

# The Role of the International Court of Justice in environmental issues

## Abstract

The environmental issue is an important domestic and international issue and as such may be subject to the International Court of Justice Decision or any other international judicial institutions. The International Court of Justice (ICJ) is the main body of the United Nations, which has both contentious and advisory jurisdiction in voting. We study the Court's performance in environmental issues in this article. By checking out four issues, first, the contentious and advisory tasks, second, the role of environmental organizations, third, the Trail Smelter case (between the United States and Canada), the basis for the emergence of international law in the environmental issues, fourth, evaluating the Court's performance in eight judgments in the following cases: 1. The status of the environment in the court, 2. Corfu case (between Albania and the United Kingdom), 3- GABCHI PROTOCOL (between Hungary and Czechoslovakia), 4. Lennox Lake case (between France and Spain), 5- The mills case (between Uruguay and Argentina), 6- Oder river case (between Poland and some of European countries), 7- nuclear weapons, 8- Aerial Herbicide Spraying (between Colombia and Ecuador); it is concluded that during the current contemporary, international law, international environmental law and, consequently, the International Court of Justice, have been taking distance from their traditional approach because of evolution of legal intellectual and thought in environmental issues. They focus on general order of the international community and other issues as well as pollution issues.

Keywords: International Court of Justice, Environmental Issues, Environmental cases

## Introduction

The environmental issue is an important domestic and international issue and as such may be subject to the International Court of Justice Decision or any other international judicial institutions.

Important environmental issues such as: the gradual global warming (greenhouse effects), especially from consumption of fossil fuel, ozone depletion (damaging the Earth's protective layer), gradual shortage of freshwater reserves, desertification, gradual soil erosion, gradual increase of air pollution, acid rain, increase of toxic waste and transferring toxic metals in the life-cycle, the deforestation, the gradual extinction of biological species, etc., are the problems and issues that have caused serious damage to ecosystems and ecological processes of the planet, the only known biosphere. International Court of Justice is one of the most important institutions which is responsible for all these environmental challenges.

The International Court of Justice (ICJ), in accordance with Article 92 of the Charter, is one of the basic pillars of the United Nations, which became the official successor to Permanent Court of International Justice in 1946. The International Court of Justice has both contentious and advisory jurisdiction.

41 The International Court of Justice has the legal right to vote on regional and global  
42 environmental issues has contentious and advisory jurisdiction, especially in the first, second,  
43 third, and fourth paragraphs of the contentious jurisdiction.

44 According to Article 34, paragraph 1, of the Statute of the Court, only States can go to  
45 the Court, therefore, natural person and legal person cannot assert claims (Mir Abbasi, 2013,  
46 p. 158).

47 International organizations cannot request the court to resolve their dispute at all.  
48 However, the condition and manner of co-operation between the court and international  
49 organizations is specified in Article 34, Paragraph 2 and 3 of the Statute (Dolatshah, 2014,  
50 pp. 72-73)

51 According to the Statute, and provisions of the Security Council, set in 15 October  
52 1946, the Procedural law, the International Court of Justice, all United Nations Members and  
53 even non-member states have a great responsibility for environmental issues.

54 Regarding the background of this research, the following can be mentioned:

55 Fazlollah Mousavi and Hossein Mousavi Far (2015) have evaluated the ICJ's vote  
56 in an article entitled "The Environmental Dispute between Argentina and Uruguay (2010);  
57 Explaining Some Topics and Principles". Uruguay was sentenced for violating the formal  
58 obligations of Statute and wasn't responsible for trial obligations in this judgment.

59 The authors concluded that, "This vote was one of the progressive votes after the  
60 dam's case (the Hungarian-Slovak dispute) in 1997, in which sustainable development,  
61 ecological balance, human perception and economic development were investigated. It  
62 doesn't show the court comprehensive judgment but merely shows the beginning of a hopeful  
63 way to global and regional protection of the environment. "(Mousavi and Mousavi Far, 2015,  
64 p. 606)

65 Dionysia Theodora Negrinho Puello (2003) have investigated the role of International  
66 Court of Justice, especially environmental disputes in a paper titled "The Role of the  
67 International Judicial System in the resolved of Environmental Disputes", which summarized  
68 and translated by Hosein Yazdani (2006) in the Journal of Theology and Law of the Islamic  
69 University of Razavi.

