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Judicial precedent and its authority under international law

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Abstract
This article focuses on the Judicial Precedent and its authority under International Law. In this context, the historical background and actual authority of precedent in England and USA is analyzed. While the existence of binding precedent in International law remains a point of continuous debate, countries observably behave in a manner consistent with its existence. By analyzing the practices of international criminal court (ICC) and tribunals, such as, ICTR and ICTY, it argues that judicial decisions at International level are not binding. Further, this work discusses the practice of International Court of Justice (ICJ) in detail. It concludes that there is no formal binding precedent in International law and judicial decisions of the World Court are not binding but are taken into consideration by States. Finally, it argues that the precedent in World Court has developed International law and has significant place in international adjudication.

Keywords: judicial precedent, international law, authority of precedent, influence, ICC, practices of international courts, international tribunals, international court of justice, international adjudication

Introduction

The doctrine of *stare decisis* means that "past decisions must stand". The idea that similar cases must be decided in similar ways may be the fundamental belief underlying common law systems. Article 59 of the ICJ Statute states that, "a decision of the ICJ has no binding force except between the parties and in respect of the particular case". Although it applies technically only to the ICJ, the Statute is widely seen as embodying principles applicable to international law broadly held, and representing the fullest statement we have about the sources of international law [1].

Dr. Muhammad Munir wrote excellent book titled as "Precedent in Pakistani Law" in which he mentioned and examined nicely, not only the decisions of Superior Courts of Pakistan but also analyzed status of precedent in international law in Chapter III of the book. It is a source of vast and accurate information about the judicial precedent. The book is an outstanding and extraordinary effort for understanding the status of precedent in common, civil and international law.

The way it is arranged, along with its clarity in thought and the case law in particular, provides useful information and guidance for academicians, researchers and law students. In his extensive study and research of judicial precedent, he argues that precedent in international law is not binding but taken into consideration. Nevertheless, doctrine of precedent has developed international law [2]. Ginsburg points out that International courts do engage in the legal practice of citing past decisions because even in the ICJ itself, 26% of cases decided between 1948 and 2002 cited past rulings [3]. The role of precedent is far more established than in International law, as attested to by an ambitious literature.

For instance, both Knight and Epstein [4] and Segal and Spaeth [5] agree that there exists a norm of *stare decisis* at the US Supreme Court; yet while Knight and Epstein argue that it constrains judicial positions, Segal and Spaeth disagree, claiming that it serves mostly as an ex post legitimation of legal opinions. Other International and Supranational courts exhibit similar ambiguity at once denying the formal authority of precedent while promoting the desirability of judicial consistency.

The European Court of Justice (ECJ), the EU's Constitutional Court, also does not recognize precedent to be formally binding. But ECJ judges do pay considerable attention to their earlier case-law [6]. ICJ Judge Shahabuddeen wrote that the Court accordingly pursues a judicial policy of not unnecessarily impairing the authority of its decisions [7].

Similar practice is also followed by European Court of Human rights (ECHR). ECHR stated in its own judgment that "It is true that... the Court is not bound by its previous judgments... However, it usually follows and applies its own precedents". [8] This would seem a relatively low bar for precedential reasoning. In short, ambiguity remains as to the exact hold of past case law over current decisions, given how formally speaking; judges are not beholden to earlier rulings.

Keeping in view the above discussion, in the coming sections the historical background and actual authority of precedent is analyzed and in this regard, the case of England and USA is considered Moreover, focus is given to the practices of International courts and tribunals in international adjudication.

Historical Background

The theory of the binding judicial precedent was so firmly established in England prior to the Revolution that it was accepted without debate in America. Americans had no codes and little inclination to permit either executive or legislature to interfere with judicial functions. In England the history of precedent is bound up with the history of law reporting.

Decisions cannot be precedents without reliable publication.

