

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

## Abstract

The Environmental issue is an important domestic and international ~~and~~ and ~~such~~ may be subject to ~~the~~ International Court of Justice Decision or any other international judicial institution. The International Court of Justice (ICJ) is the main body of the United Nations, which has both contentious and advisory jurisdiction in ~~various~~. We study the Court's performance in environmental issues in this article. By ~~checking out~~ four issues, first, the contentious and advisory ~~cases~~, 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 European countries), 7. nuclear weapons, 8. Aerial Herbicide Spraying (between Colombia and Ecuador), ~~the concluded during~~ the current contemporary international law, international environmental law, and ~~consequently~~ the International Court of Justice. ~~have~~ been ~~using 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.

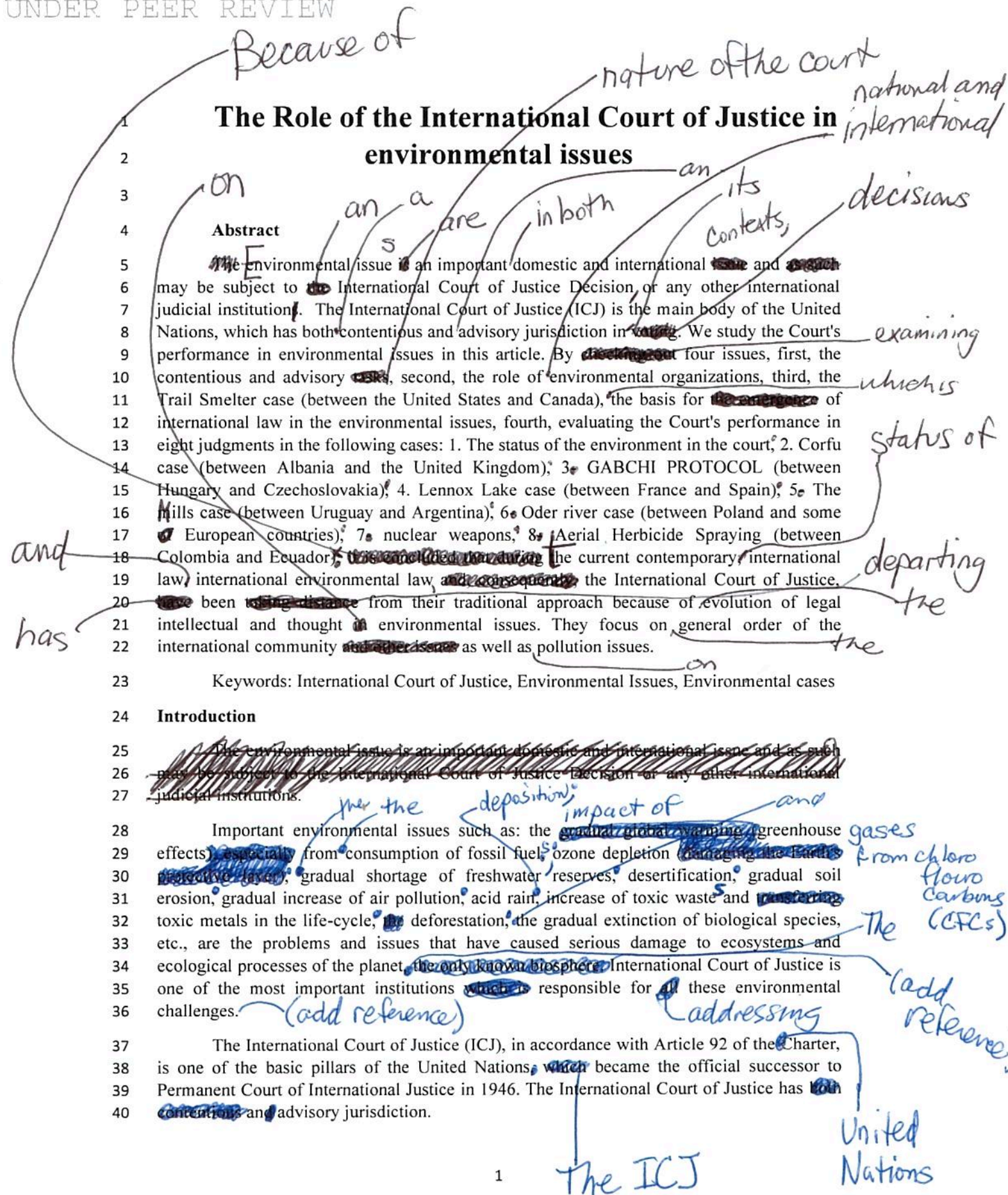
Keywords: International Court of Justice, Environmental Issues, Environmental cases

