

Limits of the ICJ

Can Individuals Access International Courts?

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The International Court of Justice (ICJ) (Cour internationale de Justice) is the principal judicial organ of the United Nations (UN). It was established in June 1945 by the Charter of the United Nations and began its work in April 1946. The Court plays an important role in maintaining international peace and security by helping states resolve their legal disputes through judicial means rather than force.

The ICJ has two main functions. First, it settles legal disputes submitted to it by states. These are called contentious cases. Second, it gives advisory opinions on legal questions referred to it by authorized UN organs and specialized agencies. The Court cannot start cases on its own initiative. It can only act when a request is made in accordance with its Statute. Individuals are not allowed to make such requests. Only states can bring contentious cases before the Court.

The jurisdiction of the ICJ is governed by its Statute and the UN Charter. Article 34(1) of the ICJ Statute clearly states: "Only states may be parties in cases before the Court." This provision makes it clear that individuals, corporations, non-governmental organizations, and other non-state actors cannot initiate proceedings before the ICJ. Even if an individual believes that a state has violated international law, they cannot directly apply to the Court. They must rely on their state to bring a claim on their behalf, which does not always happen. This limitation reflects the traditional structure of international law. Historically, international law was created by states and for states. For a long time, individuals were not considered direct participants in the international legal system. Although this situation has changed in some areas, especially in human rights law and international criminal law, the ICJ still operates within a mainly state-centered framework.

Allowing individuals direct access to the ICJ would significantly change the nature of the Court. The ICJ was designed to resolve disputes between states, not to function as a human rights court or a general court of appeal for individuals. If individuals were allowed to submit applications, the Court could face a large number of cases, which might affect its ability to handle complex inter-state disputes efficiently. The ICJ already deals with sensitive matters such as territorial sovereignty, maritime boundaries, diplomatic relations, and the use of force. Expanding its jurisdiction to include individual complaints could alter its institutional role.

At the same time, it is important to note that some international courts do allow individuals to participate directly. This shows that individual access to international justice is possible in certain systems. However, the ICJ's structure and mandate are different. Its primary purpose remains the peaceful settlement of disputes between states based on their consent.

In conclusion, although individuals have gained greater recognition under international law over time, their access to international courts depends on the specific institution. The

International Court of Justice does not allow individuals to submit applications, as clearly stated in Article 34 of its Statute. The Court remains an inter-state judicial body, reflecting the traditional foundations of international law while operating within the modern international legal system.

Sources:

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