



Boosting the Reach and Resilience of International Justice Institutions

RECOMMENDATION: Increase the universal acceptance of international justice institutions, in particular the International Court of Justice (ICJ) and the International Criminal Court (ICC). Moreover, increase their enforcement powers, preserve their independence, and enhance their resilience against political pressures.

Global Challenge Update:

International courts and dispute settlement institutions are an integral part of rules-based global governance. However, in today's environment characterized in many places by an "anti-multilateralist turn," they are subject to severe political pressures and criticisms, while they often lack the universal reach, enforcement mechanisms, and resilience to effectively carry out their mandates. The fate of the Appellate Body of the World Trade Organization (WTO), which was shut down in December 2019 by persistent U.S. refusal to agree to the appointment of new members, is a cautionary tale for other international courts and tribunals. Harsh criticism of the ICC by the United States and some non-Western countries has not led to a mass exodus from the Court, although the Philippines and Burundi

have formally withdrawn from it. Furthermore, Asian countries remain underrepresented at the ICC as China, India, Indonesia, Pakistan, Nepal, Vietnam, and Myanmar, among others, are not parties to the Rome Statute. Moreover, only 74 of the world's nations accept the ICJ's compulsory jurisdiction in general terms, among which the United Kingdom is the only permanent UN Security Council member (see map on next page).

At the same time, the continued demand for international courts is evident from high-profile cases such as the *Gambia v. Myanmar* case concerning the latter's obligations under the Genocide Convention and the thirteen active ICC investigations (five of which were referred to the ICC by the countries in questions and two by the UN Security Council).²

Innovation Proposal: International judicial institutions need to increase both their reach and resilience. Regarding their reach, to effectively carry out their mandates, international justice institutions require acceptance throughout the global community and the ability to avail themselves of mechanisms to enforce their decisions.

For the International Court of Justice, this requires, firstly, expanding the acceptance of the court's compulsory jurisdiction through so-called "optional clause" declarations under Article 36(2) of the ICJ Statute. An in-depth study on the reasons why countries have not made use of the "optional clause" yet, followed by a global campaign to address these reasons and increase the number of countries accepting the ICJ's jurisdiction, are needed to ensure that international