## 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. ~~(add reference)~~

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 ~~conventions~~ and advisory jurisdiction, especially in the first, second,  
43 ~~third, and fourth paragraphs of the contentious jurisdiction~~

and

(add reference)

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<sup>s</sup> 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, ~~sentenced~~ October 15,  
52 1946, <sup>and</sup> 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.

decided on

(add reference)

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

Background

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.

decisions

cited

related to

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) ~~was~~ investigated the role of International  
66 Court of Justice, especially environmental disputes, in a paper ~~entitled~~ "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.

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was

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  
72 was creating a permanent seven ~~specialist~~ unit to solve environmental disputes more ~~effective~~  
73 in 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).

was

member

would be

effectively

77 Naser Rahbar Farsh Pira and Hassan Moyassaghi (2017) have noted the ~~necessity~~  
78 of International Court of Justice ~~establishment~~ in ~~response to~~ ~~rapidly~~ ~~fatal~~ ~~disturbing~~ ~~of~~  
79 environment ~~in~~ in an article ~~entitled~~ "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

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issues

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responding to

importance

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  
103 contentious and the Advisory duties

104 The Permanent Court of International Justice was established by the League of  
105 Nations in 1920, and was dissolved by a resolution from the League of Nations, on April 18,  
106 1946. The International Court of Justice replaced 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, no  
115 two judges may be nationals of the same country, are selected from prominent international  
116 lawyers. These judges must be representative of the principal legal systems  
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  
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 using its 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.

Handwritten annotations in blue ink: "the were convened", "add (reference)", "environmental", "add reference", "add reference", "The ICJ has has at far who", "dissolved of United replaced", "add reference", "There are on the Court and Judges different be used to With its", "United Nations its", "they on their ICIJ the United Nations", "decision", "not be a", "5", "3".

125 In the contentious area, the International Court of Justice has jurisdiction over  
126 ~~has~~ the following issues:

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 ~~are subject to it,~~  
137 ~~must be responsible 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 ~~The~~ 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 ~~procedural 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~~ ~~to~~ lawyers and representatives of both parties, which ~~is~~ ~~done~~ in  
147 French or English.

148 In accordance with Article 159 of the Statute of the Court, the ~~words~~ of the Court  
149 must be executed. The judgments issued by the Court are final, and cannot be ~~reversed~~.  
150 However, a country can request a retrial within 6 months after the discovery of ~~the~~ new issue,  
151 if it is ~~affected~~ in voting and the country was not aware of the matter and this ~~unknowingness~~  
152 did not ~~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 ~~The~~ 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 organization~~ 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.