English law reporting may be divided into four periods: (1) 1272 to 1537, the time of the Year Books; (2) 1537 to 1765, characterized by the reports of Plowden and Coke; (3) 1765 to 1865, the years of the authorized reports; and (4) the modern period since 1865 [9]. In the Anglo-Saxon epoch there is no evidence of any notion of judicial precedent. The so-called codes of this age were collections of judgments, illustrative of customs.

After the conquest, William I confirmed the laws of Edward the Confessor but made few additions. The legal sources of the Norman period, such as the Domesday Book, the Pipe Rolls, the practices of various Magistrates (assizes), throw light on judicial precedent. Glanvil's treatise, written about 1187, is based on a collection of writs. Bracton's *Treatise* about 1250 cites approximately 500 cases.

The Note Book attributed to him mentions about 2,000, only a small part of which are cited in the *Treatise.* Bracton seems to have regarded legal opinions both in and out of court as of substantially the same authority. He nowhere argues that a new case be adjudged by the precedent of a similar earlier case. However, he emphasizes on the importance of judicial decisions as a source of law.

Britton, who edited Bracton about 1291, omitted Bracton's citations. In *Littleton's Tenures (1475),* only 25 cases are cited. Littleton's work is a logical study of principle. That judicial precedents were gaining in authority is indicated by *Doctor and Student* (1540), where we read that "all cases like unto other cases shall be judged after the same law as other cases are." [10]

While the later Year Books may have had some official character, most of them were notebooks of lawyers and students. Their object was to provide materials for arguments on pleading. Such statements as that by a pleader about 1300 that "the judgment to be given by you will be thereafter an authority" may be, as Pollock [11] suggests, a proof of the importance of precedent or, as Lewis thinks, only a flattering remark of counsel [12].

It seems likely that during the Year Book period cases were used as evidence of judicial tradition but not as precedents. As Lewis remarks, authority for anything can be found in the Year Books. He takes the more skeptical view that they are no authority for anything [13].

Coke clearly regards decisions as authoritative, and no doubt he represented the prevailing opinion. His citations would scarcely be exceeded by a modern reporter [14]. He asserted that Law is said to be a science and book cases provide a solution for all new cases [15]. He approved the authority of the decided case. Croke in 1620 reports a judicial statement that precedents are founded on great reason and are to be observed [16]. Chief Justice Vaughan in 1673 shows some dissent in his insistence that a judge cannot be bound by an authority he personally believes to be erroneous, but Hale regards decisions as the best evidence of the law [17]

By the time of Blackstone in England few would question the existence of the rule of the binding judicial precedent without distinction between law and equity [18]. However, Dr Munir nicely summarized historical background in the following words: The origin of precedent goes back to the time of Henry II (1154-1189 CE), the English monarch, when certain people, called the royal commissioners were sent to the country side to decide cases according to local customs. These commissioners initiated, for the purpose of uniformity and consistency, the practice that they would stand by decisions made in the past while deciding similar cases themselves. They termed this practice *stare decisis* (let the decision stand or let us stand by the decision).

With the passage of time, two directives necessary for the operation of precedents were initiated:

a) Law reporting
b) Hierarchy of Courts [19].

Actual authority of precedents

1) England

The English doctrine of precedents is that the House of Lords is absolutely bound by its own decisions, [20] and every Court is absolutely bound by decisions of all superior Courts. The Court of Appeal is probably bound by its own decisions [21]. A decision of one court of first instance is only of persuasive force on another similar court. A decision of an inferior court does not bind a higher court, although a course of decisions may have considerable influence. The Judicial Committee of the Privy Council may overrule its own decisions [22].

2) USA

In the United States no court of last resort considers that it is absolutely bound by its own precedents. It is generally stated that inferior courts are bound to follow the precedents of superior courts. Litigants should not be put to the unnecessary expense of appeal when reversal is almost certain. Lower courts occasionally do not follow an existing precedent of a higher court where the inferior court has reason to believe that the upper court will overrule a precedent.

