

ANALYSIS, INTERNATIONAL LAW

# Britain is diminished without seat on International Court of Justice

Politicians must wake up to the effects of the UK's new reputation for isolationism, writes Khawar Qureshi, QC

P R E M I U M



It is no exaggeration to state that the loss of a British seat on the judicial arm of the UN will have ramifications far beyond the tranquil confines of the Peace Palace in the Hague.

Since the International Court of Justice (ICJ) came into existence in 1946, the UK has had a judge on its bench. Indeed, as a permanent member of the UN Security Council it would have been hitherto unthinkable for the UK not to be represented on the court.

However, the unthinkable is now a reality and it is time for serious reflection. Soon we will lose our judicial presence on the EU's judicial organs, for better or worse, depending on whether one embraces the "taking back control" battle cry or sees internationalism and the creation of a stable, predictable legal environment as a worthy endeavour.

We can try to explain away the defeat of the highly respected Sir Christopher Greenwood as a reflection of a “new world order” taking shape. There is some truth in this.

India lobbied hard and effectively to ensure that its candidate, the former Supreme Court judge Dalveer Bhandari, was re-elected. India is the world’s largest democracy and for some time the UN has been the subject of often justifiable criticism for failing to be truly representative of the community of nations.

In contrast, some insiders who witnessed the election process at the UN in New York believe, rightly or wrongly, that the UK took its judicial seat for granted and only realised that the writing was on the wall when it hadn’t secured a majority in both the Security Council and General Assembly by the time the sixth round of votes were cast.

However, the fact remains that our best international lawyers have always ended up in the ICJ. While the court has some outstanding public international law jurists on the bench, it is important that its status as the pre-eminent judicial organ is maintained.

It is to be hoped that the court will continue to strive to maintain the highest standards of independence, impartiality and judicial excellence. It is also to be hoped that our politicians will begin to see how isolationism, or the perception thereof, can have a dramatic and damaging effect at many levels.

As we move forward with the hope that someone somewhere in power knows what they are doing in relation to Brexit, the harsh fact is that the influence and standing of the UK is diminishing. This must be addressed sooner rather than later.

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