

ICC verdict on Bosco Ntaganda

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Source: *The Hindu*

Manifest pedagogy

Two institutions have been a lot in news this year. One is ICJ and the other ICC. Both being judicial organs have both similarities and differences. Hence a conservative perspective is a possibility in exams

In news

- DR Congo's Bosco Ntaganda is convicted for war crimes by ICC

Placing it in syllabus

- International organisations and their mandate

Static dimensions

- International Criminal court (ICC) its origin and powers
- How is it different from International Court of Justice (ICJ)?

Current dimensions

- Judgement by ICC on Bosco Ntaganda

Content

Judgement by ICC

- A former Congolese rebel leader Bosco Ntaganda has been found guilty of war crimes and crimes against humanity.
- Ntaganda, nicknamed "**Terminator**", was convicted by the Judges at the ICC on 18 counts including murder, rape, sexual slavery and using child soldiers.
- He becomes the first person convicted of sexual slavery

by the ICC.

- Ntaganda, who will be sentenced at a later hearing, is the fourth person convicted by the ICC since its creation in 2002.
- He has 30 days to appeal against the convictions.
- He has been involved in numerous armed conflicts in both Rwanda and the Democratic Republic of Congo.
- His supporters conducted attacks against people perceived not to belong to the **Hema ethnic group**

ICC and its powers

- The International Criminal Court (ICC) is an international organisation which investigates and, where warranted, tries individuals charged with the *gravest crimes of concern to the international community* genocide, war crimes, crimes against humanity and the crime of aggression.
- As a court of last resort, *it seeks to complement, not replace, national Courts.*
- Hence it exercise its jurisdiction only when certain conditions are met, such as when national courts are unwilling or unable to prosecute criminals or when the United Nations Security Council or individual states refer situations to the Court.
- Governed by an international treaty called the **Rome Statute**, the ICC is the world's first permanent international criminal court.
- The Rome Statute took effect in 2002, upon ratification by 60 States and ICC began functioning on 1 July 2002.
- States which become party to the Rome Statute become member states of the ICC. As of March 2019, there are 122 ICC member states. 42 states are non-party, non-signatory states.
- **India is not a signatory** to ICC.
- In addition to founding the Court and defining the crimes of genocide, war crimes, crimes against humanity,

the Rome Statute also sets new standards for victims' representation in the Courtroom, and ensures fair trials and the rights of the defence

The ICC has faced a number of criticisms from states and civil society, including objections about its jurisdiction, accusations of bias, questioning of the fairness of its case-selection and trial procedures, and doubts about its effectiveness. The verdict in this latest case is a breakthrough for the prosecution office which has come under increasing scrutiny

Difference between ICJ and ICC

The ICJ is the primary judicial branch of the United Nations. The court settles legal disputes submitted to it by states and provides advisory opinions on legal questions submitted to it by duly authorized international branches, agencies, and the UN General Assembly

▪ *Subject Matter*

ICJ Settle the legal dispute i.e. sovereignty, boundary disputes, maritime disputes, trade, natural resource etc

ICC Trial criminal offenses i.e. genocide, crimes against humanity, war crimes, crimes of aggression

▪ *Parties*

ICJ Only states either members of United Nations or ICJ or both.

ICC States who is either ratified member of ICC or who accept the jurisdiction of ICC

▪ *Jurisdiction*

ICJ Two types of jurisdiction; i) Contentious Jurisdiction
ii) Advisory opinion

ICC Criminal prosecution of individuals

- *Authorized Statute*

ICJ Follows ICJ Statute

ICC Follows Rome Statute

- *Composition of Court*

ICJ Composed of fifteen judges elected to nine year terms and may be re-elected for up to two further terms.

ICC Composed of eighteen judges elected to nine year terms and not re-elected for further terms

- *Independence*

ICJ United Nations Judiciary organ

ICC Independent organisation

- *Adhoc Judge*

ICJ The state party can send adhoc judge

ICC No such provision is instituted by ICC

- *Appeal*

ICJ No appeal provision

ICC Appeal is instituted by appeal chamber