70 According to the author's documents, in addition to the jurisdiction of the  
71 International Court of Justice in the international judicial system, another important step was  
72 creating a permanent seven specialist unit to solve environmental disputes more effective in  
73 1993. Since members of this unit were not required to have a specific environmental skill,  
74 there is doubt that this branch was able to create a judiciously innovative approach to  
75 environmental issues as expected. (Negrinho Puello, 2003, quoted by Yazdani, 2006, pp. 215-  
76 238)

77 Naser Rahbar Farsh Pira and Hassan Movassaghi (2017) have noted the necessity  
78 of International Court of Justice establishment in respond to epidemic fatal disturbing of  
79 environment order in an article titled "Establishment of the International Environment Court  
80 of Justice from point of international law and jurisprudence view" and have stated that: "The  
81 human war with its environment is a long battle that resulted in the destruction, massacre and  
82 massive killing of animals, plants, waters, weather, natural resources and, eventually, leading

83 to their premature death. The international solidarity is needed to protect the environment in  
84 the age of environment destruction, earth degradation and extinction of animal species.  
85 International meetings of United Nations General Assembly, in July 1998, in Rome, and in  
86 2010, in Copenhagen, was formed with the participation of environmental experts and  
87 ministers with emphasizing on the necessity of establishing an international environmental  
88 court, under the supervision of the United Nations (Rahbar Farsh Pira and Movassaghi, 2017,  
89 pp. 163 and 170).

90 According to the above, the international environmental law is one of pioneer and  
91 important areas that has grown a lot over the past few decades.

92 This article seeks to answer the following basic question:

93 How was the International Court of Justice performance on environmental issues?

#### 94 **Discussion**

95 The International Court of Justice, as the main pillar of the United Nations seated in  
96 the Peace Palace in The Hague, Netherlands, with the main duty of dealing with legal  
97 disputes between countries as well as answering legal questions of international  
98 organizations, specialized agencies of United Nations and the United Nations General  
99 Assembly, with 15 prominent judges elected for 9 years, can play an important role,  
100 especially in environmental issues. In this section, we will evaluate the performance of the  
101 International Court of Justice and its contentious and advisory duties over the past years.

#### 102 **First Topic: History of the International Court of Justice and its Contentious and** 103 **the Advisory duties**

104 The Permanent Court of International Justice was established by the League of  
105 Nations in 1920, and was dissolute by a resolution from the League of Nations, on April 18,  
106 1946. The International Court of Justice thereupon superseded the Permanent Court of  
107 International Justice. The Statute of the International Court of Justice is similar to that of the  
108 Permanent Court, and even the Procedural Law of permanent court has been adapted without  
109 any fundamental change. The new rules of Procedural Law have been adopted by the  
110 International Court of Justice in the following years, but the Statute has not changed.  
111 (Wallace, quoted by Zamani and Bahramlou, 2013, pp. 354-355)

112 According to article 94 of the United Nations Charter, the International Court of  
113 Justice is the main judicial pillar of the United Nations. Also, according to Article 34,  
114 paragraph 1 of the Statute of the Court, only countries can go to the Court. 15 judges, that no  
115 two judges may be nationals of the same country, are selected from prominent international  
116 lawyers for Court. These judges must be representative of the principal legal systems and the  
117 main forms of civilizations, and being no representatives of their own governments. If a  
118 country refuses to execute the obligations of the court vote, the opposite lawsuit can bring up  
119 the issue to the Security Council. It is notable that if a vote is against one of the permanent  
120 member of the Security Council, he or she can block the vote by using his veto power. The  
121 International Court of Justice has both contentious and advisory jurisdiction. In the  
122 Contentious jurisdiction, it deals with hostility, and issue a vote for claims in the Court, and  
123 in advisory jurisdiction, it provides an advisory opinion in cases that Security Council and the  
124 General Assembly of the United Nations request.

125 In the contentious area, the International Court of Justice have jurisdiction to  
126 handle the following:

127 First: interpretation of an article, second: any subject related to the international law,  
128 third: determination of the reality of any actions that violates an international obligation;  
129 fourth, determination of the type and amount of compensation that violates an international  
130 obligation (Mohsen Zadeh & Samiei, 2016).

131 According to Article 96 of the Charter of the United Nations, and the fourth  
132 chapter of the Statute, Articles 65 to 68 and Articles 102 to 109 of the New Procedural Law,  
133 the Court has advisory jurisdiction. Advisory vote is not necessarily binding. (Nguyen Coke  
134 Dean, quoted by Habibi, 2013, pp. 321-322)

135 The jurisdiction of the Court is different from the jurisdiction of the domestic  
136 courts. In domestic law, courts have general jurisdiction and all members of the community  
137 must be responsive for it, but the International Court of Justice does not have such a decisive  
138 role, as the arbitral jurisdiction of the Court has been approved by the public, at the San  
139 Francisco Conference, in 1945 (Ziaei Bigdeli, 2017, p. 520).