For example, in a *Jehovah's Witnesses flag-salute case*, a District court [23] refused to follow a Supreme Court decision and was rewarded for its temerity by the Supreme Court's agreeing with it [24]. A district court usually will follow an appellate court decision, even if it expresses disapproval, and will leave it to the losing party, if he can, to obtain a reversal [25].' Among courts of coordinate jurisdiction, precedents have about the same persuasive weight as in similar situations in England.

If the court of one state must determine the law of another state, the decisions of the courts of the latter state are absolutely binding on the former. Where a state has been once part of another state, the decisions of the parent state before the separation have the same force in the new state as in the old. In that territory of the United States which was once a part of the British colonial empire, English decisions before the settlement of the Colonies are precedents.

English decisions following the Revolution are not precedents. Decisions between the establishment of the Colonies and the Revolution are, strictly speaking, not precedents, for there was in general no appeal to English courts from the Colonies. In practice, however, English decisions during the colonial period had, in the Colonies, substantially the prestige of precedents." [26]

Federal and State courts, in their respective jurisdictions, regard the precedents of each other as do any other courts of coordinate jurisdiction. In matters of federal law, state courts follow federal precedents. Federal courts, in matters of

substance on questions of state law, are absolutely bound by state precedents [27]. If there are no authoritative decisions by the highest court of the state, it is generally the duty of the federal court to follow the precedents of inferior state courts [28].

Overview of international courts and ad hoc tribunals

In order to examine the practices of ICC, ICJ and tribunals, it is necessary to give overview of international courts and tribunals. There are a wide variety of international courts and tribunals that have varying degrees of relation to the UN. These range from the ICJ, which is a principal organ of the organization; to the ad hoc criminal tribunals established by the Security Council; to the ICC and ITLOS, which were established by conventions drafted within the UN but which are now independent entities with special cooperation agreements. Other international courts may be completely independent of the UN. The International Criminal Court (ICC) is an independent judicial body with jurisdiction over persons charged with genocide, crimes against humanity and war crimes. The treaty created an independent judicial body.

The Rome Statute was the outcome of a long process of consideration of the question of international criminal law within the UN. The UN has been involved with several tribunals established to bring justice to victims of international crimes. The Security Council established two ad hoc tribunals, the ICTY and the ICTR. The UN has also been involved in various ways with the Special Court for Sierra Leone (SCSL), the Extraordinary Chambers in the Courts of Cambodia (ECCC), and others.

While transitional justice and rule of law continue to be important to the UN, it is likely that the International Criminal Court will handle most situations that arise in the future. There are many secondary sources of information that can support research on various aspects of the work of the tribunals. The work of the ICTY and ICTR will soon be completed, however some tasks, including archiving of the case materials, will be carried out by a new body, the International Residual Mechanism for Criminal Tribunals.

This body calls itself the UN Mechanism for International Criminal Tribunals (UNMICT). The UN has an internal justice system to resolve staff-management disputes because the organization has immunity from local jurisdiction and cannot be sued in a national court. The UN Administrative Tribunal functioned from (1950-2009). It was replaced in 2009 by the new system, composed of two tribunals: (i) The UN Dispute Tribunal and (ii) the UN Appeals Tribunal. The General Assembly adopted the new system of administration of justice in resolution 63/253 of 24 December 2008. The United Nations Administrative Tribunal was established by General Assembly resolution 351 A (IV) of 24 November 1949; the annexed Statute defined the mandate of the Tribunal. The Statute was amended by the General Assembly at various times.

However, General Assembly resolution 63/253 abolished the UN Administrative Tribunal. The International Tribunal for the Law of the Sea is an independent judicial body to adjudicate disputes arising out of the interpretation and application of the UN Convention on the Law of the Sea [29]. Along with said courts the regional courts are also exist, for instance, ECHR and IACHR. However, for the purpose of this work, the practices of ICC, ICTY, ICTR, and World Court are analyzed.

