Weekly Update for Law Optional UPSC

A mix of Conceptual, Current/Contemporary Topics

5th - 11th October, 2026

1.Preventive Policing Under the Constitution: Protection Without Arbitrariness..... 1
2.A Twenty-Three-Year-Old Question Returned Unanswered: Privileges v. Free Speech..... 2
3.The Qualification as Written: Courts Cannot Rewrite It, Employers Must Clarify It..... 2
4.A Breakup Is Not an Instigation: The Mens Rea of Abetment Restated..... 3
5.A Deal Gone Bad Is Not a Crime: Cheating's Mens Rea Must Exist at the Start..... 3
6.The Mother Agreement Objection Fails at the Threshold: Section 11's Narrow Gate..... 4
7.Two Permanent Members Against One Court: The ICC's Hardest Week..... 4
8.Warrants Against a Government No One Recognises: Gender Persecution at the ICC..... 5

Weekly Focus

Case Concerning the Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo v. Belgium), ICJ Rep 2002, p. 3..... 5
PYQ Solution..... 6

Join Telegram or Whatsapp for Weekly Update

1.Preventive Policing Under the Constitution: Protection Without Arbitrariness

Topic 1 · Constitutional Law — Fundamental Rights; PIL & Police Power

In Re: Recent Rape Incidents in Delhi NCR (2026) The Court's **suo motu PIL on women's safety in Delhi-NCR** produced its first full architecture of directions — and a constitutional principle to govern them. A Bench of Justice J.B. Pardiwala and Justice K. Vinod Chandran, monitoring the matter since the moving-bus gang-rape of a minor, issued comprehensive orders on 8 October (2026 INSC 1096).

The principle disciplines both failures at once: **"preventive policing cannot become a justification for arbitrary, excessive or disproportionate exercise of police powers."** Police action must satisfy **legality, proportionality and accountability** — the citizen is to be protected from unlawful State power as surely as from crime. The PIL that demands more policing simultaneously polices the police.

The directions are concrete: **vulnerability mapping** with enhanced beat patrolling near educational institutions, verification of all bus, cab and app-based drivers, SOS-mechanism awareness, removal of vision-blocking parked trucks, action against unauthorised liquor vends, **preventive-policing modules in police training**, and a joint compliance report from the Police Commissioner and Chief Secretary — with **personal liability for non-compliance**.

Asking pointedly whether progress since Nirbhaya was real, the Court built on its *S. Rajaseekaran* vehicle-tracking directions and set the next audit for November. As an exam

specimen the order is complete: **epistolary jurisdiction, continuing mandamus, Article 21's protective duty, and Article 14's restraint on the protector** — the whole PIL toolkit in one docket.

2.A Twenty-Three-Year-Old Question Returned Unanswered: Privileges v. Free Speech

Topic 2 · Constitutional Law — Legislative Privileges (Arts. 194, 19, 21)

N. Ravi v. Speaker, Legislative Assembly, Chennai (2026) The Constitution's oldest unresolved collision — **legislative privilege against fundamental rights** — came before a **seven-judge Bench** led by Chief Justice Surya Kant on 6 October, in a reference pending since 2003: the Tamil Nadu Assembly's resolution to arrest the editors of *The Hindu* over an editorial, challenged as violating Articles 19(1)(a) and 21.

The Bench closed the reference as **infructuous** — the Assembly had withdrawn its resolution in 2004, a fact the reference order had never registered. For twenty-three years the Court held open a question whose factual foundation had quietly disappeared; the Chief Justice was categorical that the Court **does not decide academic questions**, however momentous.

What remains open is the doctrinal fault line: ***M.S.M. Sharma v. Krishna Sinha** *subordinated the free press to privileges; the* Keshav Singh *reference protected personal liberty from them. Whether privilege yields to Article 19(1)(a), as it must to Article 21 — the question the seven judges were assembled to answer — stands expressly left open for an appropriate case**.

The closure is itself the lesson: privileges remain **uncodified three-quarters of a century after the Constitution**, their boundary with fundamental rights still governed by two irreconcilable precedents — and the next editor arrested by an offended House will inherit a question the Court has now twice declined to settle.

3.The Qualification as Written: Courts Cannot Rewrite It, Employers Must Clarify It

Topic 3 · Constitutional Law — Services; Judicial Review of Recruitment

Santosh B. Naik v. State of Goa · Irfan Ahmad Hakak v. UT of J&K (2026) Two services rulings in one week drew the **twin boundaries of recruitment interpretation**. In the first, Goa's rules for a Vocational Instructor post demanded a pass 'under the 10+2 system'; the High Court had treated an NIOS certificate — recognised as generally equivalent — as sufficient. A Bench of Justice Aravind Kumar and Justice Vipul M. Pancholi reversed (2026 INSC 1089).