140 Rules of Court of the International Court of Justice were adopted at the first  
141 meeting in 1946, and was amended in 1972, 1978 and 2005. According to Articles 40, 43 and  
142 46 of the Statute of the Court, the procedure law for hearing any claim requires three steps:

143 Step 1: Submit petitions to the Chief of the Court and register at the special registry.

144 Step 2: The claimant gives his or her written petitions to the court, and the court  
145 forwards it to the opposing party and asking a reply.

146 Step 3: Oral step for lawyers and representatives of both parties, which is held in  
147 French or English.

148 In accordance with Article 159 of the Statute of the Court, the votes of the Court  
149 must be executed. The judgments issued by the Court are final and cannot be revised.  
150 However, a country can request a retrial within 6 months after the discovery of the new issue,  
151 if it is effective in voting and the country was not aware of the matter and this unknowingness  
152 did not due to neglect. This happens rare. Only the case of Tunisia plateau against Libya has  
153 been resumed till now.

## 154 **Second Topic: Global Environment Organizations**

### 155 **A. UN Environment Program (UNEP)**

156 A. International Court of Justice can play an important role in resolving  
157 environmental disputes as United Nations Judicial Division. In addition, The United Nations  
158 Environment Program coordinate the environmental activities of the members of the  
159 organization, and promotes the participation of countries to implement the strict policies  
160 affecting nature independently (Shilton&Case, 2015). This association was founded in 1973  
161 following the United Nations Conference on the Human Environment. Its central office is in  
162 Nairobi, Kenya. This association active in issues related to the Earth's atmosphere, promoting  
163 environmental knowledge, providing guidance to control harmful chemicals, trans boundary  
164 air pollution, and pollution of international waterways.

165 B. The World Meteorological Organization (WMO)

166 B. Constitutive deed of this Organization was signed in 1947, and it is an international  
167 organization which is founded in 1950. It is a successor of the International Meteorological  
168 Organization, which was established in 1873, and was categorized as United Nations  
169 specialized agencies in the fields of climate, hydrology and geophysics.

170 One of the main goals of this organization is to facilitate global collaboration to  
171 establish a network of meteorological stations to organize meteorological observations, more  
172 use of meteorology in aeronautics, seafaring, water and agriculture, the promotion of applied  
173 hydrology, research and training in meteorology field and other human activities in related  
174 areas.

175 We can also mention the other global environmental organizations:

176 C. International Union for Conservation of Nature

177 D. Climate change organizations

178 E. Intergovernmental environmental organizations

179 F. Greenpeace

180 G. World Wide Fund for Nature

181 H. Intergovernmental Panel on Climate Change

182 In addition to the mentioned organizations, there are several global organizations  
183 active independently or in conjunction with these institutions in environmental issues.

184 **Third Topic: Trail Smelter Case, the basis for environmental international law**

185 The Trail Smelter case relates to the activity of the zinc and lead metal melting  
186 factory in the British State of Columbia in Trail, seven miles far from the United States  
187 border with Canada. The factory was previously owned by American nationals, which is  
188 stopped by US domestic courts, after farmers' complaining about the damage to their  
189 cultivation. Then in 1906, Canadian nationals, in accordance with Canadian law, by  
190 purchasing a trilogy factory from American landowners and re-active zinc and lead metal  
191 melting factory, release the pollutants in the air, such as lead ash and organic and sulfur  
192 compounds in surroundings.

193 Release of materials such as sulfur dioxide and sulfuric acid in the surrounding  
194 environment caused poisoning of plant and agricultural tissues. So it makes Canadian farmers  
195 to complaint to Canadian judicial authorities, and received damages. Farms get hurt from  
196 sulfur clouds in the North Port and Washington, America. The US government complained  
197 and demanded heavy reparation from the company. Declining and not recompensing led to  
198 refer to the International Arbitration in 1935.

199 The Arbitration Tribunal rejected most of the United States' claims concerning  
200 Determination of Damage to the State of Washington since January 1, 1932. Arbitration  
201 Tribunal sentenced Canada with \$ 78,000 fine in total for compensable losses to trees,  
202 pastures, and cultivated land from 1932 to 1936, in the first step. In the second step and the

203 final step, the Tribunal focused on preventing the introduction of dust producing by factories  
204 into the United States. (Vosoughi Far, 2017, pp. 144-145).

205 **Fourth Topic: Performance of the International Court of Justice in**  
206 **Environmental Issues**

207 1. Importance of Environmental Issues in the International Court of Justice and the  
208 Process of International Environmental Law Formation:

209 The field of international law was initially related to relations between countries,  
210 but today, other controversial issues, such as environmental rights, have also made the  
211 international environmental law as an important part of the international order. Therefore, the  
212 field of international environmental law is derived from international law.

