Pakistan to approach the International Court of Justice (ICJ)

What is the issue?

- Pakistan decided to approach the International Court of Justice (ICJ) over the revocation of Jammu and Kashmir's special status by India.
- The case will be filed against India based on the "human rights violations" in Kashmir.

What is the International Court of Justice (ICJ)?

- It was established in **1945** and is the **principal judicial organ** of the United Nations (UN).
- **Only countries are eligible to appear before the ICJ**, not individuals, non-governmental organisations, corporations or any other private entities.
- The ICJ is made up of **15 judges** who are elected for a **9 years term** by the UN General Assembly and the UN Security Council.

What is ICJ's jurisdiction?

- It looks at **disputes of a legal nature** submitted to it by countries.
- It has an **advisory jurisdiction**, where the ICJ may give an advisory opinion on legal questions at the request of the various organs of the UN, specialised agencies or organisations authorised to make such requests.

When is the jurisdiction of the ICJ compulsory?

- Some countries recognise the ICJ's jurisdiction as compulsory by filing a declaration.
- India and Pakistan have filed these declarations in 1974 and 2017, respectively.
- Filing such a declaration means that the concerned country has the right to move the ICJ against any other country by filing an application instituting proceedings with the ICJ.
- It is not clear if the jurisdiction of the ICJ will be compulsory in the J&K case since India has repeatedly said that it is an "internal matter".

What happens when the jurisdiction of the ICJ is disputed?

- In this case, the matter is settled by the decision of the ICJ itself guided by

provisions given under Article 36 of the statute.
- The purpose of the statute is to organise the composition and functioning of the court.

What is the procedure for filing a case in the ICJ?

- In case of a unilateral application, as per the rules of the court (1978), the applicant state will have to specify the legal grounds for the jurisdiction of ICJ.
- It will need to state the precise nature of the claim, with a concise statement of the facts and grounds on which the claim is based.
- Proceedings cannot begin until the country against which the application has been made, consents to the ICJ's jurisdiction over the matter.
- To determine its jurisdiction in the early stages of the proceedings, the ICJ can request the parties concerned to argue all questions of law and fact and cite evidence about the issue.
- The proceedings can be instituted by way of a special bilateral agreement in which the application can be filed by either party.

Can the ICJ's judgments be revised?

- A judgment can be revised only if there is discovery of a fact important to the matter which was not known to the ICJ and the party claiming revision when the judgment was first delivered.
- The party asking for a revised ruling needs to assure the ICJ that the presence of the fact wasn't simply neglected.

Has the ICJ been approached by India or Pakistan in the past?

- Yes, India and Pakistan were involved with the Kulbhushan Jadhav case at the ICJ.
- Jadhav, an Indian, was given a death sentence by a Pakistani military court in 2017 on charges of espionage, and the case pertained to India's demand seeking his release from Pakistan.
- This case was filed by India in 2017 based on the breach of Pakistan's obligations under Article 36 of the Vienna Convention on Consular Relations.

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