Weekly Update for Law optional UPSC

A mix of Conceptual, Current/Contemporary Topics
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1 . Exception 4 to Section 300 IPC Inapplicable in One-Sided Knife Attack

In *Surender Kumar v. State of Himachal Pradesh* (2025 LiveLaw (SC) 1202), the Supreme Court authoritatively clarified the scope and limits of Exceptions 2 and 4 to Section 300 IPC. The Court held that where the accused launches a unilateral physical attack on an unarmed victim, without any reciprocal aggression or physical confrontation, the benefit of these exceptions is unavailable, and the offence squarely amounts to murder under Section 302 IPC.

The appellant, convicted for inflicting four knife blows on vital parts of the body of the deceased, sought reduction of sentence by invoking Exceptions 2 (private defence) and 4 (sudden fight without premeditation). Rejecting the plea, the Bench of Justice Manoj Misra and Justice Ujjal Bhuyan underscored that Exception 2 presupposes an act of self-defence against an attack on person or property—an element wholly absent in the present case. The deceased was unarmed, no injury was caused to the accused, no plea of self-defence was raised under Section 313 CrPC, and no defence evidence was adduced.

On Exception 4, the Court reiterated the settled legal position that a “fight” within its meaning necessarily involves a bilateral physical confrontation with mutual exchange

of blows. Mere verbal altercation or sudden quarrel does not suffice. Emphasising that the accused alone was armed and that there was no evidence of any counter-assault by the deceased, the Court held that the incident lacked the essential ingredient of mutuality.

Further, the infliction of multiple knife blows on vital parts was held to be indicative of cruelty, independently disqualifying the accused from the protection of Exception 4. Finding no mitigating circumstances warranting dilution of culpability, the Court dismissed the appeal and affirmed the conviction for murder.

2. Legal and Institutional Measures to Combat Dowry Deaths

In *State of U.P. v. Ajmal Beg*, the Supreme Court of India has reaffirmed the constitutional and statutory commitment to eradicate the social evil of dowry, while simultaneously addressing systemic deficiencies in enforcement. Setting aside the Allahabad High Court's acquittal, the Court restored the conviction of the husband for offences under Sections 304-B and 498-A of the Indian Penal Code and the Dowry Prohibition Act, and issued wide-ranging directions of a normative and institutional character.

From a question-of-law perspective, the judgment is significant on multiple counts. First, the Court reiterated the settled interpretation of Section 304-B IPC, particularly the expression "soon before her death," relying on *Ashok Kumar v. State of Haryana (2010)*. It clarified that the requirement is not one of immediacy but of a proximate and reasonable nexus between dowry-related cruelty and the woman's death. Once such nexus is established, the statutory presumption under Section 113-B of the Indian Evidence Act is mandatorily attracted, shifting the burden onto the accused.

Secondly, the Court corrected the High Court's erroneous appreciation of evidence, holding that testimonies of close relatives cannot be discarded merely on the ground of relationship, especially when consistent and corroborative. It further clarified that the Dowry Prohibition Act draws no distinction between demands made before or after marriage, thereby rejecting a common but legally untenable defence.

Beyond individual culpability, the Court acknowledged a persistent "judicial tension" between ineffectiveness and misuse of dowry laws. Recognising that penal provisions alone are insufficient, it issued prospective directions grounded in constitutional values of equality and dignity under Articles 14 and 15. These include integrating the principle of marital equality into educational curricula, ensuring effective appointment and visibility of Dowry Prohibition Officers, and mandating periodic sensitisation of police and judicial officers to distinguish genuine cases from frivolous ones.

The Court also emphasised the obligation of High Courts to ensure expeditious disposal of dowry-related offences, highlighting that delayed justice undermines deterrence. Additionally, it extended the State's duty beyond the formal education system, directing district administrations and legal services authorities to conduct grassroots awareness programmes.