213 The International Court of Justice, as the main judicial organ of the United  
214 Nations, has focused on international environmental law especially after establishing the  
215 special division in 1993. Limitation of the Court in environmental issues resulted in  
216 establishing permanent environmental division with five permanent members, in accordance  
217 with the Statute, Article 26, paragraph 1, in 1993.

218 However, international environmental law is quite distinct from international law, and  
219 has been regulated, especially after the Stockholm Conference in 1972.

220 Background of international environmental law:

- 221 • "Convention for the Preservation of Wild Animals, Birds and Fish in Africa" (also  
222 known as the "London Convention" of 1900) to conserve various wildlife species in  
223 Africa
- 224 • "Convention between the United States and Other Powers Providing for the  
225 Preservation and Protection of Fur Seals" in 1911
- 226 • "International Convention for the Regulation of Whaling" in 1946
- 227 • The issue of environmental pollution of land, sea and air in the post-World War II era  
228 was the most important conflicting international issues.

229  
230 In 1954, the "International Convention for the Prevention of Pollution of the sea by  
231 oil", and later in 1971, the "Convention relating to Civil Liability in the Field of Maritime  
232 Carriage of Nuclear Material" were established.

233 At the Stockholm Conference, in 1972, the most important threat to the international  
234 community was taken by human environment, and the United Nations General Assembly has  
235 been approved environmental co-operation between countries in a resolution, following a  
236 1972 conference in Stockholm, in 1995.

237 At the Rio de Janeiro Conference on Environment and Development in 1992, the sustainable  
238 development was considered. After this conference, human being and a healthy and  
239 productive life were considered in harmony with nature.

240 The International Court of Justice has issued his votes about environmental issues,  
241 especially in disputes between countries. Issuing verdict on environmental matters requires

242 the cooperation of environmental organizations such as expert institutions and court advisers  
243 due to lack of expertise.

244 2. The performance of the International Court of Justice related to the first case in  
245 environmental issue of the Corfu Strait (between Albania and England) in May 1947:

246 On May 15, 1946, British warships were attacked by coastal spitfire while crossing the  
247 Corfu Strait in the coastal waters of Albania. That year, on October 22, two British warships  
248 collided with mine passing through the Strait, and the mine blast caused damage to ships and  
249 killed 44 British officers and seamen. (Cook Dean et al., Quoted by Habibi Z, 2017, p. 175).

250 In addition, on November 12 and 13, units of the British Navy cleansed up the Albany  
251 coastal waters from mine without the consent of the Albanian state and referred to the Justice  
252 Department against Mine in Albania.

253 The Tribunal condemned Albania in the course of the Corfu Strait case for not  
254 communicating to all countries, including British ships, for the threat of a mine blast and  
255 ensuring the safe passage of all countries from the Corfu Strait, and Albania was responsible  
256 for the damage caused by the mine blast with 11 votes against 5 votes and ordered the British  
257 to pay compensation. Also the Court condemned cleaning mine by Britain without the  
258 consent of Albania (Mousazadeh, 2016, p. 319 - 318).

259 In this judging, the International Court of Justice, tended to the theory of error in the face  
260 of two traditional views (error and danger).

261 Due to the technical and specialty of the case, the Court reviewed the case with a group of  
262 experienced maritime officers, requesting an expert opinion with complete impartiality  
263 (Jennings 2014, p. 14)

264 In this case, the Tribunal has voted based on the rights of Rome, "everyone must use his or  
265 her property in such a way that not harm other property", and generalize it to "Government  
266 exploitation of the interests of their country should not cause environmental damage to other  
267 countries out of their national jurisdiction."

268 3. The Tribunal's Performance in the Cuban Gabi - Taghi Marcus Case:

269 In 1977, Hungarian and Czechoslovakia signed a treaty to build a great dam on the  
270 Danube River, which resulted in electricity production, flood control, more efficiency on  
271 shipping, and improving the delta's ecosystem.

272 During the project, in the early 1980s, Hungary stopped the working for environmental  
273 reasons and groundwater contamination as well as damage to the wetlands in that region. So  
274 complaint was referred to the International Court of Justice. The Court concluded that  
275 Hungarian concern about its environment caused by the Cuban Gabi - Taghi Marcus plan was  
276 not recognized and these risks are not imminent.

277 The Court also argued that Hungary was clearly aware of this condition at the time of the  
278 conclusion of the treaty, so Hungary had no right to suspend the Cuban Gabi - Taghi Marcus  
279 plan and stop it in 1982, although the Tribunal stated Hungary has just stopped the project in  
280 order to protect the environment.