The first boundary binds the **courts**: the words of an essential qualification are integral, and **judicial review cannot add to, alter or expand essential eligibility conditions** — general equivalence does not satisfy a specifically worded rule, and **higher marks cannot cure the absence of an essential qualification**: “comparative merit can be considered only amongst candidates who satisfy the prescribed eligibility conditions.”

The second boundary binds the **employer**. In the J&K case, a Librarian advertisement required graduation, M.Lib and three years' experience — without saying the experience must post-date the degree; the High Court read that requirement in. A Bench of Justice P.K. Mishra and Justice Shree Chandrashekhar restored the Tribunal's view (2026 INSC 1104): **ambiguity in a prescribed qualification must be construed in favour of the candidate** — the author of the vague stipulation, not the applicant, bears its cost.

4.A Breakup Is Not an Instigation: The Mens Rea of Abetment Restated

Topic 4 · Law of Crimes — Abetment; s.306 IPC

Chittibarika Chandra Shekar v. State of Telangana (2026) The **law of abetment** met its commonest modern tragedy. A three-year consensual live-in relationship ended when the man declined marriage; the woman died by suicide; six people — the man, his parents, his sister, a friend — faced prosecution for abetment of suicide. A Bench of Justice J.B. Pardiwala and Justice K. Vinod Chandran quashed the case (order of 5 October).

The principle: **refusal to marry, even if followed by suicide, is not per se abetment.** Abetment requires **instigation** — goading, urging, provoking — or an intention or knowledge, attributable to the accused, that the act would drive the deceased to suicide. **"People react differently to situations"**: the law cannot convert the end of a relationship into a crime merely because despair followed it.

The doctrine stands on the settled line: instigation demands a **positive act and mens rea** — words uttered in anger are not instigation, and only a **continued course of conduct leaving the deceased no option but suicide** permits the inference (*Ramesh Kumar*, *Chitresh Kumar Chopra*). What the prosecution offered here was proximity to grief, not provocation of death.

5.A Deal Gone Bad Is Not a Crime: Cheating's Mens Rea Must Exist at the Start

Topic 5 · Law of Crimes — Offences Against Property; Cheating

Yogesh Premjibhai Suvariya v. State of Gujarat (2026) The **boundary between breach of contract and the offence of cheating** was patrolled again. A steel-trading relationship soured — about ₹1.19 crore in unpaid bills, post-dated cheques dishonoured, the buyers claiming set-off of a ₹2 crore deposit — and the sellers answered with a prosecution for cheating and criminal breach of trust. A Bench of Justice Ujjal Bhuyan and Justice Atul S. Chandurkar quashed it (2026 INSC 1079).

The doctrine is foundational: cheating requires **fraudulent or dishonest intention at the inception** of the transaction. A promise honestly made and later unperformed is a breach sounding in damages; it becomes Section 420 only if the deception existed when the inducement was made. **Mere non-payment is not evidence of original dishonesty.**

The Court added the structural point: the **same facts cannot simultaneously constitute entrustment** (criminal breach of trust) **and inducement** (cheating) — the two offences are

mutually exclusive descriptions of how property changed hands, and charging both betrays the prosecution's own uncertainty about what, if anything, was criminal.

6.The Mother Agreement Objection Fails at the Threshold: Section 11's Narrow Gate

Topic 6 · Contracts & Mercantile Law — Arbitration Act; s.11 Referral

Shubham Equipment Pvt. Ltd. v. Rothwell Water Co. Ltd. (2026) How little may a referral court decide? A three-judge Bench of Chief Justice Surya Kant, Justice Joymalya Bagchi and Justice V. Mohana answered through a tangle of three linked instruments: a 2019 licence agreement with **Seoul arbitration under Korean law**, and a 2021 joint-venture agreement and 2023 MoU with **Mumbai arbitration under Indian law** (2026 INSC 1098).

Claims were raised under the JVA and MoU; the respondent objected that the disputes 'really' arose under the **mother licence agreement** — whose Korean arbitration was already running — and that a non-signatory subsidiary could not be bound. The Court held every one of those questions premature: under **Section 11(6-A)**, the referral court examines **only the prima facie existence of the arbitration agreement** — and the Mumbai clauses undisputedly existed.