3. Scope of Voyeurism Under Section 354C IPC

In *Tuhin Kumar Biswas @ Bumba v. State of West Bengal*, the Supreme Court has authoritatively clarified the legal contours of the offence of voyeurism under Section 354C of the Indian Penal Code (IPC), holding that merely taking photographs or videos of a woman without her consent does not ipso facto constitute voyeurism unless she is engaged in a "private act" as statutorily defined.

The core question of law before the Court was whether the act of photographing or videographing a woman, absent consent, but when she is not engaged in any private act, satisfies the essential ingredients of Section 354C IPC. Affirming the Calcutta High Court's decision to quash the criminal proceedings, the Supreme Court answered this question in the negative.

The Court undertook a strict statutory interpretation of Section 354C IPC, emphasising that the provision criminalises watching or capturing images of a woman *engaging in a private act* under circumstances where she has a reasonable expectation of privacy. The Explanation to Section 354C exhaustively defines "private act" to include situations such as exposure of intimate body parts in private settings, use of a lavatory, or engagement in sexual acts not ordinarily done in public. The Bench underscored that this definitional threshold is not merely illustrative but determinative of the offence.

Applying this legal standard, the Court noted that neither the FIR nor the chargesheet alleged that the complainant was engaged in any private act at the time the photographs or videos were taken. The incident occurred in a property-related dispute, in the presence of other individuals, including workmen. Consequently, the statutory requirement of intrusion into a reasonable expectation of privacy—central to voyeurism—was absent.

Importantly, the judgment draws a clear doctrinal distinction between invasion of privacy in a general sense and the narrowly tailored offence of voyeurism under criminal law. While acknowledging that non-consensual photography may raise civil or constitutional privacy concerns, the Court cautioned against expanding the scope of penal provisions beyond their explicit legislative intent. Criminal liability, it reiterated, must rest on strict fulfilment of statutory ingredients, not on moral disapproval or subjective perceptions of modesty.

4. SC for Statutory Powers to Order CBI Probe into Digital Arrest Scams

In *In Re: Victims of Digital Arrest Related to Forged Documents* (SMW (Crl.) No. 3/2025), the Supreme Court has taken an assertive institutional stance to address the rapidly proliferating menace of "digital arrest" scams, invoking its constitutional authority in a suo motu proceeding. The order raises significant questions of law concerning federal consent, investigative jurisdiction, and the State's duty to protect citizens against technologically sophisticated fraud.

At the outset, the Court recognised digital arrest scams as a distinct and grave form of cybercrime involving impersonation of law enforcement agencies, coercion, and large-scale financial fraud. Holding that the nature and spread of these offences demand "immediate attention," the Court directed the Central Bureau of Investigation (CBI) to conduct a focused probe into such cases at the first instance. This direction reflects the Court's view that the magnitude and inter-State ramifications of the offence justify the involvement of a central agency under Article 142 of the Constitution.

A key legal aspect of the order concerns the requirement of State consent under Section 6 of the Delhi Special Police Establishment Act. While ordinarily the CBI cannot exercise jurisdiction within a State without its consent, the Court expressly directed States such as Punjab, Tamil Nadu, Uttarakhand and Haryana to grant consent for a pan-India investigation. This underscores the Supreme Court's supervisory role in ensuring effective criminal investigation where crimes transcend territorial boundaries and implicate national interest.

The Court further expanded the investigative scope by granting the CBI liberty to examine the role of bankers under the Prevention of Corruption Act, where bank accounts are allegedly opened or misused to facilitate such scams. By impleading the Reserve Bank of India, the Court also acknowledged the regulatory dimension of the issue, particularly the use of artificial intelligence and machine learning tools to detect mule or fraudulent accounts.

Additionally, directions to telecom service providers and the Department of Telecommunications highlight the Court's recognition that cybercrime regulation necessitates coordinated action across sectors. Concerns over mass issuance of SIM cards in a single name prompted the Court to seek a model preventive protocol, reflecting a preventive, rather than purely punitive, legal approach.

