Weekly Update for Law Optional UPSC

A mix of Conceptual, Current/Contemporary Topics

13th July - 18th July, 2026

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1.Citizenship Cannot Be Decided by an Unfair Process: Foreigner Declarations Set Aside

Topic 1 · Constitutional Law — Citizenship & Procedural Due Process (Art. 21)

Sabitri Dey @ Swasthi Dey v. Union of India (2026) Few determinations carry graver consequences than a declaration that a person is a **foreigner** — and the Supreme Court held that such a determination **"must be carried out through a fair, lawful and reasonable process."** A Bench of Justice Vikram Nath and Justice Sandeep Mehta **set aside the judgments of the Gauhati High Court and the opinions of the Foreigners Tribunals in a batch of twenty-seven cases** from Assam and remanded them for fresh adjudication.

The proceedings arose under the **Foreigners Act, 1946** and the **Foreigners Tribunals framework** in Assam, under which the burden of establishing citizenship rests on the person proceeded against. The Court did not dilute the State's side of the balance: it recognised the **"legitimate and compelling interest"** of the State in ensuring that citizenship is not claimed falsely and that the integrity of the process is preserved.

The Court held, however, that where the process itself is unfair, the declarations cannot stand: **procedural due process under Article 21** governs the adjudication of so foundational a status. The matters were remanded for **fresh hearing**, with the direction that **no coercive action** be taken against the proceedees in the interregnum and that the Tribunals decide **uninfluenced by the earlier observations.**

The decision applies the fair-procedure dimension of **Article 21** — the *audi alteram partem* core of natural justice — to the tribunal determination of citizenship: the gravity of the consequence conditions the quality of the procedure, and a status touching the very membership of the political community cannot rest on a defective hearing.

2.Corpus Delicti : Murder Conviction Sustained Though the Body Was Never Found

Topic 2 · Law of Crimes — Murder; Proof of Homicide (Corpus Delicti)

Debojit Pankika v. State of Assam (2026) The doctrine of **corpus delicti** — the 'body of the crime' — was decisive in this appeal: can a conviction for **murder under Section 302 IPC** stand when the victim's body was never recovered?

The Supreme Court answered yes, upholding the life sentence of a man convicted of killing a ten-year-old girl whose body was allegedly thrown into a river. The Bench comprised Justice Sanjay Karol and Justice Prasanna B. Varale (2026 INSC 687).

The Court clarified the doctrine's true content: **"'Corpus delicti' means that the offence has been committed and not that the dead body of the murdered person has been recovered"** — its two elements are **death as the result, and the criminal agency of another as the means.** Recovery of the body is a means of proof, not an ingredient of the offence; homicide may be established by circumstantial evidence of death and agency.

On the facts, the chain of circumstances was complete: **credible eyewitness testimony of the disposal of a sacked body**, and — the child having been **in the custody of the accused** — his **failure to explain her twenty-two-day disappearance**, a fact especially within his knowledge. The conviction under **Sections 302 and 201 IPC** was affirmed.

The principle forecloses an obvious perversity: an offender who succeeds in destroying or concealing the body would otherwise place himself beyond conviction. Where death and criminal agency are proved beyond reasonable doubt by a complete circumstantial chain, the absence of the corpse does not break the *corpus delicti*.

3.Defence Evidence Deserves Equal Attention: Dowry-Death Conviction Reversed

Topic 3 · Law of Crimes — Dowry Death (s.304B); Presumption of Innocence

Brajesh Kumar @ Birjesh Kumar Singh v. State of Bihar (2026) The ingredients of **dowry death under Section 304B IPC** — and the evidentiary balance between prosecution and defence — were at the centre of this appeal from a conviction dating back to a death by burns in 2000. The Supreme Court **acquitted the husband**, a Bench of Justice Sanjay Kumar and Justice K. Vinod Chandran describing the arraignment of **seventeen members of the matrimonial family**, roped in merely for being related by marriage, as a **"clear travesty of justice."**

The presumption under **Section 113B of the Evidence Act** arises only when its foundation is laid: the prosecution must first prove a **demand for dowry** and **cruelty or harassment in connection with it soon before the death.** Neither ingredient stood established, so the presumption never operated — the statutory reverse onus cannot substitute for proof of the facts that trigger it.

The Court laid down a broader principle of criminal adjudication: **"Trial courts would do well to bestow equal attention to the defence evidence as that bestowed on the prosecution evidence. There is no cause to approach the defence evidence with distrust, suspicion or even scepticism."** The accused need not prove his innocence; a reasonable doubt arising **either** from the weakness of the prosecution case **or** from the defence evidence enures to his benefit.

Here the defence evidence itself displaced the prosecution story: an **exculpatory dying declaration** attributing the fire to accident, the **husband's own burn injuries** sustained in attempting a rescue, and his treatment records.

