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## USA Sanctions Against the International Criminal Court

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### Why in News

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Recently, **the USA** has **authorised sanctions** against **International Criminal Court (ICC)** officials involved in investigations into possible war crimes by USA troops and its allies.

### Key Points

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- **The Sanction:**
  - Under it, **any individuals** who have directly engaged in any effort by the ICC to **investigate, arrest, detain, or prosecute any United States** personnel without the consent of the United States or have attempted the same against the USA ally **may be subject to sanctions**.
  - It has **broadened the visa restrictions on ICC officials** or anyone who has sponsored, or provided financial, material, or technological support to them.
  - The restrictions also extend to the **officials' family members**.
  - The economic sanctions would be decided on a case-by-case basis.
  - Israel supported the decision as it accused the ICC of fabricating charges against the country.
- **The USA's Stand:**
  - The USA has considered the **ICC a threat to USA sovereignty**, and announced the **strict punitive measures** that are generally reserved for use against **terror groups and those accused of abusing human rights**.
  - It has called the 123 nations-strong tribunal a "kangaroo court".
  - It blamed the ICC office for financial corruption and maladministration.
  - It has also blamed Russia for manipulating the ICC in its favour.

- **The ICC's Stand:**
  - The ICC supported its officials, and called the sanction as an **unacceptable attempt to interfere with the rule of law.**
  - It said the **sanction represents an attack against the interests of victims** of atrocity crimes.
- **Reactions Against the Sanction:**
  - The United Nations had taken serious note about the USA order.
  - The European Union called the USA decision a matter of serious concern.
  - **The international NGO Human Rights Watch** has observed that by penalising war crimes investigators, the USA is openly siding with those who commit and cover up human rights abuses.

## Background

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- The Bill Clinton administration (1993-2001) was involved in **Rome Statute negotiations**, and signed the **document in 2000.**
  - The Rome Statute** of the International Criminal Court (International Criminal Court Statute) is the **treaty** that established the International Criminal Court (ICC).
- However, the next president, **George W. Bush in 2002 had unsigned** the Statute and signed into law the **American Service-Members' Protection Act** to protect the **USA nationals from the ICC's reach.**
- The USA adopted a positive approach towards the forum during several instances– in 2005 it did not veto a UN Security Council request to the ICC to investigate crimes during the Darfur crisis (Sudan) and in 2011 voted for Libya's referral to the court.
  - It also provided critical support in transferring suspects from Africa to the ICC for trial.
- However, in the UN General Assembly in 2018, the USA decided that it would not support or recognize the International Criminal Court.
  - According to it, the ICC has no jurisdiction, no legitimacy, and no authority.
- In 2020, **the ICC asked for a formal probe** into alleged **atrocities committed during the Afghanistan War between 2003 and 2014**– leading to possible charge against the USA military and the Central Intelligence Agency (CIA-USA's agency) officials.

## The International Criminal Court

- It is a **permanent judicial body created by the 1998 Rome Statute of the International Criminal Court** (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.**
- **Difference between ICC and ICJ:**
  - Unlike the **International Court of Justice (ICJ)**, the **ICC is not part of the United Nations system**, with the UN-ICC relationship being governed by a separate agreement.
  - The **ICJ**, which is among the UN's 6 principal organs, mainly **hears disputes between nations**. It was established in 1945 and is seated at The Hague (Netherlands). Judge Dalveer Bhandari (India) is a member of the Court.
  - **The ICC**, on the other hand, **prosecutes individuals**— its authority extending to offences committed in a member state or by a national of such a state.

### **Way Forward**

- Several countries have expressed that the sanction is a challenge to multilateralism and judicial independence of the ICC.
- The independence of the ICC and its **ability to operate without interference** must be guaranteed so that it can decide matters without any influence or pressures.
- Earlier, the ICC has been criticised for not pursuing investigations in Western countries as well as for working inefficiently. There is a need for an independent expert review of its own functioning to address these concerns.

**Source: IE**