Overlap with the mother agreement is no ground to refuse reference at the threshold. The agreements operate in distinct fields under their own entire-agreement clauses; whether the disputes truly belong to Seoul, whether the claims are arbitrable, and whether the non-signatory subsidiary — allegedly incorporated in breach of the non-compete — is bound, are all questions for the **arbitral tribunal's own competence** under the *In re Interplay* logic.

7.Two Permanent Members Against One Court: The ICC's Hardest Week

Topic 7 · International Law — ICC; Extradition & Immunities of Officials

In a single week the International Criminal Court was attacked by **two permanent members of the Security Council**. On 8 October, Russia's Prosecutor General demanded that the Netherlands **detain and extradite nine ICC officials** — including President Tomoko Akane and former Prosecutor Karim Khan — to execute in-absentia Russian convictions over the 2023 **Putin arrest warrant**. On 9 October, the United States imposed sanctions on the Court **as an institution** — freezing ICC assets and banning transactions, the Secretary of State vowing to dismantle the Court “brick by brick.” The ICC called it “an assault on the rule of law and on the very foundations of the international legal order.”

The Russian demand collides with every pillar of extradition law: no operative extradition treaty, the **political-offence exception**, and above all **immunity** — ICC judges enjoy diplomatic-level privileges under **Article 48 of the Rome Statute** and the Headquarters Agreement, and their judicial acts attract immunity ratione materiae. The *Arrest Warrant* logic returns inverted: the doctrine built to shield foreign ministers from zealous prosecutors now shields **judges from a prosecuted State's retaliation**. The Dutch answer was short: compliance is out of the question.

The American measure is unprecedented in kind: unilateral coercive sanctions against an **international judicial organ** exercising jurisdiction conferred by 125 States Parties. Against it stand the **cooperation obligations of Articles 86–87**, the offence of retaliating against Court officials in **Article 70**, and the oldest authority of all — *Reparation for Injuries* (1949): an international organisation possesses **objective legal personality**, opposable even to States that never joined it.

8.Warrants Against a Government No One Recognises: Gender Persecution at the ICC

Topic 8 · International Law — ICC; Crimes Against Humanity & De Facto Regimes

On 5 October, ICC Pre-Trial Chamber II **unsealed four arrest warrants against the Taliban leadership** — Supreme Leader Haibatullah Akhundzada, Chief Justice Abdul Hakim Haqqani, and the ministers of education and higher education — for the **crimes against humanity of persecution on gender and political grounds**, committed against Afghan women and girls, and 'allies of girls and women', since August 2021.

The charges rest on **Article 7(1)(h)** of the Rome Statute, and the Chamber's construction of **Article 7(3)** is the doctrinal event: the Statute's definition of 'gender' requires an interpretation going **"beyond a purely biological conception of sex"** — persecution through the destruction of education, movement and public existence as such. The warrants reach the regime's lawgiver and its education ministers: the architecture of exclusion, not merely its enforcers.

The jurisdictional foundation is a quiet lesson in **recognition doctrine**: Afghanistan ratified the Rome Statute in 2003, and the Taliban's non-recognition by the world — and its own rejection of the Court — changes nothing, because **treaty obligations belong to the State, not the government**. The de facto regime is bound by the ratification of the government it overthrew; official capacity avails nothing under **Article 27**.

Weekly Focus

Case Concerning the Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo v. Belgium), ICJ Rep 2002, p. 3

Facts: A Belgian investigating judge, acting under Belgium's universal-jurisdiction law, issued an **international arrest warrant against the serving Foreign Minister of the Democratic Republic of the Congo**, Mr. Abdulaye Yerodia Ndombasi, for speeches alleged to have incited massacres — grave breaches of international humanitarian law and crimes against humanity. The DRC sued Belgium at the International Court of Justice: the warrant against its sitting Foreign Minister violated **the sovereign equality of States** and the immunities customary international law accords to high State officials.

Question of Law: Does a **serving Minister for Foreign Affairs** enjoy immunity from the criminal jurisdiction of foreign national courts — even where the charges are **war crimes and**

crimes against humanity? And how far may a State stretch its criminal jurisdiction over foreigners, for foreign acts, with the accused never on its soil?

Decision: The Court found for the DRC. A Foreign Minister, like the Head of State and Head of Government, represents the State **"solely by virtue of his or her office,"** and **"throughout the duration of his or her office, he or she when abroad enjoys full immunity from criminal jurisdiction and inviolability"** — with **no distinction** between official and private acts, or acts before and during office. Having **"carefully examined State practice,"** the Court was **"unable to deduce... any form of exception"** to this immunity even for war crimes or crimes against humanity. Belgium's circulation of the warrant violated international law, and the warrant was ordered cancelled.