281 The Cuban Gabi - Taghi Marcus Case was a great opportunity for the International Court  
282 of Justice to deal with some aspects of public international law, in particular treaties and the  
283 responsibility law. The vote on Sept. 25, 1997, resembles the similarities between the  
284 concepts of action and the legal incident. These two are sometimes a continuation of  
285 documents or events. The environmental claim claimed by Hungary can be consider as one of  
286 the main government interests. Therefore, there is a conflict between the law of treaties and  
287 responsibility and these two branches of law will come together to achieve the stability of  
288 international legal relations. "(Vokel , 2015, quoted by Henjani,2017 , p. 229)

289 4. The International Tribunal of Justice's Performance in the Lake Lennox Case:

290 The Lake Lancashire case was the disputes between French and Spanish in 1957. France  
291 proposed to change Lennox Lake path, but Spain worried about its environment and sued the  
292 International Court of Justice. The court examined the construction and water diversion and  
293 the introduction of environmental risks into Spain, especially the volume of water received by  
294 that country.

295 In this judgment, the Court preferred prevention to compensation. According to Principles  
296 21 of the Accuses and 2 of Rio, which emphasize the sovereignty of the state over their  
297 natural interests, interpret their actions on principle of ecological responsibility, which is a  
298 conditional sovereignty.

299 "Finally, the arbitration court argued that France could enforce its rights, but could not  
300 ignore the interests of Spain and Spain could claim its rights and interests." (Momtaz, 2014  
301 quoted by Ramezani Ghavam Abadi, 2017, p. 65)

302 The harmless use of land is a principle of international environmental law, as stated in the  
303 Stockholm Declaration in 1972. This is related to the rights of Rome, that states: "Use your  
304 property as not harm other property". Also, in accordance with Constitution of the Islamic  
305 Republic of Iran, Article 40, as one of the foundations of universal rights: " No one can harm  
306 or violate public interest in order to obtain his or her rights ", as well Article 132 of the Civil  
307 Code of Iran states that "No one can do anything about his own property that results in  
308 neighboring harm, unless as ordinary as he can meet his own needs or losses."

309 5. The International Court of Justice's performance in order to the mills on the river between  
310 Uruguay and Argentina:

311 Argentina offer a lawsuit to the court on May 4, 2006, which mentioned that despite the  
312 treaty of February 26, 1975, especially Article 7, the Uruguayan Republic main purpose is to  
313 establish a joint mechanism for the optimal and logical use of the Uruguay River. Argentina  
314 claimed the Uruguay violated the commitments related to the Uruguay River statute by  
315 issuing a license to build a factory along the border of the river in this lawsuit.

316 The Court confirmed Uruguayan formal violations from the treaty between the two  
317 countries but did not condemned in substantive obligations. The Court did not consider the  
318 Uruguayan Act to be in conflict with the Statute by asking Argentina to submit evidence of  
319 violations of the Statute, particularly in the Uruguayan River Commission, and the  
320 examination of the Argentinean documents.

321 The Partnership Commitment Statute letter refers to optimal and reasonable exploitation,  
322 cooperation in avoiding ecological changes, informing the parties for any kind of related  
323 action, etc.

324 The case of Argentina and Uruguay was perhaps the first truly environmental case brought  
325 by the International Court of Justice, although in international law it is related to the  
326 environment and treaty law.

327 Finally, we can cite Lee evaluation which states: " In this judgment, the Tribunal cited the  
328 principles of optimal and reasonable using, a commitment to informing, a commitment to  
329 environmental assessment, a commitment to prevent environmental damage, by citing the  
330 Statute of the Uruguayan River Commission and somehow attempted to develop customary  
331 international law. " (Lee, 2017)

332 6. The International Court of Justice's Performance in Oder River Case:

333 This case was between Poland and some other European countries whether the river Oder  
334 and the branches of this river, Warta and Tets, should flow from the territory of Poland or  
335 not?!

336 Environmental issues have become increasingly important due to the special sensitivity  
337 and impact on human society, in judgments of the International Court of Justice. In the  
338 meantime, the territorial jurisdiction of the Oder International Commission was raised in the  
339 International Court of Justice and was recognized based on the principle of common interest  
340 in environmental law.

341 In this judgment, the Court considered the boundary rivers as a common interest and  
342 implicitly confirmed that reasonable exploitation of the boundary rivers is possible only  
343 within the framework of sustainable cooperation and development.

344 In this case, the environmental judgment of the Tribunal was as follows: When a waterway  
345 passes through the territory of more than one country, all neighboring countries have the  
346 same rights to use the entire river route, and the preferential advantage of a country against  
347 other countries is prohibited.