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This rarely occurs.

and in its

UNEP

states,

(provide reference)

The founding document was fully established

165 B. The World Meteorological Organization (WMO)  
166 ~~B. Constitutive~~ ~~document~~ 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~~ increase the  
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 (IUCN)

177 ~~D. Climate change organizations~~

178 ~~E. Intergovernmental environmental organizations~~

179 D. Greenpeace

180 ~~G.~~ <sup>the</sup> World Wide Fund for Nature (WWF)

181 ~~H.~~ <sup>the</sup> Intergovernmental Panel on Climate Change (IPCC)

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

184 ~~Third Topic~~ <sup>the</sup> Trail Smelter Case, ~~the basis for~~ environmental international law

185 ~~The~~ <sup>Trail</sup> Trail Smelter case relates to the activity of the zinc and lead ~~smelting~~ smelting  
186 factory in ~~the~~ British Columbia ~~territory~~, seven miles ~~to~~ from the United States  
187 border with Canada. The factory was previously owned by American ~~owners~~, which  
188 ~~supported~~ by US ~~courts~~ courts after farmers' complaining about the damage to their  
189 ~~environment~~. Then in 1906, Canadian ~~authorities~~, in accordance with Canadian law, ~~to~~  
190 purchasing ~~the~~ factory from American landowners, and re-active zinc and lead ~~smelting~~ smelting  
191 ~~factory~~ factory, release ~~the~~ pollutants in the air, such as lead ash and ~~organic~~ 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 ~~issues~~. ~~Some~~ Canadian farmers ~~complainted~~ complained to  
195 ~~to~~ Canadian judicial authorities, and received damages. Farms ~~got~~ hurt from  
196 sulfur clouds in ~~the~~ 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. ~~The company refused, and this~~

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

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state life

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The for

changed

203 ~~On 15th~~, the Tribunal focused on preventing the introduction of dust producing ~~ed~~ by factories in  
204 ~~the~~ the United States. (Vosoughi Far, 2017, pp. 144-145). *lead and zinc*

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

207 ~~The~~ Importance of Environmental Issues in the International Court of Justice and the  
208 Process of International Environmental Law Formation: *negotiating*

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 ~~an~~ 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<sup>s</sup> 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, (1993). *UN Security Council*

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

220 ~~Background of~~ International environmental law milestones: *by*

- 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 *the*
- 226 • "International Convention for the Regulation of Whaling" in 1946

227 ~~The~~ 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. *an*

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. *seen as* *environmental pollution*

233 At the Stockholm Conference, in 1972, the most important threat to the international  
234 community was ~~the~~ human ~~environment~~, and the United Nations General Assembly ~~has~~  
235 ~~been~~ approved environmental co-operation between countries in a resolution, ~~following~~  
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<sup>s</sup> and a healthy and  
239 productive life were considered in harmony with nature. *decisions on*

240 The International Court of Justice has issued ~~its~~ ~~views~~ ~~about~~ environmental issues,  
241 especially ~~in~~ disputes between countries. Issuing verdict<sup>s</sup> on environmental matters requires

The mine cleaning damage government

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

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mines while

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244 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 mines 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).

the about

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

cleaned

Albanian

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 6 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).

ICJ

? Albanian Government or the case

United Nations (ICJ)?

259 In this ~~judging~~ <sup>decision</sup>, the International Court of Justice, ~~tended to~~ <sup>favoured</sup> the theory of error in the face  
260 of two traditional views (error and danger).

261 Due to the technical ~~and specialty~~ <sup>nature</sup> 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~~ <sup>ICJ does</sup> 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."

ICJ

held to pay

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

269 In 1977, Hungarian and Czechoslovakia signed a treaty to build a ~~great~~ <sup>large</sup> 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 work ~~for~~ <sup>and</sup> for environmental  
273 reasons and groundwater contamination as well as damage to the wetlands in that region. ~~So~~ <sup>The</sup>  
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~~ <sup>were</sup> not imminent.

