisory proceedings.

31. In a similar vein, it was argued that it may be useful to move beyond the strict Articles 62-63 intervention form, enabling States, and possibly non-state actors, to submit amicus curiae briefs in cases involving broader community interests, departing from strictly bilateral dispute models.

(c) Reviving the use of chambers

32. In the context of the Court's increasing workload, it was recalled that it has 15 Members. It was noted that establishing consensus within these 15 Members already resembles a complex plurilateral negotiation. Thus, expanding the bench could impair deliberative efficiency. Rather, it was suggested to revive the use of Chambers under Article 26 of the Statute, for the purpose of adjudicating regional disputes. This, however, should be made subject to a strict collegiality rule, for e.g., like in the WTO Appellate Body. Thus, supposing a 3-judge-Chamber heard a case, a mandatory plenary exchange with the 15-judge-bench would first occur, preserving unified jurisprudence across the Court while offering regional flexibility.

(d) Anonymity in individual opinions

33. It was proposed that dissents or declarations should be allowed to be issued anonymously. This is because disclosing judicial identities can lead to dissents being dismissed based on personal or national affiliations. Anonymity would

force commentators and States to focus purely on the legal quality of the reasoning.

6. Protecting the Court from backlash

34. Although there were several proposals for changes to the Court's function or procedure to ensure its relevance or justness in the future, there were also calls for caution. It was recalled, for instance, that the Court cannot initiate cases on its own motion. The climate change advisory proceedings required a dedicated coalition of States lobbying the UNGA to make the request. The Court also remains fragile and dependent on States for its existence, budget, and enforcement. Domestic political volatility can impact ICJ proceedings, as seen in the changes in States' positions before the Court after changes in government, including in the withdrawal of certain intervention applications.

35. Notwithstanding global order crises, it was considered that the Court was discharging its function satisfactorily. Thus, its role at the present geopolitical condition may be to provide stability, continuity, and predictability. There has been, in recent cases, broad bench support with limited dissents, signalling institutional consensus within the Court. Similarly, over 100 States participated in the climate change advisory proceedings, evidencing the Court's immense global respect.

36. Nevertheless, as seen from the political hostility and sanctions against the International Criminal Court, it was thought foreseeable that political attacks on the ICJ may increase exponentially, considering the politically sensitive cases it was seized of, especially those concerning genocide. If the Court becomes perceived as being overly powerful or activist relative to paralysed political organs, then state backlash may be inevitable, as seen with the political deadlock surrounding the WTO Appellate Body. In this climate, therefore, judicial restraint, but also institutional support to the Court, were critical.

7. Summary

37. The Third Webinar, like the ones before it, showed a convergence of opinions on the stability and the respect held for the Court by States and the international community. Views differed on the role of the Court in the development of international law, featuring optimism and insistence towards the Court's

contributions in this respect, as opposed to calls for caution and predictability. There were also calls for the Court to place itself more firmly as receptive to individual and public interests, as well as increase its capacity for accommodating a greater range of voices and harms. Discrete specific proposals were made for the Court to enhance its procedure or legitimacy. As with previous webinars, however, both the praise and the criticisms directed at the Court assumed its wide present and future usage as well as influence. Notwithstanding, it was cautioned that the present political climate was not ripe for significant changes to the Court's function or work. Instead, the priority should be to protect the Court itself, in its current form and function, from impending threats to it.

IV. CONCLUSION

1. As the principal judicial organ of the UN, and one celebrating its 80th anniversary, the ICJ has a significant place in the world of international relations, peace, and the rule of law. Thus, the present Webinar Series featured a range of timely perspectives on the Court as an institution (First Webinar), the court in terms of its procedure (Second Webinar), and the court as a World Court of the future (Third Webinar).

2. Considering the Court's importance and reach, criticisms of its function and work are foreseeable perhaps inevitable. It must delicately balance competing stakes: maintaining diversity in its composition while projecting universality; ensuring procedural efficiency but not at the cost of due process; clarifying and applying international law, but not at the cost of predictability; and heeding State sovereignty, while remaining receptive to community and public interests underlying the proceedings before it, among other difficult tasks.

3. In light of the difficulties in striking the right balance on highly divisive issues such as the above, various proposals were provided and debated on a macro and micro level, seeking to enhance the Court's function and operation. The Court, in the 21st century, faces many challenges, be it procedural (for e.g., mass interventions), substantive (for e.g., questions on contemporary phenomena such as climate change), or political (for e.g., possible threats to its judicial independence from States). In many ways, the Court's achievements have, in turn, given rise to new challenges. Despite the wide array of insightful views highlighted over the course of the webinar, there were no calls to "re-invent" the Court radically as such. Instead, there were specific calls for the Court to continue to exercise its functions, but in a manner that is responsive to present demands, needs, and interests. Such suggestions took a wide range of forms, including amendments to the Rules, Practice Directions, or judicial practice.

4. The International Dispute Resolution programme of the NUS Centre for International Law expresses its gratitude to the speakers and participants of this webinar series and hopes that the present report acts as a stimulus for ongoing conversations about the past, present, and the future of the Court.