348 7. The International Tribunal's performance in the legitimate use of nuclear weapons

349 The Court, in response to a request from the World Health Organization (WHO) on May 14,  
350 1993, on the legitimacy of the use of nuclear weapons, stated that reference to the health and  
351 environmental effects posed by the World Health Organization is not a question but the  
352 concerns of the questioning organization.

353 The Tribunal also stated in its advisory vote that: WHO as an international function must  
354 be convinced that it would either merely implement the rules of international law or adapt  
355 those extensions. The organization has the power to explore the use of nuclear weapons in  
356 conflicts, beyond the provisions of the statute of legitimacy or non-legitimacy.

357 On 6 June 1995, according to the Charter, article 96, paragraph 1, the United Nations General  
358 Assembly requested the International Court of Justice, on resolution 49/75, to give its  
359 advisory opinion regarding the following question:

360 Is threatening or using the nuclear weapons permitted under international law in all  
361 circumstances?

362 In response to the above question, the Court has provided its advisory opinion based on 3  
363 legal documents as follows:

364 A. According to Protocol No. 977, article 35, paragraph 3, of the Geneva Conventions in  
365 1949, it prohibits methods or means of warfare that cause extensive, long-term and severe  
366 damage to the natural environment.

367 B. Article 1 of the Convention prohibits the use of weapons that have extensive, long-term,  
368 sustained and severe impact on the environment.

369 C: According to Article 21 of the Stockholm Declaration in 1972 and Principle 2 of the Rio  
370 Declaration in 1992, a country's activities should not harm the environment of other countries  
371 or areas beyond the borders.

372 In general, the Court noted the catastrophic nature of weapons, the daily threat to the  
373 environment, the quality of life and health of human beings and future generations, as well as  
374 the general obligations of governments to ensure their activities under their jurisdiction and  
375 control, the environment of others Governments or areas beyond their national control. (Ziabi  
376 Bigdeli et al., 2016)

377 8. The International Court of Justice performance in distribution of airborne toxic substances  
378 (airborne herbicides) by Colombia in the border areas with Ecuador

379 Since 1999, under the auspices of the United States, Columbia has planned air pollution  
380 of coca farms on its southern borders, neighboring Ecuador, to cut off the funds of the FARC  
381 rebel group, which was their main source of income.

382 Poisonous herbicide named Glyphosate, the trademark Roundup, is harmful to humans,  
383 organisms and the environment. Spraying began in 2000, and reports of symptoms of skin,  
384 eye and infectious diseases as well as complaints and protests of native inhabitants of the area  
385 were brought to Ecuador's authorities.

386 Ecuador's diplomatic efforts failed in 2003-2005. Ecuador has inevitably sued the  
387 Colombian government referring to Article 31 of the Bogotá Accords (April 30, 1948) and  
388 Article 32 of the United Nations Convention against Illicit Traffic in Narcotic Drugs and  
389 Psychotropic Substances (approved in 1988), by submitting a petition to the International  
390 Court of Justice on March 31, 2008.

391 Colombia has been involved with difficult of cocaine planting for many years and despite  
392 its benevolent and humanitarian goals, has been criticized by international organizations for  
393 these spills. (Vinuales, 2015, quoted by Vosuqi Fard, 2017)

394 The Colombia's air pollution issue in the Court, especially in the area of "harmless use  
395 of land", has environmental characteristics, which is the principle of the legal doctrine of  
396 arbitration in the Trail Smelter case.

397 "The principle of harmless use of land as one of the principles of international  
398 environmental law plays a decisive role in protecting the environment." (Ramezani Ghavam  
399 Abadi, 2017, p. 58)

400 The environmental issues in this case are remarkable if proved by Ecuador especially  
401 from the point of harmless use of land. Although Colombia, pursuant to Article 4 of the  
402 Bogotá Accord, provides: As long as the bilateral scientific commissions do not announce the  
403 definitive findings of their studies on the effects of the Glyphosate chemical, there is no basis  
404 for the initiation of proceedings by the Court. In contrast, Ecuador claims that Colombia's air

405 pollution in the Ecuadorian border caused serious problem to people, farms, animals and the  
406 natural environment as well as long-term risks.

407 Also, what makes this case more important is the plan for the prevention of cross-border  
408 damages as a result of harmful activities, and how the International Court of Justice is dealing  
409 with this case!

410 The consideration of the "principle of harmless use of land" and "the fight against the  
411 cultivation and trafficking of drugs and the eradication of drug cultivation fields" has put the  
412 International Court of Justice in a dilemma in "the interests of Ecuador, nature and the  
413 environment" and " the interests of Colombia and even the international community in the  
414 fight against drugs."

