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EDITORIAL ANALYSIS

Not Dead, Just Disobeyed: What Gaza and Ukraine Actually Indict

THE HINDU

11 August 2026

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GS2

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INTERVIEW ANGLE

"If a rule is enforced only when the powerful allow it to be enforced, in what sense is it still a rule rather than a courtesy? Answer with reference to a specific enforcement mechanism, not in the abstract."

✓ Every fact web-verified against primary sources

THE LIFT LINE

A rule that is broken by the powerful and enforced against the weak has not failed as law. It has succeeded, precisely, as power.

WHY THIS EDITORIAL MATTERS FOR YOUR EXAM

Every year a handful of GS2 aspirants write “international law has failed” as their thesis on some Gaza or Ukraine-adjacent question, and every year that thesis loses marks for imprecision. International law has not failed as a body of rules; the mechanism built to enforce those rules against powerful violators has failed, and those are different claims requiring different evidence. This editorial gives you the vocabulary, Article 94, the veto, Rome Statute non-universality, to make the sharper argument.

It also supplies a template that transfers well beyond this topic: whenever an institution is accused of having “failed,” the first move is to ask whether its rules failed or its enforcement failed, because Mains examiners reward exactly that separation.

GS Paper 2: Important International institutions, agencies and their structure, [mandate](#); India and its neighbourhood relations; effect of policies and politics of developed and developing countries on India's interests.

CONCEPT	MEANING	WHY IT IS TESTABLE
ICJ	UN's principal judicial organ, settles disputes between states	Confused constantly with the ICC in Prelims options
ICC	Treaty-based court prosecuting individuals for genocide, war crimes, crimes against humanity, aggression	The state-versus-individual distinction is the single most tested confusion in this topic
Rome Statute	1998 treaty founding the ICC, in force since 2002	India, the United States, Russia and China are not parties
UN Charter Article 94	Obligates compliance with ICJ judgments; non-compliance triggers recourse to the Security Council	The veto sits exactly here, which is the crux of the enforcement problem
UNSC veto	Any one of five permanent members can block a Council resolution	Directly explains why enforcement stalls whenever a P5 member or close ally is implicated
Advisory opinion	Non-binding legal opinion the ICJ gives to authorised UN organs and agencies	Distinguish sharply from a binding contentious judgment
Universal jurisdiction	Domestic courts trying grave international crimes regardless of where they occurred	The enforcement route that does not require Security Council consent

BACKGROUND AND CONTEXT

The **International Court of Justice** was established in **1945** under Chapter XIV of the UN Charter as the principal judicial organ of the United Nations, seated at The Hague. Its **15 judges** serve **nine-year terms**, elected by concurrent vote of the UN General Assembly and Security Council. The ICJ settles disputes **between states**, and its contentious jurisdiction is consent-based, exercised through a special agreement between parties, a compromissory clause in a treaty, or a state's own optional-clause declaration under **Article 36(2)** accepting compulsory jurisdiction. Separately, it issues **advisory opinions** at the request of authorised UN organs and agencies, which are legally non-binding.

Where an ICJ judgment is binding and a state fails to comply, **Article 94 of the UN Charter** allows the other party to take the matter to the Security Council, which “may, if it deems necessary, make recommendations or decide upon measures” to give effect to the judgment. That word “may” is doing the structural work: the Council is not obliged to act, and any of its five permanent members can veto a resolution that would compel compliance. This is not a hypothetical weakness. When the ICJ ruled in **1986** in *Nicaragua v. United States* that Washington had acted unlawfully in supporting the Contras and mining Nicaraguan harbours, the United States, which had already withdrawn its acceptance of compulsory ICJ jurisdiction in anticipation of the ruling, blocked Security Council enforcement of the judgment through its veto.