4.Rectification Corrects the Expression, Not the Bargain: Nemo Dat Quod Non Habet

Topic 4 · Law of Contracts — Mistake; Rectification of Instruments

Venkatesha v. K.M. Venkatamuniyappa (2026) When parties reduce a concluded bargain to writing and the instrument fails to express their true common intention, equity permits **rectification** — now codified in **Section 26 of the Specific Relief Act, 1963.** The limits of that remedy were the question in this appeal: a 1997 'rectification deed' had purported to change the very property conveyed by a 1973 sale deed, substituting one survey number for another, without the participation of the original vendor. A Bench of Justice Dipankar Datta and Justice Vipul M. Pancholi held the deed ineffective (2026 INSC 705).

The Court held that **"a rectification deed cannot, in the guise of correcting an error, substitute the very subject matter of a prior conveyance without participation of the original transferor."** Rectification is a **limited equitable remedy addressed to the expression of a concluded bargain** — where, through **mutual mistake**, the writing does not record what both parties actually agreed — and it cannot be used to **make a new bargain** the parties never concluded.

The maxim ***nemo dat quod non habet*** supplied the second ground: a transferor can convey no better title than he possesses, and the purported substitution of a different property by persons who never held title to it was a legal nullity. The trial court's decree was restored.

The Court also deprecated the High Court's course of deciding the appeal on **grounds never urged by the parties**: adjudication is confined to the case pleaded and argued, and a decision resting on unargued propositions denies the parties the opportunity to meet them.

5.The Security Council and the Red Sea: Resolution 2826 Extends Attack Monitoring

Topic 5 · International Law — UN Charter; Freedom of Navigation

On 14 July 2026, the **UN Security Council adopted Resolution 2826 (2026)** by **thirteen votes to none, with China and the Russian Federation abstaining**, extending the Secretary-General's monthly reporting on **Houthi attacks on merchant and commercial vessels in the Red Sea** — a mechanism created by paragraph 10 of **Resolution 2722 (2024)** until 15 January 2027.

- The legal architecture engaged is layered: the **freedom of navigation under Article 87 of UNCLOS** and the regime of **transit passage through straits (Articles 37–38)** governing the Bab el-Mandeb;
- the **targeted arms embargo under Resolution 2216 (2015)**, which the United States accuses Iran of breaching through weapons transfers to the Houthis; and Resolution 2722's careful 'taking note' of the right of member States to **defend their vessels "in accordance with international law"** language read by some as an implicit endorsement of **Article 51 self-defence against a non-State actor**, and by others as studiously deciding nothing.

The abstainers pressed the counter-case: China and Russia argued the extension **adds nothing** — no vessel has been attacked since September 2025 — and that the Council must address root causes while respecting **Yemen's sovereignty and territorial integrity**; Somalia, an affected coastal State, warned against the **'securitization of the Red Sea'** and the erosion of coastal-State sovereignty by external naval powers.

6.Ten Years of Defiance: The South China Sea Award and the Force of Annex VII Arbitration

Topic 6 · International Law — UNCLOS Dispute Settlement; Binding Force of Awards

The tenth anniversary of the **South China Sea arbitral award (Philippines v. China, 2016)** produced a sharp restatement of positions: fourteen States — including the United States, Japan, Australia and the United Kingdom — and the European Union declared the award **"final, legally binding, and definitive,"** while on 14 July 2026 China's Foreign Ministry dismissed the tribunal as **"an ad hoc body patched up to serve a political agenda"** and reiterated that the award is null and void.

1. The award rests on the **compulsory dispute-settlement design of UNCLOS**: an **Annex VII tribunal** seized under **Article 287**, whose competence to determine its own jurisdiction flows from **Article 288(4)**, and whose decision is **final and binding on the parties under Article 296(1) and Annex VII, Article 11.**
2. China's **non-appearance** did not arrest the proceedings (Annex VII, Article 9). The tribunal held, inter alia, that **'historic rights' within the nine-dash line** were extinguished to the extent incompatible with the Convention's allocation of maritime zones, and that none of the disputed features is an **island capable of an EEZ under Article 121(3).**

China's legal answer has been constant: its **2006 declaration under Article 298** excluded disputes involving sea-boundary delimitations and historic titles, and the subject-matter, it contends, was in substance **territorial sovereignty** — beyond UNCLOS altogether — so the tribunal never had jurisdiction to lose. The signatory States respond that jurisdiction was for the tribunal to decide, that the award is *res judicata* between the parties, and that a decade of non-compliance is a **continuing breach** of the Convention.

Weekly Focus

Association for Democratic Reforms v. Union of India, [2024] 2 S.C.R. 420 : 2024 INSC 113

Facts: The **Finance Act, 2017** and the **Electoral Bond Scheme, 2018** created a channel of **anonymous political funding**: bearer bonds purchasable from the State Bank of India, with amendments to **Section 29C of the Representation of the People Act, 1951, Section 182(3) of the Companies Act, 2013, Section 13A(b) of the Income Tax Act, 1961 and Section 31(3) of the RBI Act, 1934** exempting such contributions from disclosure and the **deletion of the first proviso to Section 182(1)**, which had capped corporate donations at 7.5% of average net profits, opening the way to **unlimited corporate funding**.