415 Thus, the International Court of Justice, in issuing its opinions, examines issues in both areas  
416 of "environmental protection" and "International Security on Combating Organized Crime  
417 and Drugs".

418 **The Fifth Topic: Theoretical framework (subject of discussion): The urgent need for**  
419 **rethinking and emphasizing on compliance of international law with contemporary**  
420 **environmental issues and crises.**

421 According to the role of the International Court of Justice in environmental issues, it  
422 is evident that international environmental law and its implementing tools is lack of effective  
423 nature and solving contemporary environmental acute crises and requires that Governments -  
424 nations, governments - regions (multinational corporations), the United Nations, the  
425 International Court of Justice, and related institutions rethink and emphasize on the  
426 compliance of international law with environmental issues and crises.

427 The issue that has been carefully studied in this research, is the contemporary  
428 environmental issues and crises that have been acutely evident whole the world and seriously  
429 threatened human life and Planet Earth.

430 Therefore, international law, in particular international environmental law and,  
431 consequently, the International Court of Justice, diverges from their traditional approach and  
432 does not merely deal with pollution, and their greatest attention is on the modern order of the  
433 international community issue, which supports natural conditions and the biosphere.

434 "The development of international environmental law principally occurred as a result  
435 on legislative processes. Broad statements of environmental principles, together with  
436 increasingly technical environmental standards and regulation, have been articulated in a  
437 spectrum of bilateral and multilateral treaties, and in resolutions, declaration and other soft –  
438 law instrument." (Stephens, 2016, p.12)

439 Daniel Buddha Nasci (2017) in his article titled: *The Legitimacy of International*  
440 *Governance: A coming challenge for International Environmental Law?*, in  
441 confirmation of this view, said: " Until now , international lawyers have tended to focus on  
442 what environmental standards are needed and how those standards can be made effective  
443 . But as decision – making authority gravitates from the national to the international level, the  
444 question of legitimacy will likely emerge from the shadows and become a central issue in  
445 international environmental law."

446 In order to control the growing environmental problems and crises, implementing the  
447 principle of Stockholm Declaration No. 21, which emphasizes on the control of trans-  
448 boundary destructive effects is required.

449 “In the field of international law, principle 21 of the Stockholm declaration is  
450 particularly relevant. It reads as follows: “states have, in accordance with the charter of the  
451 U.N. and the principles of international law, the sovereign right to exploit their own resources  
452 pursuant to their own environmental policies, and the responsibility to ensure that activities  
453 within their jurisdiction or control do not cause damage to the environment of other states or  
454 of areas beyond the limits of national jurisdiction.” (Sand, 2016, p. 30)

455 Review of environmental issues and crises have become international these days. If  
456 environmental degradation continues, there will be dangerous and irreparable consequences  
457 for the biosphere. It should be investigated that which type of rethinking in international law  
458 is required in order to resolve and prevent the environmental issues and crises.

459 In order to prevent environmental degradation, all Governments, the United Nations  
460 and relevant institutions such as the International Court of Justice are responsible for future  
461 generations and must immediately rethink and apply in international environmental law.

462 Reconsidering and emphasizing on compliance of international law with current  
463 emerging environmental issues and crises is the legislative and executive requirements of  
464 international institutions related to these issues.

465 “Compliance is one of the most central questions in international law. Without a  
466 theory of compliance, we cannot examine the role treaties, customary international law, or  
467 other agreements. Nor can we consider how to improve the functioning of the international  
468 legal system, or develop a workable theory of international legal and regulatory cooperation.”  
469 (House & Teitel, 2015)

470 An important and significant point in international law, according to Klabbbers’s book  
471 (An Introduction to International Institutional Law), (2012), Cambridge University Press  
472 publication, Chapter 4 (The foundation of powers of organization), and Chapter 5  
473 (International Organizations and the Law of Treaties), pages (102-82), and Applied Power  
474 Doctrine in International Organizations in (Interpretation, The Power to interpret, The  
475 doctrine of attributed power, Inherent powers, fire Implied powers under, With drawal and  
476 termination), It is imperative that the executive bodies work to resolve the environmental  
477 issues and crises in order to the formation of international organizations under the auspices of  
478 the United Nations and its related bodies such as the International Court of Justice. Because  
479 the environmental crises have gone beyond local conditions and have an unhealthy and  
480 dangerous regional and global aspect, and in order to prevent and resolve these issues, the  
481 expert intervention of the relevant international organizations is necessary.