The **International Criminal Court** operates on a different model. Founded by the **Rome Statute**, adopted in **1998** and in force since **2002**, it prosecutes **individuals**, not states, for genocide, crimes against humanity, war crimes and the crime of aggression, and is designed to complement rather than replace national courts. It has **125 states parties**. The United States, Russia, China and India have never ratified the Rome Statute, which means none of them carries a treaty obligation to arrest an ICC-wanted individual who enters their territory. The Court has no police force of its own; execution of an arrest warrant depends entirely on the state where the individual happens to be, and even among the 125 states parties, compliance has been politically contested in specific cases. Warrants connected to the Ukraine war and to the Gaza conflict have both run into this same structural limit, useful for a candidate as evidence that the enforcement gap is systemic rather than conflict-specific.

A domestic illustration of the same gap surfaced in the news cycle around this editorial's publication. A Damascus court on **11 August 2026** sentenced ousted Syrian president **Bashar al-Assad** to death **in absentia** over wartime atrocities, a verdict of unambiguous legal clarity that is nonetheless unenforceable unless the country where he currently resides chooses to surrender him. The scale is different, domestic transitional justice against a single individual rather than international adjudication against a state or a head of government, but the mechanism is identical: a court can be entirely correct on the law and still depend on someone else's cooperation to make that correctness matter.

THE ANALYSIS

- 1. Separate the rule from the mechanism.** International law's **substantive** content is not what is in dispute in Gaza or Ukraine. The UN Charter's prohibition on the use of force, the 1948 Genocide Convention, and the four Geneva Conventions of 1949, ratified by nearly every state on earth, are settled law with wide consensus. What strains under pressure is the separate enforcement architecture layered on top, and treating a strained enforcement layer as proof that the underlying rules are meaningless confuses two different things that happen to share an address.
- 2. The veto is the load-bearing failure point.** Article 94 gives the Security Council enforcement authority over ICJ judgments, but that authority is exercised by the same body whose five permanent members can each singlehandedly block it. Whenever a P5 member is the alleged violator, or shields an ally through the veto, the very enforcement path Article 94 provides becomes unavailable by design, not by accident. *Nicaragua v. United States* established this pattern decades ago; it recurs in every conflict since where a P5 member's direct interests are engaged.
- 3. Selective application is a political outcome, not a legal defect.** Cases involving weaker states or states outside P5 protection have historically seen international mechanisms move with more force than cases touching a permanent member or its closest partners. That **asymmetry** is real and damaging to the system's legitimacy, and it is worth being candid that the ICC itself faced years of criticism for a docket weighted toward African situations before it opened cases and warrants tied to Ukraine and Gaza. But an institution applying its rules unevenly because powerful states can shield themselves is a critique of the states making that choice, not evidence that the rules are wrong or that the institution should be abandoned.

4. Where great-power interests are not directly at stake, the record is genuinely strong. ICJ boundary and territorial judgments, including the 2002 ruling on the Bakassi Peninsula between Cameroon and Nigeria, were eventually implemented through negotiated withdrawal arrangements rather than ignored outright. The **World Trade Organization's dispute settlement system** resolved thousands of trade disputes with high compliance for over two decades, until the United States began blocking Appellate Body appointments from 2017, causing it to lose the quorum needed to hear new appeals in **December 2019**. In both cases the mechanism worked until a powerful state made a **deliberate** political choice to obstruct it, which is the same pattern visible in Gaza and Ukraine, only more starkly.

5. The Assad verdict is a small-scale version of the same gap. A court can rule with total legal clarity and still have no means of compelling compliance if the person or state it needs cooperation from declines to give it. Scaling this from one individual to a state actor, or to an entire war, does not change the logic, only the stakes.

6. India's own posture treats the framework as worth reforming, not discarding. India is not a party to the Rome Statute, citing **sovereignty** concerns and the risk of politically motivated prosecution, yet it has consistently argued for a more representative and accountable Security Council, including permanent-seat reform through the G4 grouping. That combination, staying outside one instrument while pushing to fix the structural flaw in another, is itself evidence that the correct diagnosis is enforcement design, not the irrelevance of international law.

