Beyond Bilateralism

Article 62 Interventions After the ICJ's Decision on Guatemala's Intervention Application in Sovereignty over Sapodilla Cayes (Belize v. Honduras)

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On March 19, 2026, the International Court of Justice (ICJ) rendered a historic, unanimous judgment in *Sovereignty over the Sapodilla Cayes/ Cayos Zapotillos (Belize v. Honduras) – Application by Guatemala for Permission to Intervene*. The ICJ has traditionally been extremely cautious in permitting third-state interventions in cases, but it has now responded to ongoing critiques of that position and has opened up the possibilities for intervention in meaningful ways. In some ways, it may have shifted its approach to intervention toward a more permissive model, similar to that of many constitutional courts.

The proceedings

On 16 November 2022, Belize instituted proceedings before the ICJ against Honduras in the case concerning *Sovereignty over the Sapodilla Cayes (Belize v. Honduras)*. The dispute relates to sovereignty over a group of small islands located in the Caribbean Sea. Belize claims sovereignty on the basis of historical title and continuous possession dating back to the nineteenth century, when the territory formed part of the British colonial administration. Following its independence in 1981, Belize maintains that sovereignty passed to it as the successor state. It further argues that it has exercised uninterrupted authority over the Cayes for over two centuries, while Honduras has neither effectively occupied nor asserted sovereignty.

The proceedings were complicated by a request for intervention filed by Guatemala under Article 62 of the ICJ Statute, which also claims the Cayes. Article 62 states that "Should a state consider that it has an interest of a legal nature which may be affected by the decision in the case, it may submit a request to the Court to be permitted to intervene." Notably, Guatemala filed its application on 1 December, only days before Honduras was due to present its observations, thereby introducing a procedural layer at a relatively advanced stage of the proceedings. Pursuant to Article 81 of the Rules of Court, an application for intervention must specify the legal interest claimed and the precise object of the intervention.

In essence, Guatemala argued that it possesses a legal interest that may be affected by the ICJ's decision, particularly in light of the overlap between this case and its ongoing dispute with Belize before the ICJ. Guatemala emphasized that its interest may be affected not only by the dispositif of the judgment, but also by the ICJ's reasoning.

The ICJ's past Article 62 jurisprudence

The ICJ's relatively limited practice under Article 62 of the Statute could have looked unpromising. It has permitted Article 62 interventions only three previous times, in applications in different cases by Nicaragua (1990), Equatorial Guinea (1999), and Greece (2011) – with Guatemala (2026) now becoming the fourth.

More generally, the ICJ has seemed to treat skeptically states' claims to having an interest of a legal nature that would be affected by a case and the significance of any effects on states not part of a case, when article 59 of the ICJ Statute provides that those not party to a case are not bound by the judgment.

At the same time, many of its cases have been deeply divided, with strong separate opinions and dissents calling for the Court to adopt an approach more open to interventions.

A new structured approach

Against this background, the present judgment signals a more permissive and structured approach to third-party participation. The ICJ has now set out a structured approach to analyzing article 62 intervention applications based directly on the terms of article 62 itself.

First, the third party must show an interest of a legal nature, which may be affected, and the judgment reiterates that this might relate not just to results but to reasons (para 27). Second, the ICJ says that the statutory threshold requiring that the interest "may be affected" is low, far from requiring any certainty or even likelihood (para 28). Third, the state seeking to intervene must show that it has a particular legal interest, rather than just a general interest in the development of international law (paras 29-30). Fourth, the state seeking to intervene is meant to be precise about the object of intervention pursuant to article 81 of the Rules (para 48), although the broader discussion shows some flexibility on this point. Across the board, the reasons seem to express more openness to interventions than in past decisions.

One of the judgment's most important contributions lies in its treatment of Article 59. The Court expressly rejects the view that Article 59 sufficiently protects third States, emphasizing that such an interpretation would risk rendering Article 62 devoid of practical effect (para 44). In doing so, the Court recognizes that, notwithstanding the formally non-binding nature of its decisions vis-à-vis third States, such decisions may nonetheless produce indirect legal effects that justify intervention.

Equally significant is the Court's clarification that it possesses no general discretion to reject an application for intervention once the conditions set out in Article 62 of the statute and Article 81 of the rules are satisfied (para 74). This statement marks an important procedural development. While intervention remains conditional, it is no longer framed as a purely discretionary mechanism but rather approaches a right-like entitlement subject to clearly defined requirements. While this approach is very constructive for intervention, we express some surprise at it, as retaining some discretion under article 62(2) might have enabled the Court to avoid unexpected effects from the decision if article 62 intervention takes flight as article 63 intervention has of late (in the phenomenon of so-called "mass intervention" present in several current ICJ cases).

While the Court was unanimous in its decision in favour of Guatemala's intervention, a separate opinion in the case by Judge Charlesworth points to some slight inconsistencies in phrasing that could yet see some of the seemingly clear developments be treated in future as less clear than they appear today. To take one important example, when discussing the article 59 issue, the Court's main judgment says both that "[t]o hold that Article 59 shields a third State from the effect of a decision in a case to which it is not a party would eliminate the need for interventions altogether, thus rendering Article 62 superfluous" and that "[i]n the view of the Court, Article 59 does not necessarily insulate third States from the effects of any decision which the Court may render." The more qualified language of "not necessarily" does not actually fit with the reason expressed, which should lead to a more definitive determination. We can only speculate that diplomatic language was needed in order to shift the Court's position from its traditionally entrenched approaches.

Conclusion

The ICJ's past article 62 jurisprudence has been highly restrictive on intervention. It has been a Court virtually alone in a world recognizing the polycentricity of many disputes, both in international law and constitutional law contexts. With its latest decision, the ICJ has moved firmly in line with many other international decision-makers and constitutional courts, which allow interventions on the basis that disputes of the sort to reach these bodies are often not purely bilateral in character. We see the ICJ's decision as highly constructive and as opening up more potential for international law proceedings, yet better attuned to a world increasingly beyond bilateralism.

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