## 482 **Conclusion**

483 According to the role of the International Court of Justice in environmental issues, as  
484 outlined in this article, the environmental issues and crises become more intense every year,  
485 and living becomes more difficult whole the world, and the days that weather of metropolises  
486 is unhealthy increase. All of these indicate that the restrictive laws to prevent disturbing the  
487 environmental balance is flawed and not affective. Particularly, international environmental

488 law and its implementing tools are lacking of an effective nature and resolving acute  
489 environmental problems and crises. It is imperative that relevant legal and executive bodies  
490 rethink and emphasize on the compliance of international law with environmental issues and  
491 crises.

492 However, In the contemporary era, international law and international environmental law,  
493 and consequently the International Court of Justice, have abandoned their traditional  
494 approach, and do not merely focus on contamination pollution issue, and the general order of  
495 the international community is more important. Earth is the common heritage of all humanity  
496 and its management and protection is the task of the whole human being. According to the  
497 principle, wherever society is, the law must be. In this regard, international law and  
498 international environmental law, as the only smart manager of the Earth, are required to  
499 legislate for the human community, and be the reference to investigate and judge.

500 On April 8, 1946, by dissolving the community of nations, its related International Court of  
501 Justice was dissolved, and the International Court of Justice was immediately replaced by the  
502 same Statute and the Statute of the Permanent Court. The first session of the International  
503 Court of Justice was formed on April 1946 and presented in May 1947 for case of the Corfu  
504 Strait between Albania and England in The Hague, Netherlands.

505 Subsequently, all member states of the United Nations are members of the International  
506 Court of Justice and have the right to refer to the Court. According to Article 34 of the  
507 Statute, the Court has criminal and advisory authority. The judges of the Court include 15  
508 judges of international lawyers, and in accordance with the Statute of the Court, reflect the  
509 main forms of human civilization and the legal systems of the world. The judges are from the  
510 legal systems of the Common law, the (Roman-German) lawyers, the socialist (now the post-  
511 communist rights), Indo-China law and Islamic law.

512 According to Article 59 of the Statute, the Court's opinions are binding and closed by the  
513 Court, and only in the case of discovering a new subject, the Tribunal can request a retrial.

514 Since the establishment of the Tribunal, more than 150 criminal and advisory votes have  
515 been issued, which are valuable treasures in the field of international law due to the variety of  
516 their issues . Considering the diversity of discussed issues in the Court, the environmental  
517 issues has been attractive due to the importance of protecting the environment and the general  
518 need of the human community for a clean and healthy environment.

519 The International Court of Arbitration of United Nations, before the dissolving and formation  
520 of the International Court of Justice, has issued a ruling for cases of Trail Smelter between  
521 the United States and Canada, Lennox Lake between France and Spain, Cuban Gabi - Taghi  
522 Marcus between Hungary and Slovakia, mills on the river on the Uruguay border with  
523 Argentina, the International Commission for the Oder River and dispute between Poland and  
524 some European countries.

525 These cases led to the identification of fundamental principles that played a very important  
526 role in international environmental law, the peaceful settlement of disputes, the prevention of  
527 war and the using force in the field of international relations. The International Court of  
528 Justice is not compilation reference for international regulations. Also, the votes issued by the  
529 Court have a contradictory nature. Therefore, the International Court of Justice has a  
530 developmental role in introduction of applied principles in international environmental law

531 due to the lack of resources in this area and the special status of the Court in the international  
532 arena.

533 In the contemporary era, as growing disagreements are international environmental  
534 disputes that threaten human life. For this reason, environmental criminal penalties and the  
535 referral of environmental disputes to important international authorities, including the  
536 International Court of Justice, while resolving peacefully and avoiding regional and  
537 international conflicts, play an important and complementary role in the identification of  
538 development and application of the principles of environmental protection, in international  
539 relations.

540 The identification and application of important environmental principles, such as harmless  
541 use of land, prevention and sustainable development are that kind.

542 The International Court of Justice is dealing with environmental cases as they are minor  
543 issues or second-degree cases. Certainly, international environmental law will be the most  
544 important issue in contemporary world legal systems in future. The enormous amount of  
545 damage caused by environmental accidents proves the validity of this claim. The founders of  
546 the International Court of Justice are trying to bring environmental values from the margins  
547 to the original.

548 The dependence of human life on nature and the transboundary nature of international  
549 environmental issues has highlighted the need for international protection. Environmental  
550 issues should be addressed through international institutions and mechanisms utilizing the  
551 views of prominent environmental scientists through judicial judgments, the transformation  
552 and transition from the rules of customary environmental protection to the rules and  
553 regulations relevant to contemporary environmental issues.

554 The inadequacy of the International Criminal Tribunal's judgments in environmental  
555 issues needs a lawsuit, a special type of hearing and qualified judges.

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