Practice of ICC and tribunals

Daniel Terris, Romano and Swigart observe that "the role of precedent across international courts has not yet been thoroughly studied, since it is only recently that the number of international rulings of most courts has become sizeable" [30]. Similarly, Romano notes that "the role of precedent across international courts is still a largely unmapped territory. While most literature to date has focused on the treatment by courts of their own precedents, there have been very few studies about the treatment of precedent across international courts [31]. In the sphere of international criminal law, the question of interaction was flagged as early as 1995, when the *Tadic* Trial Chamber asked whether the ICTY is bound by interpretations of other international judicial bodies or whether it is at liberty to adapt those rulings to its own context [32]. In that case, the judges found the lack of guidance on this subject in the Report of the Secretary-General to be particularly troubling because of the unique character of the International Tribunal [33].

Yet almost two decades later there remains a relative scarcity of normative guidance with respect to the use of external judicial decisions. For instance, in 2009 the ICTY, in conjunction with the United Nations Interregional Crime and Justice Research Institute, developed a Manual on Developed Practices, prepared as part of a project to preserve the legacy of the ICTY. Although this Manual runs into over 240 pages and aims to provide a blueprint of the ICTY's practices for use by other international and domestic courts, relatively little is said therein about the ICTY's practices with respect to the use of external judicial decisions [34].

With respect to the direct use of external judicial decisions, Judge Shahabuddeen noted in his declaration in *Furundzija* that in interpreting a rule of international law, ICC and tribunals may see value in consulting the experience of other judicial bodies with a view to enlightening themselves as to how the principle is to be applied in the particular circumstances before them [35]. In *Stakic*, the ICTY Trial Chamber noted that "when interpreting the relevant substantive criminal norms of the Statute, the Trial Chamber has used previous decisions of international tribunals", including the external judicial decisions of the ICTR and the Nuremberg and Tokyo Tribunals [36].

The ECCC Supreme Court Chamber, in Dutch, noted that the ECCC relied heavily on international human rights case law [37]. The Kupreskic Trial Chamber went even further emphasizing those judicial decisions may prove to be of invaluable importance for the determination of existing law [38]. In the literature, Cryer notes that "the ICTY and the ICTR have had reference to domestic, as well as international, case law" [39]. Moreover, with respect to the ICTY's use of external judicial decisions from national courts, Nollkaemper states that the ICTY has made extensive use of national case law in interpreting and applying its Statute and Rules of Procedure and Evidence and in determining points of general international law [40]. Furthermore, Nerlich observes that the decisions of the ICC Chambers often contain references to the jurisprudence of the two *ad hoc* Tribunals of the United

Nations [41].

With respect to the indirect use of external judicial decisions, international criminal courts or tribunals have used such decisions to borrow their reviews or surveys. Such borrowed reviews or surveys could serve to supplement the referring court or tribunal's own review or survey on the same or similar issue and, indeed, may save the referring court or tribunal from having to undertake it from scratch [42]. Cryer points out that "after all, where cases contain a detailed review of State practice and/or *opinio juris*, it is far simpler to refer to the relevant case than repeat the discussion it contains' [43]. For instance, in both the *CDF* and *RUF* cases, the SCSL Trial Chambers relied on the *Strugar* Trial Judgment's review of `case law developed by the military tribunals in the aftermath of World War II to enumerate the factors that a chamber may take into account in determining whether a superior has discharged his duty to prevent the commission of a crime [44].

While the advantages of the indirect approach to the use of external judicial decisions are apparent—in terms of efficiency gains and avoiding the duplication of efforts—it is also clear that this approach has to be adopted with caution, as relying on a review or survey which was undertaken by another court or tribunal, founded on a different statutory framework, carries certain risks.

These risks may include the danger of such reviews or surveys being defective or incomplete and, particularly with respect to reviews or surveys undertaken by trial-level courts or tribunals, their liabiliy to appellate modification. Nevertheless, the analysis of a referring court or tribunal which engages with and scrutinises the reviews or surveys from an external judicial decision is likely to be more thorough and rigorous.