The scheme was challenged before a **five-Judge Bench** (Chandrachud, CJI, Khanna, Gavai, Pardiwala and Misra, JJ), which decided the matter on 15 February 2024.

Question of Law: Does the **anonymisation of political contributions** — the scheme together with the non-disclosure amendments — violate the **voter's right to information under Article 19(1)(a)**? Does **unlimited corporate funding** infringe **Article 14** and the principle of **free and fair elections**? And by what standard is such a law to be tested — does it command the deference given to **economic policy**, and how far does the **presumption of constitutionality** extend?

Decision: The Court **unanimously struck down the Electoral Bond Scheme** and the impugned amendments (Khanna, J. concurring separately).

- Information about the funding of political parties is **essential to the effective exercise of the vote**; the scheme, by anonymising contributions, violates **Article 19(1)(a)**, and curbing black

money is **not a ground available under Article 19(2)**, nor was the scheme the **least restrictive means** — electoral trusts stood as an effective alternatives.

- The **deletion of the cap in Section 182 was held manifestly arbitrary** under Article 14: it treats corporate and individual donors alike, and profit-making and loss-making companies alike, permitting unregulated corporate influence over the political process.
- The Court directed **SBI to furnish the particulars of every bond purchased and encashed to the Election Commission, and the ECI to publish them**; fresh issuance was stopped and unencashed bonds ordered returned.

Ratio: The Court applied the **double proportionality** framework to balance the donor's informational privacy against the voter's right to information, holding the State failed to justify the anonymity. It rejected the plea for **economic-policy deference** — the amendments were, on the Union's own record, an **electoral reform**, and to extend them the latitude of economic legislation would dilute free and fair elections.

The **presumption of constitutionality is rebutted once a prima facie violation of a fundamental right is shown**, whereupon the onus shifts to the State; per Khanna, J., proportionality subsumes manifest arbitrariness, and a company's claim to privacy in its political spending is necessarily attenuated.

Legal Significance: The judgment entrenches the **right to information as a facet of Article 19(1)(a)** at the core of the electoral process, subjects election-finance legislation to full fundamental-rights scrutiny rather than policy deference, and polices **corporate money in politics** through Article 14 — a structural reading of free and fair elections as a norm the legislature cannot design around.

PYQ Solution

"All murder is culpable homicide, but all culpable homicide is not murder." Distinguish between culpable homicide and murder with reference to the statutory scheme and decided cases. (15 MARKS)

In the scheme of the Penal Code, **'culpable homicide' is the genus and 'murder' is its species** (*State of A.P. v. Rayavarapu Punnayya*). **Section 299** defines culpable homicide by three mental states — intention to cause death, intention to cause bodily injury likely to cause death, or knowledge of likelihood of death — while **Section 300** marks out the aggravated forms in which culpable homicide becomes murder, subject to five Exceptions.

The statutory scheme and the distinction

1. **Genus, species and degrees:** Culpable homicide **without the special characteristics of murder** is culpable homicide not amounting to murder. The Code recognises **three degrees**: murder (Section 300, punishable under Section 302); culpable homicide of the second degree (Section 304 Part I); and of the third degree (Section 304 Part II) (*Punnayya*).
2. **Degree of probability:** The line between Section 299(b) and Section 300(3) is one of **probability of death**: '**likely** to cause death' conveys the *probable*, while '**sufficient in the ordinary course of nature** to cause death' means death is the *most probable* result — a distinction "fine but real, and, if overlooked, may result in miscarriage of justice" (*Punnayya*).
3. T**he Virsa Singh test (s.300 'thirdly'):** The prosecution must prove (i) a bodily injury is present; (ii) its nature; (iii) an **intention to inflict that particular injury** — not accidental or unintended; and (iv) that the injury is **objectively sufficient in the ordinary course of nature to cause death.** Once these are proved, it is **immaterial that there was no intention to cause death**: the enquiry at the fourth step is purely objective (*Virsa Singh v. State of Punjab*).

4. **Knowledge without intention:** Where the offender acts with **knowledge of the likelihood of death but without intention** to cause death or fatal injury, the case falls under Section 299(c)/Section 304 Part II — as where a mother jumped into a well with her infant: the consequence was within her knowledge though not her intention (*Emperor v. Mt. Dhirajia*).

The Exceptions: Even an act within Section 300 is reduced to culpable homicide by the **five Exceptions** — grave and sudden provocation (with its settled conditions), excess of private defence, act of a public servant, **sudden fight without premeditation**, and consent — each resting on a mitigation of culpability, not an absence of it.

The safest approach is the **three-stage enquiry** of *Punnayya*: first, whether the accused's act caused the death; second, whether it amounts to culpable homicide under Section 299; third, whether it bears the aggravated mental element of one of the clauses of Section 300 and, if so, whether an Exception intervenes. The distinction thus turns not on the result — death in both — but on the **degree of the mental element** with which it is caused.

De Facto IAS