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.

