



## War Crimes

**For Prelims:** International Criminal Court, War crimes, 1949 Geneva Conventions, Genocide convention.

**For Mains:** Important International Institutions, Russia's war over Ukraine, International Laws on War Crimes.

### Why in News?

Recently, the [International Criminal Court \(ICC\)](#) has announced that it will open an investigation into possible war crimes committed by [Russia in Ukraine](#). There are **specific international standards for war crimes**.

### What is the International Criminal Court?

- It is a **permanent judicial body created by the 1998 Rome Statute** of the ICC (its founding and governing document), and began functioning on **1<sup>st</sup> July 2002** when the Statute came into force.
- **Headquarter:** The Hague, Netherlands
- **Members:**
  - 123 nations are States Parties to the Rome Statute and recognise the ICC's authority.
  - The **USA, China, Russia, and India are not the members**.
- The forum was established as a court of **last resort to prosecute offences that would otherwise go unpunished**, and has jurisdiction over four main crimes: genocide, crimes against humanity, war crimes, and the crime of aggression.

### What are War Crimes?

- War crimes are defined as serious violations of humanitarian laws during a conflict.
- The definition, established by the **Rome Statute of the ICC**, is derived from the [1949 Geneva Conventions](#).
- It is based on the idea that individuals can be held liable for the **actions of a state or its military**.
- The **taking of hostages, willful killings, torture or inhuman treatment of prisoners of war, and forcing children to fight** are some of the more obvious examples.

### What are the Geneva Conventions (1949)?

- The **Geneva Conventions (1949) and their Additional Protocols** are international treaties that contain the most important rules limiting the barbarity of war.
- They protect people who **do not take part in the fighting (civilians, medics, aid workers) and those who can no longer fight** (wounded, sick and shipwrecked troops, prisoners of war).

- The **first Geneva Convention** protects wounded and sick soldiers on land during war.
  - The **second Geneva Convention** protects wounded, sick and shipwrecked military personnel at sea during war.
  - The **third Geneva Convention** applies to **prisoners of war**.
  - The **fourth Geneva Convention** affords protection to civilians, including in occupied territory.
- **India** is a party to the **Geneva Convention**.

## What is Criteria for War Crimes?

- **Criteria:** To decide whether an individual or a military has committed a war crime, international humanitarian law lays down **three principles**:
  - **Distinction:** It is **illegal to target** objectives that are “expected to cause incidental loss of **civilian life**, injury to civilians, damage to civilian objectives, which would be excessive in relation to the concrete and direct military advantage anticipated.
  - **Proportionality:** Proportionality prohibits armies from responding to an attack with excessive violence.
    - **For example:** If a soldier is killed, for example, you cannot bomb an entire city in retaliation.
  - **Precaution:** It requires parties to a conflict to avoid or minimise the harm done to the civilian population.
- **Gray Area in Definition:** Raids on a cities or villages, bombing residential buildings or schools, and even the killing of groups of civilians do not necessarily amount to war crimes — not if their military necessity is justified.
  - The same act can become a war crime if it **results in unnecessary destruction, suffering and casualties that exceed the military gain** from the attack.
  - Further, Civilian and military populations have become increasingly hard to distinguish

## What is the difference between War Crimes & Crimes Against Humanity?

- The **United Nations Office on Genocide Prevention and the Responsibility to Protect (or Genocide convention)** separates war crimes from genocide and crimes against humanity.
- War crimes are defined as occurring in a domestic conflict or a war between two states.
- While genocide and **crimes against humanity** can happen in peacetime or during the unilateral aggression of a military towards a group of unarmed people.

**Source: IE**