277 The Court also argued that Hungary was clearly aware of this condition at the time of the  
278 ~~conclusion~~ <sup>signing</sup> 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.

including concern about

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 case on Sept. 27, 1997, resembles the similarities between the~~  
 284 ~~concepts of action and the legal incident. The case is a continuation of~~  
 285 ~~disputes.~~ 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 The International Tribunal of Justice's Performance in the Lake Lancashire Case:

290 The Lake Lancashire case was ~~the~~ <sup>a</sup> disputes between French and Spanish in 1957. France  
 291 proposed to change ~~the~~ <sup>in</sup> Lake Lancashire 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~~ <sup>Concerning</sup> 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~~ <sup>of</sup> states: "Use your  
 304 property ~~to~~ <sup>to</sup> 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."~~ <sup>which</sup>

309 The International Court of Justice's performance ~~regarding~~ <sup>Concerning</sup> the mills on the river between  
 310 Uruguay and Argentina:

311 Argentina ~~filed~~ <sup>presented</sup> a lawsuit to the ~~ICJ~~ <sup>ICJ</sup> on May 4, 2006, which mentioned that despite the  
 312 treaty of February 26, 1975, ~~especially Article 11, the Uruguayan Republic's main purpose is to~~  
 313 establish a joint mechanism for the optimal and logical use of the Uruguay River. Argentina  
 314 claimed ~~that~~ <sup>Uruguay's</sup> Uruguay violated the ~~commitments~~ <sup>objective</sup> 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~~ <sup>ICJ</sup> confirmed ~~Uruguay's~~ <sup>that</sup> ~~violation~~ <sup>ed</sup> from the treaty between the two  
 317 countries but did not ~~condemned~~ <sup>order</sup> in substantive obligations. The Court did not consider ~~the~~  
 318 ~~Uruguayan~~ <sup>ICJ</sup> ~~to~~ <sup>penalties</sup> 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.~~ <sup>ICJ</sup>

321 The Partnership Commitment Statute ~~later~~ <sup>and</sup> 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 ~~was~~ related to ~~the~~  
326 environment and treaty law.

law the the basis was

both international

327 Finally, we can cite Lee evaluation which states: " In this judgment, the Tribunal cited the  
328 principles of optimal ~~and~~ reason~~able~~ 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 ~~The International Court of Justice's Performance in Oder River Case:~~

the the the ing

on

333 This case was between Poland and ~~some~~ other European countries whether the ~~river~~ Oder river  
334 and the branches of this river, Warta and Tets, should flow from ~~the territory of~~ Poland ~~in~~  
335 ~~the~~

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.

(provide reference)

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. — (provide reference)

348 ~~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 of nuclear weapons is not a question of the~~  
352 ~~concern of the questioning organization.~~

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

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 ~~1995~~ 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 of areas beyond their national control. (Zabj  
376 Bigdeli et al. 2016)

377 The International Court of Justice ~~performance in~~ <sup>decision on the</sup> distribution of airborne toxic substances  
378 (airborne herbicides) by Colombia ~~in~~ <sup>along</sup> the border areas with Ecuador

379 Since 1999, under the auspices of the United States, Colombia 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 A <sup>infatuated</sup> Poisonous herbicide named Glyphosate ~~the~~ <sup>(trademark</sup> Roundup) is harmful to humans, <sup>other living</sup>  
383 organisms, and the environment. Spraying began in 2000, and reports of symptoms of skin, <sup>irritation,</sup>  
384 eye and infectious diseases, ~~as well as complaints and protests of many inhabitants~~ <sup>inhabitant</sup> were  
385 brought to Ecuador's authorities.

386 Ecuador's diplomatic efforts failed in 2003-2005. Ecuador ~~was~~ 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), <sup>ed</sup> by submitting a petition to the International  
390 Court of Justice on March 31, 2008.

