



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.

[Source: IE](#)

Securities and Exchange Board of India

For Prelims: Securities and Exchange Board of India, Capital Market.

For Mains: Statutory Bodies, Quasi Judicial Bodies, Capital Market, Issues with SEBI and Way Forward.

Why in News?

Recently, Madhabi Puri Buch, former whole-time member of the [Securities and Exchange Board of India \(SEBI\)](#), has been appointed as its new chairperson — **the first woman to head the market regulator. She will hold the position for three years.**

- Earlier in January 2022, SEBI launched [Saaṛthi - a mobile app](#) on investor education.

What is SEBI?

- **About:**
 - SEBI is a **Statutory Body (a Non-Constitutional body which is set up by a Parliament) established on 12th April, 1992** in accordance with the provisions of the **Securities and Exchange Board of India Act, 1992.**

- The basic functions of SEBI is to protect the interests of investors in **securities** and to promote and regulate the securities market.
- The **headquarters of SEBI is situated in Mumbai**. The regional offices of SEBI are located in Ahmedabad, Kolkata, Chennai and Delhi.
- **Background:**
 - Before SEBI came into existence, **Controller of Capital Issues was the regulatory authority**, it derived authority from the **Capital Issues (Control) Act, 1947**.
 - In April, **1988 the SEBI was constituted as the regulator** of capital markets in India under a resolution of the Government of India.
 - Initially SEBI was **a non statutory body without any statutory power**.
 - It became autonomous and given statutory powers **by SEBI Act 1992**.

What is SEBI's Structure?

- SEBI Board consists of **a Chairman and several other whole time and part time members**.
- SEBI also appoints **various committees, whenever required** to look into the pressing issues of that time.
- Further, a **Securities Appellate Tribunal (SAT)** has been constituted to protect the interest of entities that feel aggrieved by SEBI's decision.
 - SAT consists of a Presiding Officer and two other Members.
 - It has the **same powers as vested in a civil court**. Further, if any person feels aggrieved by SAT's decision or order can appeal to the Supreme Court.

What is SEBI's Power And Functions?

- SEBI is **a quasi-legislative and quasi-judicial body** which **can draft regulations**, conduct inquiries, pass rulings and impose penalties.
- Its functions **to fulfill the requirements of three categories:**
 - **Issuers:** By providing a marketplace in which the issuers can increase their finance.
 - **Investors:** By ensuring safety and supply of precise and accurate information.
 - **Intermediaries:** By enabling a competitive professional market for intermediaries.
- **By Securities Laws (Amendment) Act, 2014**, SEBI is now able to regulate any money pooling scheme worth Rs. 100 cr. or more and attach assets in cases of non-compliance.
- **SEBI Chairman has the authority to order "search and seizure operations"**. SEBI board can also seek information, such as telephone call data records, from any persons or entities in respect to any securities transaction being investigated by it.
- SEBI performs the function of **registration and regulation of the working of venture capital funds** and collective investment schemes including mutual funds.
- It also **works for promoting and regulating self-regulatory organizations** and prohibiting fraudulent and unfair trade practices relating to securities markets.



What are the Issues and Related Concerns?

- In recent years SEBI's role became more complex, the **capital markets regulator is at a crossroads.**
- There is **excessive focus on regulation** of market conduct and **lesser emphasis on prudential regulation.**
- SEBI's statutory **enforcement powers are greater than its counterparts in the US and the UK** as it is armed with far greater power to inflict serious economic injury.
- It can impose **serious restraints on economic activity**, this is done based on suspicion, leaving it to those affected to shoulder the burden of disproving the suspicion, somewhat like preventive detention.
- Its **legislative powers are near absolute as the SEBI Act grants wide discretion** to make subordinate legislation.
- The component of prior consultation with the market and a system of review of regulations to see if they have met the articulated purpose is substantially missing. As a result, **the fear of the regulator is widespread.**
- **Regulation, either rules or enforcement, is far from perfect**, particularly in areas like insider trading.
- The Securities offering documents are **extraordinarily bulky and have substantially been reduced to formal compliance** rather than resulting in substantive disclosures of high quality.

