

What is a war crime?

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In news—Recently, the Ukraine President Volodymyr Zelenskyy came down heavily on Russia for shelling in Kharkiv and called it a “war crime”.

Key updates-

- **Ukraine has petitioned against Russia in the International Court of Justice (ICJ).**
- In its petition to the International Court of Justice, **Ukraine cited violations of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide.**
- Ukraine and Russia are parties to the **Genocide Convention, which states: *Genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:***
 - Killing members of the group.
 - Causing serious bodily or mental harm to members of the group.
 - Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part.
 - Imposing measures intended to prevent births within the group.
 - Forcibly transferring children of the group to another group.
- Both intent and the actual act constitute a violation of the Genocide Convention, according to the U.N. Office on Genocide Prevention and the Responsibility to Protect, and the general public’s understanding of genocide is typically broader than how the international law defines it.

What is a war crime?

- **War crime, in international law, is a serious violation of the laws or customs of war as defined by international customary law** and international treaties.
- The first systematic attempt to define a broad range of war crimes was the Instructions for the Government of Armies of the United States in the Field also known as the "**Lieber Code**" (after its main author, Francis Lieber) which was issued by the U.S. President Abraham Lincoln during the American Civil War and distributed among Union military personnel in 1863.
- More recently, definitions of war crimes have been codified in international statutes, such as those creating the **International Criminal Court and the war crimes tribunals in Yugoslavia and Rwanda**, for use in international war crimes tribunals.
- Modern definitions are more expansive and criminalize certain behaviours committed by civilians as well as by military personnel.
- Countries may have their own laws or rules that govern their militaries' conduct and that allow them to prosecute war crimes, and internationally, a range of courts have the authority to prosecute individuals for war crimes.
- **The International Criminal Court (ICC) can prosecute individuals in countries that are parties to the Rome Statute** or accept the jurisdiction of the court, or when the U.N. Security Council refers a situation to the court.

International Court of Justice(ICJ)-

- **The ICJ, sometimes known as the World Court**, is one of the six principal organs of the United Nations.
- It settles disputes between states in accordance with international law and gives advisory opinions on international legal issues.
- It is the only international court that adjudicates

general disputes between countries, with its rulings and opinions serving as primary sources of international law.

- It was established in 1945 and is located in the Hague, Netherlands.
- The **ICJ is the successor of the Permanent Court of International Justice (PCIJ)**, which was established in 1920 by the League of Nations.
- After the Second World War, both the League and the PCIJ were replaced by the United Nations and ICJ, respectively.
- All member states of the UN are party to the ICJ Statute and may initiate contentious cases; however, advisory proceedings may only be submitted by certain UN organs and agencies.
- U.N. member states can bring claims of treaty violations against others to the ICJ when those treaties stipulate that the court is the appropriate venue to settle the breaches
- The court has 15 judges elected to nine-year terms by the U.N. General Assembly and the Security Council.
- These organs vote simultaneously but separately.
- In order to be elected, a candidate must receive an absolute majority of the votes in both bodies.
- Non-UN members may also become parties to the court's statute. Once a state is a party to the court's statute, it is entitled to participate in cases before the court.
- However, being a party to the statute does not automatically give the court jurisdiction over disputes involving those parties.
- The issue of jurisdiction is considered in the three types of ICJ cases: **contentious issues, incidental jurisdiction, and advisory opinions**.
- The International Court of Justice is separate from the ICC.

- Indian Judge Dalveer Bhandari is also a member of this Court.

International Criminal Court (ICC):

- 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 exercises its jurisdiction only when certain conditions are met, such as when national courts are unwilling or unable to prosecute criminals or when the UNSC 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.
- It 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**.
- **India is not a signatory** to ICC.
- It is composed of eighteen judges elected to nine year terms and not re-elected for further terms.