



Permanent Mission of Eritrea to the United Nations

Commemorating 125 Years of the PCA

“Inter-state Arbitration as a Catalyst for Peace and Justice: Insights from Eritrea’s landmark cases”

Concept Note

In August 2023, the General Assembly adopted by consensus resolution A/RES/77/322 on the commemoration of the 125th anniversary of the Permanent Court of Arbitration (PCA), which will take place during the 2024 Sixth Committee International Law Week. Historically, the PCA has been an important mechanism in the promotion of peace and justice through the application of international dispute resolution and arbitration. Alternative dispute resolution mechanisms provide means of settling disputes peacefully and privately through arbitration, mediation, conciliation or negotiation.

The State of Eritrea, as Contracting Party to Hague Convention of 1907, had resorted to the Permanent Court of Arbitration to settle inter-state arbitration cases of far-reaching judicial and arbitral importance in the field of international law. The three cases put forward by Eritrea and parties to the PCA are the ‘Sovereignty and Maritime Delimitation in the Red Sea’ case (Eritrea/Yemen), the Eritrea-Ethiopia Claims Commission (EECC) and Eritrea-Ethiopia Boundary Commission (EEBC). The latter two, resulting from article 5 of the Algiers Agreement of 2000 that ended the border conflict between Eritrea and Ethiopia, are unique landmark cases in the field of alternative dispute resolutions. The legal positions and facts advanced by the two sides were formally litigated before, and decided by a five-member arbitral commission of arbitrators of third-country nationalities.

From a legal perspective, the Claims and Boundary Commissions are of considerable precedential value as they address several complicated issues concerning, inter alia, the processes and operationalization of post-conflict resolution, violation of the *jus ad bellum*, border disputes, delimitation and demarcation, the law on the resort to force, self-defence and reparations. Despite the limited resources and time frame, scope, claims and nature of the evidence, the Commissions performed well and were able to render landmark awards on the outstanding matters.

This side event aims to:

- Highlight the importance of upholding international justice through the rule of law, fostering a more peaceful, fairer and just world;
- Address the various aspects of the abovementioned complex inter-state cases and their findings, arbitral proceedings and awards;
- Contextualize the difficult task of the Boundary Commission to delimit and demarcate the colonial treaty borders based on pertinent colonial treaties (1900, 1902 and 1908) and applicable international law;
- Draw key lessons for comparable future claims settlement regimes through elaborating on the mandate of the Claims Commission, including the bases of its decision “through binding arbitration all claims for loss, damage or injury by one Government against the other” and the principles of international humanitarian law, including the 1949 Geneva Conventions;
- Encourage Member States to actively consider arbitration mechanism for the peaceful resolution of conflicts and disputes in the international arena, underscoring the significant successes achieved by the parties involved as in the abovementioned cases through the PCA.

Speakers:

- Her Excellency Ms. Fawzia Hashim, Minister of Justice of the State of Eritrea will deliver virtual welcoming remarks.
- The honoree Ms. Roberta Lea Brilmayer, Howard M. Holtzmann Professor of International Law at Yale Law School. Her main teaching interests are conflict of laws, international law, civil procedure, contracts, and African legal affairs. Professor Brilmayer is a profoundly established American legal scholar with extensive experience in litigation, conflict of laws and personal jurisdiction. She has also served as Eritrea’s lead attorney in the three important public international law arbitrations.
- Her Excellency Ms. Sophia Tesfamariam, Permanent Representative of Eritrea to the United Nations, will deliver closing remarks.