

## **Rohingya Question at ICJ**

### **Why in news?**

Nobel Laureate Aung San Suu Kyi is to lead Myanmar's defence against charges of carrying out genocide against its Muslim Rohingya minority, at the International Court of Justice (ICJ).

### **What is the Rohingya crisis in Myanmar?**

- In 2017, the Myanmar military launched a brutal crackdown on Rohingya villages in the country's Rakhine state.
- An estimated 7.3 lakh Rohingya have fled to Bangladesh since then.
- The UN too recently said the army action was carried out with "genocidal intent".
- However, Myanmar has firmly denied all allegations of genocide.
- It has also denied nearly all allegations made by the Rohingya of mass rape, killings and arson against its army.
- Myanmar asserts that the soldiers carried out only legitimate counterterrorism operations.

### **Who has taken Myanmar to the ICJ?**

- It is the Republic of the Gambia that took Myanmar's case to the ICJ.
- [Gambia is a tiny country on the west coast of Africa.
- It stretches out as a thin strip of territory on either side of the river Gambia before it empties itself into the North Atlantic Ocean.]
- The Gambia, which is predominantly Muslim, went to the ICJ in November 2019.
- It accused Myanmar of genocide, which is the most serious of all international crimes.
- The Gambia is backed by the 57-member Organisation for Islamic Cooperation (OIC).

### **What is the procedure at ICJ?**

- The case will be heard by 16 United Nations judges at the ICJ.
- Both the Republic of The Gambia and the Republic of the Union of Myanmar will have the opportunity to present themselves before the court.
- The hearings will be streamed live on the ICJ website.

## What could Myanmar's response be?

- Suu Kyi is the leader of the National League for Democracy, in Myanmar.
- She is also the first and incumbent State Counsellor, a position akin to a prime minister.
- In Myanmar's defence, Suu Kyi will present personally the country in ICJ.
- Myanmar would say that no mass killings of Rohingya have taken place.
- It would also argue that the ICJ has no jurisdiction and that the case by The Gambia fails to meet full legal requirements.

## What will happen after the hearings are over?

- The ICJ will decide the plea on provisional measures fairly soon, possibly within weeks.
- The hearings dealing with the main and more serious allegations of genocide will follow and could begin a little later.
- However, cases at the ICJ often drag on for years on end, and no quick closure can be reasonably expected.
- Also, the legal bar for handing out a conviction for genocide is rather high.
- So far, only 3 cases of genocide worldwide have been recognised since World War II:
  1. Cambodia (the late 1970s)
  2. Rwanda (1994)
  3. Srebrenica, Bosnia (1995)
- Proving genocide has been difficult because of the high bar set by its 'intent requirement.'
- These include showing that the genocidal acts, say killings, were carried out with the specific intent to eliminate a people on the basis of their ethnicity.

**Source: Indian Express**

## Quick Fact

### International Court of Justice

- The International Court of Justice (ICJ) was established in 1945 after half a century of international conflict in the form of two World Wars.
- The ICJ functions with its seat at The Hague, Netherlands.
- It has the jurisdiction to settle disputes between countries and examine cases pertaining to violation of human rights.
- It adjudicates cases according to the tenets of international law and is the judicial arm of the United Nations.
- ICJ is different from the ICC (International Criminal Court) which is a

permanent tribunal created to prosecute individuals for genocide, crimes against humanity, war crimes and the crime of aggression.

- While ICJ is the primary judicial organ of the UN, the ICC is legally and functionally independent from the UN.