In other cases, international criminal courts and tribunals appear reluctant to acknowledge that a change has occurred [45]. For instance, in *Muhimana*, the ICTR Trial Chamber adopted a somewhat ambivalent stance with respect to the appropriate definition of rape. It averred that the broad, conceptual definition of rape articulated in *Akayesu* and the narrower, mechanical definition put forward by *Furundzija*/*Kunarac* are not incompatible or substantially different in their application [46].

The holding in *Muhimana* thus appears not accurate. The formal nature of a judicial finding does not matter. Judges consider decisions of other International courts regardless of whether they are final or preliminary judgments, orders, nonbinding advisory opinions, or anything else. What they look at is the jurisprudence rather than any specific case what ultimately seems to matter is only that the reasoning that led the other tribunal to a given conclusion is legally sound and persuasive [47].

In the context of international criminal adjudication, this observation is largely supported by the findings of the present research. International criminal courts and tribunals have relied not only on final judgments and decisions, but also, *inter alia*, on advisory opinions and the submissions of advocates-general [48]. In addition to relying on the generalist competence of the ICJ, international criminal courts and tribunals regularly rely on the specialist external judicial decisions of other courts and tribunals operating within different branches of international law, in particular human rights courts. For instance, in *Kunarac*, the ICTY Trial Chamber held that "because of the paucity of precedent in the field of international humanitarian law, the Tribunal has, on many occasions, had recourse to instruments and practices developed in the field of human rights law" [49].

The decisions of international and regional human rights courts have been accorded highly persuasive value, particularly when the issue before the international criminal courts and tribunals was one of due process. The Nuremberg trials have been a turning point in the further development of international law (also known as the laws of war). The acts that were made punishable at Nuremberg were, more or less, made punishable when two International Criminal Tribunals – one for former Yugoslavia and one for Rwanda were established by the United Nations Security Council in 1993 and 1994 respectively. The former was called ICTY and the latter ICTR [50]. In coming section first, function and jurisdiction of ICJ and second, use of judicial precedent and authority of ICJ is analyzed.

Analysis of international court of justice and its authority

Article 92 of the UN Charter created the ICJ [51]. The ICJ is the only permanent judicial organ of the United Nations and its principal task is to ensure respect for international law [52]. The ICJ has litigious and advisory jurisdiction, and applies the sources of law enumerated in article 38 of ICJ Statute [53].

The ICJ (i) decides legal disputes submitted by states, and (ii) gives advisory opinions to certain international organs and agencies. The establishment of the ICJ was a continuation of the idea that pacific procedures for dispute settlement could be a substitute for war [54]. Where prescribed, contracting parties regard judicial discernment as the most effective means of settling disputes that diplomacy has failed to resolve. International adjudication contributes to the shaping and maintenance of the infrastructure of the world community [55]. Commentators note that the most effective and accepted rulings of the ICJ are those that are prospective and general about the maintenance of world order [56].

Functions of ICJ

The Court is the only permanent judicial organ for the world community, and its principal task is to ensure respect for international law [57]. The Court is neither a constitutional nor a Supreme Court. The Court provides judicial guidance and support for the work of other UN organs [58]. The authoritative character of the Court, as defined within its Statute, directly empowers the Court's rhetoric to settle disputes. Cases may commence either by notification to the Court of a special agreement between the states, or by both states filing an application to the Court.

The choice is a matter for the states concerned, because the Statute does not state when one method or the other should be employed [59]. The Court requires two distinct phases for presenting each case. These phases are written pleadings, prepared in either English or French, and publicly held oral pleadings, in either language. The ICJ conducts internal deliberations in complete secrecy [60]. The judgment rendered must specifically mention the rationale of the opinion, including the legal reasons for the decision [61].