Ratio: Immunity ratione personae is **functional, not personal**: it exists "to ensure the effective performance of... functions on behalf of... States" — even "the mere risk" of arrest abroad "could deter the Minister from travelling internationally." But **"immunity from criminal jurisdiction and individual criminal responsibility are quite separate concepts"**: jurisdictional immunity is procedural, responsibility substantive — **immunity does not mean impunity.** Four avenues of prosecution survive: trial in the official's **own State**; trial abroad after **waiver** by his State; trial of a **former** minister for private acts and acts outside the period of office; and trial before **international criminal courts** with jurisdiction. The separate opinion of Judges Higgins, Kooijmans and Buergenthal remains the leading modern survey of **universal jurisdiction** — the *Lotus* dictum as "the high water mark of laissez-faire," and the vertical idea of States acting as "agents for the international community."

Legal Significance: The judgment is the modern charter of **official immunities and their limits** — the first ICJ ruling to map the line between the law of immunity and the age of international criminal justice, standing beside *Pinochet* (immunity ratione materiae lost for torture) as the two pillars of every immunity answer. Its fourth exception built the road to the international tribunals; and its doctrine is this very week's news — invoked, inverted, as Russia demands the extradition of the ICC's own judges for their judicial acts, and the question becomes whether the immunity that once shielded ministers from courts now shields courts from ministers.

PYQ Solution

What constitutes abetment under the Penal Code? When can a person be held guilty of abetment of suicide — discuss the meaning of 'instigation' with reference to decided cases. (15 MARKS)

Abetment is the criminal law's answer to the **mind behind the act**: Section 107 makes a person an abettor who **instigates** the doing of a thing, **engages in a conspiracy** for its doing, or **intentionally aids** it. The offence is complete with the abetment itself — for instigation and conspiracy, "it is immaterial whether the person instigated commits the offence or not."

The anatomy of abetment — and its hardest application

1. **Instigation — goading, not grieving:** To instigate is "to goad, urge forward, provoke, incite or encourage to do 'an act'" — actual words are unnecessary, but **"a reasonable certainty to incite the consequence must be capable of being spelt out"** (*Chitresh Kumar Chopra*). The mental element is indispensable: **"a word uttered in a fit of anger or emotion without intending the consequences to actually follow, cannot be said to be instigation"** (*State of Punjab v. Iqbal Singh*) — even "go and die," spoken in a quarrel, did not satisfy the ingredient (*Sanju v. State of M.P.*).

2. **Intentional aid — active complicity:** Under the third clause, **"intentional aiding and therefore active complicity is the gist of the offence"** (*Shri Ram v. State of U.P.*): negligence, carelessness or the mere fact that the crime could not have occurred without the alleged abettor's involvement is not abetment. And the abettor's fate is tied to the principal only in aiding cases — instigation and conspiracy stand on their own even if the person instigated never acts (*Faguna Kanta Nath*; *Jamuna Singh*).

3. **Abetment of suicide — the inferred instigation:** Section 306 convictions stand where conduct, not words, supplies the goad: the in-laws whose persistent dowry torture drove the bride to the flames (*Gurbachan Singh*); the husband whose reply — that he would feel relieved if she ended her life — was followed immediately by her self-immolation (*Brijlal v. Prem Chand*). The governing test is *Ramesh Kumar v. State of Chhattisgarh* (three Judges): where the accused **"by his acts or continued course of conduct creates such circumstances that the deceased was left with no other option except to commit suicide, an instigation may be inferred."**

4. **The boundary — despair without a goad:** Without a **positive act** of instigation or intentional aid, conviction cannot be sustained (*M. Mohan*): mere harassment born of marital differences (*Bhagwan Das*), pressing a debtor for repayment, or threats of litigation do not become abetment because suicide followed. Mens rea remains "the necessary concomitant of instigation" — the law punishes the instigating mind, never the mere last association with a despairing one.

The current application: The Supreme Court applied exactly this architecture this week, quashing an abetment-of-suicide prosecution against a man who declined marriage after a long consensual relationship — and against his parents, sister and friend: **refusal to marry, even if followed by suicide, is not per se abetment**, for "people react differently to situations," and grief traced to a breakup is not instigation traced to an accused.

Abetment criminalises the instigator, the conspirator and the intentional aider — and section 306 is its severest test, where courts must find the goad in conduct without converting every proximate heartbreak into homicide by inference. The line the cases hold is the right one: **the crime lies in driving a person to death, not in being the person they despaired of.**

De Facto IAS