War Crimes in Gaza

Why in news?

More than a week into their fourth war, Israel and the Hamas militant group already face allegations of possible war crimes in Gaza.

Which side is breaching the international law??

- International law prohibits targeting civilians or using indiscriminate force in civilian areas.
- Israel says Hamas is using Palestinian civilians as human shields, and critics say Israel is using disproportionate force.
- It is hard to say who is right, especially in the fog of battle.
- The firing of hundreds of imprecise rockets into Israel by Hamas and other Palestinian groups is fairly clear-cut.
- But in Gaza, where 2 million people are packed into a narrow coastal strip, the situation is far worrying.

Why is the situation worse in Gaza?

- Both sides operate in dense, urban terrain because that is all there is.
- Tight space and intense bombardments is the reality there.
- So, there are few safe places for Gazans to go.
- A blockade imposed by Israel and Egypt after Hamas seized power in 2007 makes it virtually impossible to leave.

What role does Hamas play?

- As a grassroots movement, Hamas is deeply embedded in Palestinian society.
- Its political operation and charities are separate from its secretive armed wing.
- Israel and Western countries view Hamas as a terrorist organization.
- But it is also Gaza’s de facto government.
- It employs tens of thousands of people as civil servants and police.
- So just being connected to Hamas doesn’t mean someone is a combatant.
- In fact, there are many in Gaza who oppose the group.
- But all are equally exposed with nowhere to run.

What are the key violations of international law?

- Earlier in 2021, the International Criminal Court launched an investigation.
- This was to look into possible war crimes committed by Israel and Palestinian militants during the last war, in 2014.
- Both sides already appear to be using the same tactics in this one.
- One of them is the urban combat.
- Palestinian fighters are clearly operating in built-up residential areas.
- They have positioned tunnels, rocket launchers and command and control infrastructure in close proximity to schools, mosques and homes.
- This is to benefit from protections afforded to noncombatants during war.
- Other issues are to do with proportionality and underground army.

What is the issue of proportionality?

- Israel's critics often accuse it of the disproportionate use of force.
- Israel is an undeclared nuclear power, and it is the region's most powerful military.
- This is waging war on a militant group armed with little beyond long-range rockets.
- And the majority of such rockets are intercepted by Israel's anti-missile defenses.
- Given this disproportion, as in the past, the toll in the current conflict is dramatically lopsided.
- At least 200 killed were in Gaza, nearly half of them women and children, and 10 in Israel, all but one of them civilians.
- **Challenges** - Proportionality in international law also applies to individual attacks.
- But, proving a specific attack as disproportionate is extremely difficult.
- One would need to know what was targeted, what military advantage was gained.
- It is also to be shown whether it exceeded the harm inflicted on civilians and civilian property.
- So, in practice, only the most extreme cases are likely to be prosecuted under this.
- **Example** - Israel recently bombed a 12-storey building.
- It housed the Gaza offices of The Associated Press and the Al-Jazeera news network.
- The military says there was a considerable Hamas presence in the building.
- But it has provided no evidence.

What is the underground army tactic?

- The International Committee of the Red Cross defines a combatant as -

i. someone with a “continuous combat function” (or)
ii. those engaged in combat at the time they are targeted

- So even if a building were filled with die-hard Hamas supporters, it would not be considered a legitimate target unless they were actively involved in combat operations.
- Members of Hamas’ armed wing rarely, if ever, wear uniforms or identify themselves in public.
- They go underground as soon as hostilities begin, along with the political leadership.
- The vast majority of Hamas supporters are not involved in fighting, which means they are not supposed to be targeted.

Source: The Indian Express

SHANKAR IAS PARLIAMENT
Information is Empowering