Way Forward

- There is need of **an attitudinal change, indeed, hundreds of inputs about the market being full of crooks** necessitating a crackdown and severe intervention would be received.
- The foremost objective of SEBI **should be cleaning up the policy space** in this area of the market.
- SEBI must **give special attention to human resources** and matters within the organization. SEBI must encourage lateral entry to draw the best talent.
- Alignment and fitment of senior employees upon merger of the Forward Markets Commission into **Sebi remains an open area of work.**
- Enforcement can be strengthened with **continuous monitoring and improving market intelligence.**
- India's financial markets are still segmented. One regulator can't be blamed for another's failure when the remit over a financial product overlaps.
 - In this context **a unified financial regulator makes eminent sense to remove both overlap and excluded boundaries.**

[Source: IE](#)

One Rank One Pension

Why in the News?

Recently, the [Supreme Court](#) asked the Centre to show how many persons in the **Armed forces** have benefitted from ['One Rank One Pension'](#) (**OROP**) policy.

- The court also said that Centre's stand on OROP presented a much **"rosier picture"** than what is actually given to the **pensioners of the Armed forces.**

What is OROP?

- OROP means the payment of the **same pension to military officers** for the same rank for the same length of service, irrespective of the date of retirement.
 - Before OROP, ex-servicemen used to get pensions as per the **Pay Commission's** recommendations of the time when they had retired.
- **Uttar Pradesh and Punjab** have the highest number of OROP beneficiaries.
- Armed Forces Personnel who had retired till **30th June 2014** are covered under it.
- The implementation of the scheme was based on recommendation of the **Koshiyari committee**, a 10 member all-party parliamentary panel formed under the chairmanship of Bhagat Singh Koshiyari.

PENSION TANGLE

1 OROP means payment of **uniform pension to military personnel retiring in the same rank with the same length of service**, irrespective of their date of retirement

2 Plus, any further **enhancement in pension rates to be automatically passed on** to past pensioners



Ex-servicemen rally to demand OROP in New Delhi on Saturday

JUSTIFICATIONS

- **Military personnel retire much earlier** (civilian employees retire at 60). Jawans retire at 35-38; NCOs & JCOs at 40-45; Most officers in early-50s. Denied opportunity for longer service at higher pay grades & hence, higher pensions
- **Each Pay Commission widens gap between veterans who have retired earlier & those who retire later** since retirement date also determines quantum of pension (50% of last pay drawn)
- **Terms & conditions of military service much tougher than civilian employees. Soldiers undergo prolonged hardship postings, risk to lives & restriction of fundamental rights**

Numbers:
24.25 lakh
ex-servicemen
& over 6 lakh
widows

PROBLEMS

- FINANCIAL** | Grant of full OROP will further **bloat the government's pension bill by ₹8,300 crore ahead of 7th Pay Commission** in 2016
- ADMINISTRATIVE** | **Huge task to pass all the benefits, with no cut-off date**, to all living ex-servicemen. Records of pensioners before 1980s were maintained manually
- LEGAL** | **Will lead to similar demands by other government employees**, especially paramilitary forces. Employees on contributory pension scheme since 2004 may demand return to fixed pensions

[Source: TH](#)

Demand for Rajya Sabha Seat to Chandigarh

For Prelims: Rajya Sabha, Article 80, Fourth Schedule of the Constitution, Schedules of the Indian Constitution, Private Member Bill

For Mains: Private Member Bill, Representation of UTs in Indian Parliament

Why in News?

Recently, the **Chandigarh Municipal Corporation** has approved a proposal to amend [Article 80 of the Constitution](#) so that its councillors could send a representative to the [Rajya Sabha](#).

- **Article 80 of the Constitution of India** deals with the **composition of the council of states** also called the **Upper House and Rajya Sabha (Upper House)**.
- So far, Chandigarh has **no representation in the Rajya Sabha**.

