



International Court of Justice & Genocide Convention

For Prelims: International Court of Justice, Genocide Convention, India's Engagement With ICJ, Permanent Court of International Justice, Second World War, 1998 Rome Statute of the International Criminal Court.

For Mains: Important International Institutions, Russia-Ukraine War, International Court of Justice

Why in News

Recently, Ukraine has filed an application before the [International Court of Justice \(ICJ\)](#), instituting proceedings against Russia.

- **Ukraine has accused Russia of falsely claiming that "acts of genocide have occurred in the Luhansk and Donetsk oblasts of Ukraine", and of using that as a pretext to recognise the independence of these regions and of going to war against Ukraine.**
- The dispute is concerning **1948 Convention on the Prevention and Punishment of the Crime of Genocide (the "Genocide Convention")**.

What is the International Court of Justice?

- **About:** The ICJ is the **principal judicial organ of the [United Nations \(UN\)](#)**.
 - It is the only one of the **six principal organs** of the UN that is not located in New York City.
- **Establishment:** It was established in **June 1945** by the **Charter of the UN** and began work in **April 1946**.
- **Precursor:** The court is the successor to the **Permanent Court of International Justice (PCIJ)**, which was brought into being through, and by, the **[League of Nations](#)**.
 - PCIJ held its inaugural sitting at the **Peace Palace in The Hague, Netherlands**, in February 1922.
 - After **[World War II](#)**, the League of Nations and PCIJ were replaced by the UN and ICJ respectively.
 - The PCIJ was formally dissolved in April 1946, and its last president, **Judge José Gustavo Guerrero of El Salvador**, became the **first president of the ICJ**.
- **Role of ICJ:** Its role is **to settle, in accordance with international law, legal disputes submitted to it by States** and to give advisory opinions on legal questions referred to it by authorized UN organs and specialized agencies.
- **First Case:** The first case, which was brought by the **UK against Albania** and concerned incidents in the Corfu channel — the **narrow strait of the Ionian Sea between the Greek island of Corfu and Albania on the European mainland** — was submitted in May 1947.
- **ICJ Administration:** The judges of the court are **assisted by a Registry**, the administrative organ of the ICJ.
- **Official Languages:** English and French.
- **ICJ Jurisdiction:** All members of the **UN are automatically parties** to the ICJ statute, but this does **not automatically give the ICJ jurisdiction over disputes involving them**.
 - The ICJ gets jurisdiction only if **both parties consent to it**.

- The judgment of the ICJ is final and technically binding on the parties to a case.
- However, the ICJ **has no way to ensure compliance of its orders**, and its authority is derived from the willingness of countries to abide by them.

How Judges of the ICJ are Elected?

- The **ICJ has 15 judges** who are elected to nine-year terms by the **UN General Assembly and Security Council**, which vote simultaneously but separately.
- To be elected, a candidate must **receive a majority of the votes in both bodies**, a requirement that sometimes necessitates multiple rounds of voting.
- Elections are held at the **UNHQ in New York** during the annual UNGA meeting.
 - A third of the court is **elected every three years**.
- The president and vice-president of the court are elected for **three-year terms by secret ballot**.
 - Judges are **eligible for re-election**.
- **Indian Judges at ICJ: Four Indians** have been members of the ICJ so far.
 - **Justice Dalveer Bhandari**, former judge of the [Supreme Court](#), has been serving at the ICJ since 2012.
 - Former **Chief Justice of India R S Pathak** served from 1989-91,
 - Former **Chief Election Commissioner of India Nagendra Singh** from 1973-88.
 - **Sir Benegal Rau**, who was an advisor to the Constituent Assembly, was a member of the ICJ from 1952-53.

What is the History of India's Engagement With ICJ?

- India has been a party to a case at the ICJ on **six occasions**, four of which have involved Pakistan. They are:
 - **Right of Passage over Indian Territory** (*Portugal v. India*, culminated 1960).
 - **Appeal Relating to the Jurisdiction of the ICAO Council** (*India v. Pakistan*, culminated 1972).
 - **Trial of Pakistani Prisoners of War** (*Pakistan v. India*, culminated 1973).
 - **Aerial Incident of 10 August 1999** (*Pakistan v. India*, culminated 2000).
 - **Obligations concerning Negotiations relating to Cessation of the Nuclear Arms Race and to Nuclear Disarmament** (*Marshall Islands v. India*, culminated 2016).
 - [Kulbhushan Jadhav](#) (*India v. Pakistan*, culminated 2019).

What is Genocide Convention?

- The Convention on the **Prevention and Punishment of the Crime of Genocide** (Genocide Convention) is an instrument of international law that codified for the **first time the crime of genocide**.
- The Genocide Convention was the **first human rights treaty** adopted by the General Assembly of the **UN on 9 December 1948**.
- It signified the international community's commitment to 'never again' after the atrocities committed during the **Second World War**.
- Its adoption marked a crucial step towards the **development of international human rights and international criminal law** as we know it today.
- According to the **Genocide Convention**, genocide is a crime that can take place both in time of war as well as in time of peace.
- The definition of the crime of genocide, as set out in the Convention, has been widely adopted at both national and international levels, including in the [1998 Rome Statute of the International Criminal Court \(ICC\)](#).
- Importantly, **the Convention establishes on State Parties the obligation to take measures to prevent and to punish the crime of genocide**, including by enacting relevant legislation and punishing perpetrators, "whether they are constitutionally responsible rulers, public officials or private individuals" (**Article IV**).
 - That obligation, in addition to the prohibition not to commit genocide, have been considered as norms of international customary law and therefore, binding on all States, whether or not they have ratified the Genocide Convention.

- India is a signatory to this convention.

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ICJ vs. ICC



| | International Court of Justice (ICJ) La Cour Internationale de Justice (CIJ) | International Criminal Court (ICC) La Cour pénale internationale (CPI) |
|-------------------------------|---|---|
| Year Court Established | 1946 | 2002 |
| UN-Relationship | Official court of the U.N., commonly referred to as the "World Court." | Independent. May receive case referrals from the UN Security Council. |
| Location | The Hague, The Netherlands | The Hague, The Netherlands |
| Types of Cases | Contentious between parties & Advisory opinions | Criminal prosecution of individuals |
| Subject Matter | Sovereignty, boundary, & maritime disputes, trade, natural resources, human rights, treaty violations, treaty interpretation, and more. | Genocide, crimes against humanity, war crimes, crimes of aggression |
| Funding | UN-funded. | Assessed contribution from state parties to the Rome Statute; voluntary contributions from the U.N.; voluntary contributions from governments, international organizations, individuals, corporations and other entities. |

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