DATA AND INSTITUTIONS VAULT

PRELIMS-GRADE FACTS:

ICJ: principal judicial organ of the UN, established 1945 under Chapter XIV of the UN Charter; seated at The Hague; 15 judges, nine-year terms, elected by concurrent vote of the UN General Assembly and Security Council

ICJ contentious jurisdiction requires state consent: special agreement, treaty compromissory clause, or an Article 36(2) optional-clause declaration

ICJ advisory opinions are non-binding, given only to authorised UN organs and agencies

UN Charter Article 94: obliges compliance with ICJ judgments; non-compliance permits recourse to the Security Council, which “may” act, subject to the P5 veto

ICC: founded by the Rome Statute (adopted 1998, in force 2002); seated at The Hague; prosecutes individuals for genocide, crimes against humanity, war crimes and aggression

125 states parties to the Rome Statute; the United States, Russia, China and India are not parties

ICC has no independent police force; arrest-warrant execution depends entirely on state cooperation

Nicaragua v. United States (1986): ICJ ruled against the US; the US blocked Security Council enforcement via veto after withdrawing from compulsory jurisdiction

WTO Appellate Body lost its quorum in December 2019 after the US blocked new appointments from 2017

WATCH THE TRAP: DO NOT CONFLATE THE ICJ AND ICC. THE ICJ HEARS STATE-VERSUS-STATE DISPUTES AND CAN ISSUE BINDING JUDGMENTS ONLY WHERE THE STATES INVOLVED HAVE CONSENTED TO ITS JURISDICTION. THE ICC PROSECUTES INDIVIDUALS AND HAS NO STATE CONSENT REQUIREMENT FOR CRIMES ON THE TERRITORY OF A STATES PARTY, BUT IT ALSO HAS NO ENFORCEMENT ARM OF ITS OWN. BOTH DEPEND ON SOMEONE ELSE, THE SECURITY COUNCIL OR THE ARRESTING STATE, TO MAKE THEIR RULINGS REAL.

THE DEBATE

Argument FOR treating this as evidence that international law has substantively failed.

Institutions whose central purpose is restraining the use of force and punishing atrocity have watched both continue in Gaza and Ukraine for extended periods without meaningful restraint. A framework repeatedly unable to compel the powerful loses practical relevance regardless of how well-drafted its treaties are, and citizens of states experiencing the violations are not consoled by a distinction between “the rule” and “its enforcement.”

Argument AGAINST reading enforcement failure as framework failure. The same mechanisms have compelled compliance where great-power interests are not directly engaged, from boundary judgments to decades of WTO rulings, which shows the architecture functions when it is allowed to. The specific reason it

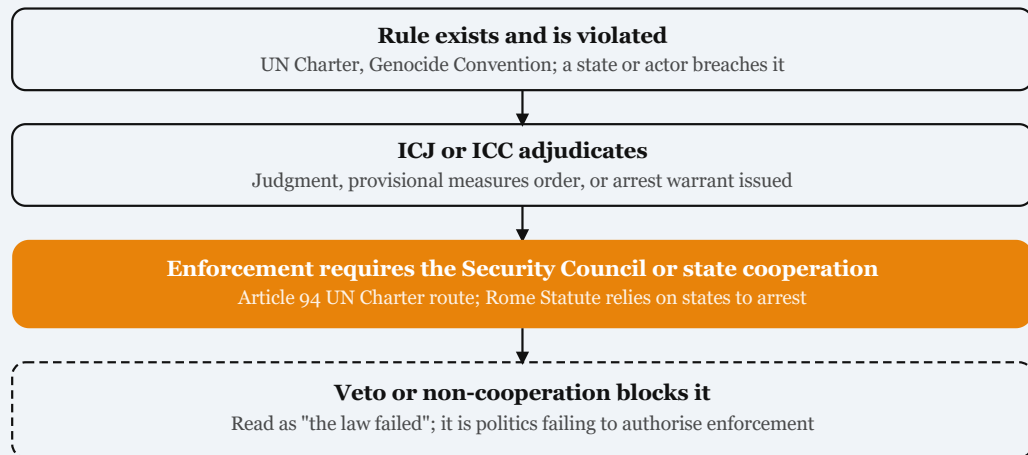
does not function in Gaza and Ukraine, Security Council veto power and non-universal ICC membership, is a description of where sovereign states drew the line when creating these institutions, and reforming that line is a live political project, not evidence the project has already failed.