Jurisdiction of ICJ

The ICJ has litigious and advisory jurisdiction. There are two

primary ways to bestow jurisdiction in cases. The first type is consent by bilateral or multilateral agreement, by way of a specific agreement between states to submit their treaty specific conflicts to the Court. The second type is a state's unilateral declaration accepting the jurisdiction of the Court for specific types of disputes. The ICJ can exercise two types of jurisdiction, litigious and advisory. Litigious jurisdiction is available to states for their disputes. This type of decision is binding on the parties to the dispute and enforceable, when necessary, through the UN Security Council. Advisory jurisdiction is available for international organizations and yields an unenforceable advisory opinion prior to litigation" [62].

Article 38(1) (d), along with Article 59, of the ICJ Statute designates the past decisions of the ICJ as subsidiary sources for determining the rule of law the Court should apply [63]. The ICJ, in an attempt to provide consistency in the body of international law, examines previous decisions and references them as guidelines toward choosing the applicable law in similar circumstances. While the Court will review its previous decisions, it meticulously distinguishes cases that it feels are non-applicable to a present case. The Court also examines whether or not the legal position of a past case is relevant to the circumstances of its present case [64].

Use of judicial precedent and authority of the ICJ

Past decisions of the ICJ are not binding, but the ICJ sometimes does refer to its past opinions when deciding new cases [65]. Article 38(1) of the ICJ Statute states sources of law, the ICJ may use to decide cases. The Court rationalizes its reference to its past decisions as a means of maintaining continuity.

The Court references past decisions to maintain continuity in its work. The Court often cites previous cases in support of its reasoning, resulting in unity of precedent. All ICJ decisions flow from and are built upon past decisions, although the ICJ has been careful to refrain from indicating that reliance on precedent was mandatory [66]. The Court gives great weight to finding and applying international law consistent with its prior decisions. This practice guides the development of future international law which preserves continuity in the ICJ's decisions. Following precedent allows the Court to influence the attitude of states toward questions that the ICJ has already addressed [67].

Accordingly, the Court may find itself compelled to apply an international custom, to which it may have contributed, in deciding a case before it. As a matter of fact, the practice of the common law doctrine of judicial precedent is absent at the International Court of Justice, therefore, decisions of international tribunals are not a direct source of law in international adjudications. It is true that Judges at ICJ exercise considerable influence as an impartial and well-considered statement of the law by jurists of authority made in the light of actual problems which arise before them [68].

Conclusion

The practice of the International Court of Justice is that judicial decisions are not binding but are taken into consideration. Judicial decisions at the World Court have developed international law, nevertheless. Similarly, certain decisions of municipal courts have also caused international law to develop and clarify. As a matter of fact, the practice of the common law doctrine of judicial precedent is absent at the International Court of Justice, therefore, decisions of international tribunals are not a direct source of law in international adjudications [69].

It is true that the World Court has the power to depart from its own previous decisions. As the body of judgments rendered by the ICC becomes more sizeable, it may be important to study how the approaches of the chambers of the ICC to the use of external judicial decisions would compare to the approaches of the ad hoc Tribunals and/or the internationalized courts.

Moreover, in the same manner as the judicial decisions of the ad hoc Tribunals predecessors, namely the Nuremberg and Tokyo Tribunals, played a crucial role in the development of the former's jurisprudence, it would be significant to examine the contribution of judicial decisions of ad hoc Tribunals and internationalised courts to the jurisprudence of the ICC. Although the ICC Trial Chamber did provide some indication of its approach to the use of external judicial decisions in *Lubanga* [70], it would be interesting to consider whether other chambers of the ICC specify, in a more direct and detailed manner, their approaches to the use of external judicial decisions in future judgments.

The International Court of Justice is the only international Court which has general jurisdiction. We have witnessed an increased number of international Courts and tribunals with specific jurisdiction and mandate. However, the pronouncement of justice made by the other Courts and tribunals may create conflicts worldwide and, more or less, in international adjudication.

