STUDENT CONTRIBUTION

Power, Jurisdiction and Admissibility: Reconceptualizing Procedural Legal Issues in the Interpretative Proceedings under Article 60 of the ICJ Statute

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Article 60 of the ICJ Statute provides a mechanism for interpreting a previous binding judgment in the event of dispute as to the meaning or scope of that judgment. Procedural legal issues such as jurisdiction and admissibility in interpretative proceedings under Article 60 are different from those in regular contentious or advisory proceedings before the ICJ. The Court has developed a set of concrete rules in its jurisprudence under the simple wording of Article 60 to adjudicate on these procedural issues. However, a case-by-case examination of the Court’s jurisprudence reveals that there is still no structurally clear and logically sound framework, because the ICJ fails to conceptually divide the issues of ‘power,’ ‘jurisdiction,’ and ‘admissibility’ in interpretative proceedings. In order to rectify this problem, this article proposes an analytical framework for the ICJ with a clearer conceptualization of the Court’s ‘power,’ ‘jurisdiction,’ and ‘admissibility’ under Article 60 to clarify the meaning of its previous judgments in interpretative proceedings.

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I. Introduction

The International Court of Justice ("ICJ") is one of the most important dispute resolution institutions in the international community. The Court can adjudicate on contentious disputes between States based on the parties' consent and provide advisory opinions "on any legal question at the request of whatever body may be authorized by or in accordance with the Charter of the United Nations to make such a request."

In addition to these 'contentious' and 'advisory' jurisdictions, the ICJ also has an 'interpretative' jurisdiction, empowering it to interpret previous binding judgments in accordance with Article 60 of its Statute, which states:

The judgment is final and without appeal. In the event of dispute as to the meaning or scope of the judgment, the Court shall construe it upon the request of any party.

Article 98 of the Rules of Court clarifies that any party has the right to request interpretation. So far, the ICJ has exercised its interpretative jurisdiction in only five proceedings: Asylum Request, Continental Shelf Request, Land and Maritime Boundary

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1 I.C.J. Statute art. 34, ¶ 1. It provides: "Only States may be parties in cases before the Court."
2 I. Brownlie, Principles of Public International Law 710 (7th ed. 2008).
3 I.C.J. Statute art. 65, ¶ 1.
4 The Rules of the Court (hereinafter The Rules), art. 98(1), available at http://www.icj-cij.org/documents/index.php?p1 =4&p2=3& (last visited on June 15, 2017). It provides: "In the event of dispute as to the meaning or scope of a judgment any party may make a request for its interpretation, whether the original proceedings were begun by an application or by the notification of a special agreement."