What is the Demand of the Proposed Bill?

- The bill ([Private Member Bill](#)) sought **the adding of a provision** “provided that the representative **of the Union Territory of Chandigarh in the council of states shall be elected by an electoral college**.
 - The electoral college should consist of elected members of the Municipal Corporation of Chandigarh constituted under the **Punjab Municipal Corporation (Extension to Chandigarh) Act, 1994** in Article 80 of the Constitution..
- An amendment has also been sought to the **Fourth Schedule of the Constitution** with ‘**Entry 32, Chandigarh**.
 - The fourth Schedule contains **provisions as to the allocation of seats in the Council of States**.
 - It contains the **number of seats represented in the Council of states (Rajya Sabha)** from each State and Union Territory.

Where does Chandigarh Stand?

- **Chandigarh is a Union Territory** without any legislative assembly and has a **seat of [Member of Parliament \(MP\)](#)** in the Lower House (Lok Sabha) or House of the People.
- Chandigarh residents **elect an MP every five years through direct voting**.
 - The **union territories of Puducherry, Jammu and Kashmir and the National Capital Territory of Delhi** have representation in the Rajya Sabha, while **Ladakh, Chandigarh, Dadra and Nagar Haveli – Daman and Diu, [Andaman and Nicobar Islands](#) and [Lakshadweep](#)** are unrepresented in the upper house.

What are the Legal Objections?

- The elected Municipal Corporation Councillors **do not form the electoral college** for selecting a member for **Upper house (Rajya Sabha)** because it is beyond the powers of the Municipal Corporation.
 - **Between 1966 and 1990**, MPs for Rajya Sabha in Delhi were selected by the members of the Metropolitan Council of Delhi.
 - There is a difference between the Metropolitan Council and Municipal Corporation.
 - There is also a **distinction between the electoral college of legislatures and electoral college of MC councillors**.
 - Also **Chandigarh has no legislative Assembly like Delhi**, which also is a Union Territory, and the city also lacks a metropolitan council, which exists in the national capital.
- Also, selecting Rajya Sabha MP, is **beyond the listed scope of functions of the municipal corporation**.
- If the functions of the civic body are to be extended beyond the listed scope of functions **it would not be feasible and would go against the constitutional mandate** of any such Municipal Corporation.
 - As the civic body gave its assent to the amendment, UT Administration will **send it to the Ministry of Home Affairs** for further consideration and then it will be **forwarded to the Parliament**.

What is a Private Member Bill?

- Any **MP** who is **not a minister is referred to as a private member**.
- Its drafting is the **responsibility of the member** concerned. Its introduction in the House requires one month's notice.
- The government **bills\public bills can be introduced and discussed on any day**, private member's bills can be **introduced and discussed only on Fridays**.
- In case of multiple Bills, a **ballot system is used to decide the sequence of bills** for introduction.
- The **Parliamentary Committee on Private Member's Bills** and Resolutions goes through all such Bills and classifies them based on their urgency and importance.
- Its rejection by the **House has no implication on the parliamentary confidence** in the government or its resignation.
- Upon conclusion of the discussion, the member piloting the bill **can either withdraw it on the request of the minister concerned**, or he may choose to press ahead with its passage.

Public Bill vs Private Bill

	<i>Public Bill</i>	<i>Private Bill</i>
1.	It is introduced in the Parliament by a minister.	It is introduced by any member of Parliament other than a minister.
2.	It reflects of the policies of the government (ruling party).	It reflects the stand of opposition party on public matter.
3.	It has greater chance to be approved by the Parliament.	It has lesser chance to be approved by the Parliament.
4.	Its rejection by the House amounts to the exp-ression of want of parliamentary confidence in the government and may lead to its resignation.	Its rejection by the House has no implication on the parliamentary confidence in the government or its resignation.
5.	Its introduction in the House requires seven days' notice.	Its introduction in the House requires one month's notice.
6.	It is drafted by the concerned department in consultation with the law department.	Its drafting is the responsibility of the member concerned.

Source: IE