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47. Daniel Terris, Cesare PR. Romano & Leigh Swigart, The International Judge: An Introduction to the Men and Women Who Decide the World's Cases, Loyola-LA Legal Studies Paper No. 2007-18 Oxford University Press, 2007, 120.
48. Prosecutor vs. Anto Furundzija, Case No IT-95-17/1-T, 1998, 201.
49. Prosecutor vs. Dragoljub Kunarac, Case No IT-96-23-T& IT-96-23/1-T, 2001, 467.
50. Dr. Muhammad Munir, Precedent in Pakistani Law, Oxford University Press, 2014, 141.
51. Article 33 of UN Charter directing members of UN to seek peaceful resolution. Judicial settlement is peaceful as laid out in Article 33 of the Charter.
52. Shabtai Rosenne, The Law and Practice of the International Court of justice, 1920-2005 74, Martin Nijhoff Publishers, 1991, 45.
53. Article 38 of Statute of the International Court of Justice ICJ, The ICJ was created to decide disputes in accordance with international law as enumerated below: international conventions and treaties, whether general or particular, establishing rules expressly recognized by the contesting states; b. international custom, as evidence of a general practice accepted as law; c. the general principles of law recognized by civilized nations; d. subject to the provisions of Article 59, judicial decisions and the teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determination of rules of law.
54. The UN established the ICJ to decide disputes that governments set in motion as an exercise of the responsibilities states entrusted to them.
55. Antonio Sanchez de Bustmante, The World Court 6-7, translated by Elizabeth Read translation, Newyork, American Foundation, 1925, 187-189.
56. Frederic Gale, Political literacy, Rhetoric, Ideology and the possibility of Justice, 129, Suny Series, Interruptions: Border Testimony and Critical Discourse/S, ISBN10: 0-7914-1805-7, 1994, 13.
57. Shabtai Rosenne, the Law and Practice of the International Court of Justice, 1920-2005 74, Martin Nijhoff Publishers, 1991, 45.
58. Article 7 of the UN Charter establishes the International Court of Justice, as a principal organ of the United Nations.
59. Article 40 (1) of ICJ Statute
60. Article 54 (3) of ICJ Statute.
61. Rules of the International Court of Justice, reprinted in Documents on the International Court of Justice**,** adopted on 14 April, 1978 and entered into force on 1 July, (1978), online available at http://www.icj-cij.org/documents/index.php?p1=4&p2=3&, 2017.
62. Article 26(1) of ICJ Statute, stating conditions under which jurisdiction of ICJ may take place.
63. Sratke JG. Starke's International Law, Butterworth-Heinemannv, 1994, 234.
64. Shabtai Rosenne, The Law and Practice of the International Court of Justice, Martin Nijhoff Publishers, ISSN:1920-2005, 1991; 74,69
65. Article 38 (1) of ICJ Statute These sources include: (a) International Conventions and Treaties; (b) International Custom; (c) The general principles of law recognized by civilized nations; and (d) Judicial decisions.
66. Report of the Registry of the court of ICJ, 62-63 1979. The Registry is the permanent administrative organ of the Court. It is accountable to the Court alone. It is headed by a Registrar, assisted by a Deputy-Registrar.
67. Ibid at 73.
68. Robert Jennings and Arthur Watts, Oppenheim's International Law, 9th edition, ISBN: 978-0-58-230245-7, 19, 2008, 41.
69. Dr. Muhammad Munir, Preccedent in Pakistani Law, Oxford University Press, 2014, 42.
70. For instance, with respect to the crime of conscription, enlistment and use of children under the age of 15, the ICC Trial Chamber has stated that "the jurisprudence of the SCSL has been considered by the Trial Chamber. Although the decisions of other international courts and tribunals are not part of the directly applicable law under Article 21 of the Rome Statute, the wording of the provision criminalising the conscription, enlistment and use of children under the age of 15 within the Statute of the SCSL is identical to Article 8(e)(vii) of the Rome Statute, and they were self-evidently directed at the same objective. The SCSL's case law therefore potentially assists in the interpretation of the relevant provisions of the Rome Statute'. For details see The Prosecutor vs. Thomas Lubanga Dyilo, Appeal ICC-01/04-01/06, 2012.