Balanced verdict. Both positions describe the same facts differently, and the honest synthesis is that international law's legitimacy is genuinely being eroded by its selective enforcement, which is a real cost, even while the underlying rules and the institutions applying them remain sound and demonstrably functional outside great-power-implicated cases. The correct response to that erosion is to fix the enforcement layer, Security Council composition, Rome Statute membership, domestic universal jurisdiction, rather than to conclude that the rules themselves were always hollow.

HOW TO THINK ABOUT THIS

When an institution is accused of having “failed,” ask separately whether its rules failed or its enforcement failed, because the two require different remedies and different evidence. A rule remains valid law even when compliance with it is rare; what changes is only the probability that violation carries a consequence. This same test applies well beyond international law. Domestic anti-dowry or land-ceiling legislation in India is rarely enforced with any rigour, yet no one argues the underlying statutes do not exist as law; the correct critique targets prosecutorial will and administrative capacity. The WTO's Appellate Body paralysis is a parallel case at the international level: the trade rules did not change in 2019, only the mechanism enforcing them against a powerful member who chose to disable it. Apply the same separation to sanctions regimes, environmental treaties, or any institution a question asks you to evaluate as having “failed.”

DIAGRAM-IN-WORDS



Every step from a violated rule to a court ruling works as designed; the mechanism breaks only at the final, political step, where a Security Council veto or a state's refusal to cooperate withholds enforcement, and that political failure is then mistaken for a failure of the law itself.

TAKEAWAY BOX

International law has not failed the test of Gaza and Ukraine. The states with the power to enforce it have declined to sit it.

ICJ (1945, Chapter XIV UN Charter, 15 judges, The Hague, state-versus-state); **ICC** (Rome Statute 1998, in force 2002, 125 states parties, individuals only); **UN Charter Article 94** (recourse to Security Council on non-compliance, subject to **P5 veto**); India, the **United States, Russia and China are not parties** to the Rome Statute; *Nicaragua v. United States* (1986, ICJ ruling blocked by US veto); **WTO Appellate Body lost quorum in December 2019.**

is it more ethical for a state to stay outside a binding international court to protect its sovereignty and its personnel from politically motivated prosecution, as India has chosen with the Rome Statute, or to join and accept the risk in order to strengthen the very system of accountability it wants applied to others?

*UPSC has repeatedly tested the structure and limits of international institutions, UN reform, and the effect of great-power politics on **multilateral** bodies in GS2; this editorial supplies the precise mechanism, Article 94, the veto, Rome Statute non-universality, that distinguishes a strong answer from a generic one about “international law being weak.”*

“The crisis in Gaza and Ukraine reveals a failure of enforcement and political will, not a failure of international law as a framework.” Critically examine this statement with reference to the ICJ and the ICC.

Sources: *The Hindu, United Nations, ICJ*

Source: Not Dead, Just Disobeyed: What Gaza and Ukraine Actually Indict — Ujjyari.com | Free UPSC & State PCS Editorial Analysis

• KEY ARGUMENTS AT A GLANCE

The ICJ and ICC's visible struggles to restrain aggression or punish violations in Gaza and Ukraine are evidence of a structural design choice, binding adjudication paired with enforcement that depends on state consent and a veto-bound Security Council, and therefore indict the political will of powerful states rather than prove that the international legal framework itself has failed or become obsolete.