391 ~~Colombia has been involved with several decades of cocaine planting for many years and despite~~  
392 ~~its benevolent and humanitarian goals, has been criticized by international organizations for~~  
393 ~~these spills (Vélez, 2017, quoted by Venzke, 2017).~~ <sup>They</sup>

394 ~~The~~ Colombia's air pollution issue in the Court, especially in the area of "harmless use  
395 of land", ~~as a fundamental characteristics, which is the principle of the legal doctrine~~ <sup>decided</sup>  
396 arbitration ~~in~~ the Trail Smelter case. <sup>of</sup> ~~relied on~~ <sup>principle</sup> ~~used in the~~

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~~ <sup>that</sup> ~~As long as the bilateral scientific commissions do not announce~~  
403 ~~definitive findings of their studies on the effects of the Glyphosate chemical, there is no basis~~  
404 ~~for the initiation of~~ <sup>ng</sup> 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 right 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 in the interests of Colombia and even the international community in the~~  
414 ~~right 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  
422 is ~~clear~~ that international environmental law and its implementing tools ~~is~~ lack of effectiveness in  
423 ~~dealing~~ and solving contemporary environmental ~~and~~ 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 ~~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 where 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 the ~~the~~ traditional approach and  
432 does not merely deal with pollution, ~~and their main attention is on the modern order of the~~  
433 ~~international community is one which supports natural conditions and the biosphere.~~

434 ~~of~~ "The development of international environmental law principally occurred as a result  
435 of 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 Naschi (2017) in his article ~~and~~ "The Legitimacy of International  
440 Governance: A coming challenge for International Environmental Law?" in  
441 confirmation of this view, ~~and~~ "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."

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446 In order to control the growing environmental problems and crises, implementing the  
 447 principle of Stockholm Declaration No. 21, ~~which emphasize~~ <sup>ing</sup> the control of trans-  
 448 boundary destructive effects is required.

449 In the field of international law, <sup>P</sup> principle 21 of the Stockholm <sup>D</sup> 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 In order to prevent environmental degradation, all Governments, the United Nations  
 456 and relevant institutions such as the International Court of Justice are responsible for future  
 457 generations and must immediately rethink and apply international environmental law  
 458 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 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) <sup>and</sup>

470 An important and significant point in international law, according to Klabbers's book,  
 471 "An Introduction to International Institutional Law" (2012), Cambridge University Press  
 472 ~~publication, Chapter 4 (The foundation of powers of organizations) 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, the implied powers under, With a dual and  
 476 termination, it is imperative that the executive bodies work to resolve the environmental  
 477 issues and crises, in order to prevent and resolve these issues, the expert intervention of the relevant international organizations is necessary.~~  
 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, ~~in order to prevent and resolve these issues,~~  
 481 the 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 metropolitan  
 486 is unhealthy increase. All of these indicate that the restrictive laws to prevent disturbing the  
 487 environmental balance is flawed and not effective. Particularly, international environmental~~

488 law and its implementing tools are lacking of an effective nature and resolving acute  
489 environmental problems and effects. 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, whatever 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, to meet 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~~ <sup>topic</sup>, the Tribunal can request a retrial.

514 Since the establishment of the Tribunal, more than 150 criminal and advisory ~~cases~~ <sup>decisions</sup> have  
515 been issued, which are valuable measures in the field of international law, due to the various of  
516 ~~cases~~. Considering the diversity of discussed issues in the Court, and environmental  
517 issues has been attracted 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 Justice 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, Lacus de Joux between France and Spain, Cuban Gabi - Tagh  
522 Marcus between Hungary and Slovakia, mills on the river on the Hungary 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 view of international relations. The International Court of  
528 Justice is not compilation ~~reference~~ <sup>a</sup> of international regulations. Also, the ~~cases~~ <sup>of</sup> issued by the  
529 Court ~~has~~ <sup>are</sup> contradictory nature. ~~Therefore~~ <sup>decisions</sup> The International Court of Justice has a  
530 developmental role in introduction of applied principles in international environmental law

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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 humanity. 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~~

*deals  
that*

542 The International Court of Justice ~~dealing~~ with environmental cases ~~as~~ they are minor  
543 issues or second-degree cases. ~~Currently, international environmental law will be the most~~  
544 ~~important issue in contemporary world legal systems in law. 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, bringing 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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