U.S Sanctions on ICC Officials

Why in news?

The U.S. President Trump has authorised sanctions against the International Criminal Court (ICC) officials involved in investigations into possible war crimes by US troops or those of its allies.

What is the rationale?

- The Trump administration has long considered the international law forum, the ICC, a threat to US sovereignty.
- The US Justice Department is said to have received substantial credible information in this regard.
- It alleged of serious concerns about a long history of financial corruption and malfeasance at the highest levels in the office of ICC.
- US officials have also blamed Russia for manipulating the ICC in its favour.

What is the ICC?

- The ICC is a permanent judicial body based at The Hague in the Netherlands.
- It was created by the 1998 Rome Statute (ICC's founding and governing document).
- The ICC began functioning on 1 July 2002 when the Statute came into force.
- The forum was established as a court of last resort to prosecute offences that would otherwise go unpunished.
- It has jurisdiction over four main crimes:

1. genocide
2. crimes against humanity
3. war crimes
4. crime of aggression

- 123 nations are States Parties to the Rome Statute and recognise the ICC’s authority.
- The notable exceptions to this are the US, China, Russia, and India.

How is it different from the ICJ?

- Unlike the International Court of Justice (ICJ), the ICC is not part of the United Nations system.

- The UN-ICC relationship is governed by a separate agreement.
- The ICJ is among the UN's 6 principal organs, and mainly hears disputes between nations.
- The ICC, on the other hand, prosecutes individuals.
- ICC's authority extends to offences committed in a member state or by a national of such a state.
- The ICC has been criticised for not pursuing investigations in Western countries as well as for working inefficiently.
- Notably, all 4 of its guilty verdicts pronounced so far are in trials from Africa.
- In 2019, the court ordered an independent expert review of its own functioning to address these concerns.

How has U.S.-ICC relationship been?

- The Clinton administration (1993-2001) was involved in Rome Statute negotiations, and signed the document in 2000.
- However, the next president, George W. Bush in 2002 had the US "unsign" the Statute.
- He then signed into law the American Service-Members' Protection Act to protect US nationals from the ICC's reach.
- Notwithstanding the differences with the ICC, Washington adopted a positive approach towards the forum during several instances.
- E.g. in 2005, it did not veto a UN Security Council request to the ICC to investigate crimes during the Darfur crisis in Sudan
- Likewise, in 2011, it voted for Libya's referral to the court.
- The US also provided critical support in transferring suspects from Africa to the ICC for trial.

What happened in Trump's term?

- Since the election of President Donald Trump, the U.S.'s relations with the ICC have again soured.
- Trump declared at the UN General Assembly in 2018 that the US would provide no support or recognition to the ICC.
- He emphasized that as far as America was concerned the ICC had no jurisdiction, no legitimacy, and no authority.
- In 2019, the ICC's chief prosecutor Fatou Bensouda asked for a formal probe into alleged atrocities committed during the Afghanistan War between 2003 and 2014.
- This led to possible indictments of CIA officials and the US military.
- This came much to the disappointment of Washington.
- In March 2020, ICC judges approved Bensouda's request.

What is the recent decision?

- Washington broadened the visa restrictions on ICC officials directly involved in probes against its nationals or those of its allies.
- It also includes anyone who has “materially assisted, sponsored, or provided financial, material, or technological support” to these officials.
- The restrictions also extend to the officials’ family members.
- Economic sanctions is said to be decided on a case-by-case basis.

What is ICC's stance?

- Following U.S.'s move, the ICC reacted by declaring support for its officials.
- It called Washington’s move an “unacceptable attempt to interfere with the rule of law”.
- The Court observed that an attack on the ICC also represents an attack against the interests of victims of atrocity crimes.

What is the global response?

- Israel welcomed the US decision.
- Its Prime Minister Benjamin Netanyahu accused the ICC of fabricating “outlandish charges” against his country.
- Except for Israel, many came out in support of the ICC.
- The UN said that it had “taken note with concern” about reports of the US order.
- The European Union’s foreign policy chief, Josep Borrell, expressed concerns at the US decision.
- Germany and France also expressed their displeasure.
- The Dutch foreign minister Stef Blok called the ICC “crucial in the fight against impunity and in upholding international rule of law.”
- The international NGO Human Rights Watch noted that in penalising war crimes investigators, the Trump administration was openly siding with those who commit and cover up human rights abuses.

Source: Indian Express

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