

VAID'S ICS LUCKNOW

NOTICE:

Daily Answer Writing Programme (DAWP):

Topics-Editorials from the Hindu/ET

Today's Question (10/ 07/2019)

Q. 'Forest dwellers and farmers are the best hope to preserve biodiversity and ensure food security'. Discuss **250 words**

(Model Answer of the last Day Question)

Q. 'Neither crimes against humanity' nor 'genocide' has been made part of India's criminal law. **Examine 250 words**

The crimes against humanity (CAH) are defined as offences such as murder, extermination, enslavement, deportation, torture, imprisonment and rape committed as a part of "**widespread or systematic attack** directed against any civilian population, with knowledge of the attack".

Internationally, CAH are dealt with under the **Rome Statute** of the International Criminal Court (ICC). India is not a party to the Rome Statute.

Why India is not a party to the Rome Statute?

- ✓ India was not in favour of using '**widespread or systematic**' as one of the conditions, preferring 'widespread and systematic', which would require a **higher threshold of proof**.

- ✓ India wanted a distinction to be made between international and internal armed conflicts. This was probably because its internal conflicts with **naxals and other non-state actors** in places like Kashmir and the Northeast could fall under the scope of CAH.
- ✓ It would put the country under an obligation to criminalise it through **domestic legislation**.

India had signed and **ratified the Genocide Convention in 1948** and 1958 respectively and is obliged under **article 5** to enact a law for the prevention and punishment of genocide. The Constitution also, under **Article 51**, requires India to endeavour to “foster respect for international law and treaty obligations”.

In **State v. Sajjan Kumar**, It was found that “a familiar pattern of mass killings” was seen “in Mumbai in 1993, in Gujarat in 2002, in Kandhamal, Odisha in 2008, and Muzaffarnagar in Uttar Pradesh in 2013”, where the criminals “have enjoyed **political patronage and managed to evade prosecution**”.

Unfortunately no sincere efforts have so far been made to effectively criminalize the offence of genocide in our **domestic criminal law**.

Thus India needs to show **political will** and constructively engage with the ILC, which would also, address the shortcomings in the domestic criminal justice system. It will foster respect for **international law** and treaty obligations & also strengthen the democratic ethos of the country.

Date- 10/07/2019 (Dept. of Content Development)