SUPPORTING

- International law's substantive rules, the prohibition on the use of force under the UN Charter, the Genocide Convention, the near-universally ratified Geneva Conventions, are not what is contested in Gaza or Ukraine; what fails is the separate enforcement architecture, which under Article 94 of the UN Charter routes non-compliance with ICJ judgments back through a Security Council that any one of five permanent members can paralyse with a veto.
- The ICC's jurisdictional limits compound the problem in a different way: the Rome Statute binds only its 125 states parties, the United States, Russia, China and India are not among them, and the Court has no independent police force, so its arrest warrants, including those issued for figures tied to both the Ukraine and Gaza conflicts, depend entirely on the willingness of states where those individuals might travel to actually detain them.
- Where a case does not touch a permanent Security Council member or its closest allies, both bodies have a documented record of working, from ICJ boundary rulings that were implemented after real friction to decades of WTO dispute settlement, which suggests the mechanism itself is functional and that its failures cluster precisely where great-power interests are directly engaged.



COUNTER

A legal system whose enforcement is entirely contingent on the political will of powerful states is not really a legal system in any meaningful sense, and repeated non-enforcement erodes its normative authority regardless of intent; a rule that binds the weak and spares the strong looks, to anyone outside the seminar room, less like law and more like a description of power dressed in legal language.



WAY FORWARD

The realistic path is reform of the enforcement layer rather than abandonment of the framework: pursue Security Council reform to narrow the veto's reach on mass-atrocity situations, widen Rome Statute ratification, strengthen domestic universal-jurisdiction prosecutions as a parallel enforcement route that does not require Security Council consent, and support hybrid and national tribunals for accountability where international bodies are structurally blocked, while states such as India continue to press for a more representative Security Council precisely because they take the underlying rules seriously enough to want them enforced evenly.


MAINS ANSWER FRAMEWORK
QUESTION

Critically examine the claim that the repeated inability of international legal institutions to restrain or punish violations in conflicts such as Gaza and Ukraine reflects a crisis of enforcement and political will, rather than a fundamental flaw in the framework of international law itself. (250 words)

INTRODUCTION

The ICJ and ICC have both been visibly unable to halt violations or secure compliance in Gaza and Ukraine, and this has revived a familiar argument that international law is toothless or obsolete. The more precise diagnosis is that the substantive rules are intact and well developed, while the enforcement layer built on top of them, dependent on Security Council action and state cooperation, is the part that is failing, and it is failing for identifiable political reasons.

BODY

International law separates the validity of a rule from the probability of its enforcement, and conflating the two produces the “international law is dead” conclusion. The ICJ can issue binding judgments between states, but Article 94 of the UN Charter routes enforcement of non-compliance back to the Security Council, where any permanent member can block action with a veto, a dynamic that goes back at least to the United States blocking enforcement of the 1986 Nicaragua v. United States judgment against itself. The ICC prosecutes individuals rather than states, but its 125 states parties exclude the United States, Russia, China and India, and it possesses no independent enforcement arm, so arrest warrants connected to the Ukraine and Gaza conflicts remain contingent on the travel choices of the accused and the political willingness of the state they land in. This is a design feature inherited from how sovereign states agreed to create these institutions in the first place, not a hidden defect.

Crucially, the same institutions have a working record where great-power interests are not directly engaged, ICJ boundary rulings implemented after real friction, and decades of WTO dispute settlement, until a powerful member deliberately starved its Appellate Body of quorum in 2019. The pattern across both examples is consistent: mechanisms function until a powerful actor chooses to obstruct them.

CONCLUSION

This distinction matters because it points to a different remedy. Declaring international law dead counsels resignation; diagnosing an enforcement and political-will deficit counsels reform, of Security Council composition, of Rome Statute membership, and of domestic universal-jurisdiction routes that do not require Security Council consent.

India’s own long-standing push for Security Council reform, alongside its non-membership of the Rome Statute, reflects exactly this position: taking the framework seriously enough to want its enforcement made fairer, rather than treating its current unevenness as proof that the framework itself should be discarded.

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