THE CONTEMPORARY METHODS OF INTERNATIONAL ADJUDICATION

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ABSTRACT

The past century has stood witness to the development of a varied category of international courts and tribunals. It covers proceedings before international courts, regional courts, international arbitral tribunals, and specialized international tribunals. The same can be described as one of the most notable developments in International Law in the 20th century as their emergence is a symbol of change from the previous era. In the light of such development, many academic commentary addressing the growth of international courts and tribunals, and increasing recourse to international tribunals have been written.

Keywords: International Courts, International Tribunals.

INTRODUCTION

International tribunals are merely tools to produce a particular kind of information because they simply announce the legal rules that are relevant and in their context the interpretation of events. International tribunals are trustees that enhance the credibility of international commitments of nations towards other nations by "raising the probability that violations of those commitments will be detected and accurately labeled as noncompliance." A multitude 7 of tribunals have thus been created by states, which ultimately they are not willing to use, or obey. An important set of traditional public international tribunals like the Permanent Court of International Justice (PCIJ) and the International Court of Justice (ICJ) does possess the characteristics lacking compulsory jurisdiction and enforceable decision-making power.[1]

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In the beginning of the 20th century contemporary international tribunals proliferated after the creation of Permanent Court of Arbitration (PCA) that was established through the 1899 and the 1907 Hague Peace Conferences. This was followed by the establishment of Permanent Court of International Justice (PCIJ) and the International Court of Justice (ICJ) assuming that almost all disputes between states would be resolved amicably to achieve world peace. It is not a point of contention that these tribunals and international courts have contributed significantly to the development of international law, even though they have a reputation of lacking authority to enforce their decisions and of mandatory jurisdiction. Despite many of their achievements, states have resorted to such tribunals on only few occasions.

The Convention on the Pacific Settlement of International Disputes, 189910 recognised arbitration as the most effective and equitable means of settling disputes for any question of a legal nature between states. But it did not impose any obligation to pursue arbitration, or any form of adjudication in particular cases. Article 18 of the Convention provides that an agreement to arbitrate implies the engagement to submit loyally to the Award, and that states impliedly engaged to submit in good faith to awards. The binding character of arbitrations from the resolutions of disputes through "commissions of enquiry", "good officers", and "mediation" were laid out in the Convention but none of them entailed a binding decision on the parties. The PCA is neither permanent nor a court and it is not even responsible for conducting arbitrations. It established no standing tribunal, and it did not grant mandatory jurisdiction, instead it only maintained a list of arbitrators who might be appointed in future cases to tribunals. These would only take effect if states agreed to such arbitrations, and only then the skeletal procedural rules of arbitration shall apply to those proceedings.[2]

The first 70 years of PCA only witnessed twenty-five arbitrations being submitted to PCA tribunals, which substantially increased twenty times since 1995 for an annual filing rate of 6 cases per year. The majority of these newer filings were international commercial or investment arbitrations rather than interstate arbitrations that had the power to make enforceable awards. This rarely used contemporary mechanism of dispute resolution coming to enjoy usage only through the new generation adjudicatory mechanism is symbolic of the development of the adjudicatory mechanisms during the late twentieth and the initial twenty first century. Hence, it is abundantly

clear that the PCA has enjoyed a modest usage over the years addressing few cases of international importance.

After World War II, ICJ was identified as the principal judicial organ of the United Nations with a standing tribunal that was open to all states with fifteen members. It was limited to disputes that states agreed to submit to it which are final in nature and not appealable. ICJ has an annual filing rate of slightly more than two cases per year but after the breaking up of the Soviet Union, the Court has enjoyed a modest increase in popularity with nearly three cases being filed each year ICJ's compulsory jurisdiction has been accepted by only 66 members of the UN, which means 30 percent of the nations have accepted compulsory jurisdiction of ICJ. [3]

CONCLUSION

The one exception to this decline in treaty-based submissions to the ICJ involves the designation of the ICJ president as an appointing authority in treaty provisions that submit future disputes to interstate arbitration, providing for the ICJ president to select arbitrators in cases in which states are unable to agree upon an appointment.

REFERENCES

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