5. Universal Jurisdiction in Practice

In a significant assertion of international criminal law, victims of Iran's 2022 "Woman, Life, Freedom" protest crackdown have filed a criminal complaint in Argentina against around 40 Iranian officials, alleging **crimes against humanity**. The complaint is grounded in the principle of **universal jurisdiction**, which permits domestic courts to prosecute certain grave international crimes irrespective of where they were committed or the nationality of the accused.

The legal basis of the complaint draws primarily from **customary international law** and treaty obligations reflected in instruments such as the **Rome Statute of the International Criminal Court (1998)**, which defines crimes against humanity to include murder, torture, imprisonment, and persecution when committed as part of a widespread or systematic attack against a civilian population. Although Iran is not a State Party to the Rome Statute, the prohibition of crimes against humanity is recognised as a **jus cogens norm**, binding on all States.

Argentina's jurisdictional competence is reinforced by its domestic legal framework and its international obligations under treaties such as the **Convention against Torture (CAT)**, which requires States to investigate or prosecute acts of torture when alleged perpetrators are beyond the reach of the territorial State. Argentine courts have previously relied on universal jurisdiction in cases involving international crimes, making it a viable forum for such complaints.

According to the complainants, Iranian security forces engaged in extrajudicial killings, arbitrary detention, torture, and severe bodily harm during the suppression of protests. The complaint seeks not immediate arrests but judicial recognition, investigation, and preservation of evidence, particularly in circumstances where domestic remedies in Iran are unavailable or ineffective.

6. European States Establish International Claims Mechanism for Ukraine War

European leaders have taken a significant step in the development of post-conflict accountability by signing a treaty establishing an **international body to assess and process claims for damages arising from the war in Ukraine**. The agreement, concluded in The Hague, creates a formal legal framework for documenting and adjudicating losses caused by Russia's invasion, marking a move from political condemnation toward structured legal redress.

From an international law perspective, the treaty is anchored in the well-established principle that a State responsible for an internationally wrongful act is under an obligation to make **full reparation** for the injury caused, as articulated in the **Articles on Responsibility of States for Internationally Wrongful Acts (ARSIWA)** adopted by the International Law Commission. The mechanism seeks to operationalise this principle by creating an evidentiary and claims-assessment process, even in the absence of a final peace settlement.

The claims body is designed to record damage to individuals, businesses, and the Ukrainian State, including loss of life, destruction of property, and economic harm. While it does not itself enforce reparations, it lays the legal groundwork for future compensation, potentially through frozen or immobilised Russian assets. This raises complex questions concerning **sovereign immunity**, particularly under customary international law and conventions such as the **UN Convention on Jurisdictional Immunities of States and Their Property**, which generally protect State assets from execution.

Importantly, the treaty reflects a collective European approach rather than unilateral action, reinforcing its legitimacy under international law. It also complements ongoing proceedings before international fora, including cases before the **International Court of Justice** and investigations by the **International Criminal Court**, though it remains distinct from criminal accountability mechanisms.

Weekly Focus

Olga Tellis v. Bombay Municipal Corporation

The landmark judgment in *Olga Tellis v. Bombay Municipal Corporation* (1985) is a defining moment in Indian constitutional jurisprudence, particularly in the interpretation of **Article 21 of the Constitution**, which guarantees the right to life and personal liberty. The Supreme Court, through this case, transformed Article 21 from a narrowly framed protection against executive action into a repository of substantive human rights.

- The central legal issue before the Court was whether the eviction of pavement dwellers in Bombay (now Mumbai) by the municipal authorities violated their fundamental rights. The petitioners argued that eviction would deprive them of their **right to livelihood**, thereby infringing Article 21. The State contended that no person has a right to encroach upon public property and that eviction was carried out in accordance with law.

The Constitution Bench, led by Justice Y.V. Chandrachud, held that the **right to life under Article 21 includes the right to livelihood**, since no person can live without the means of living. The Court famously observed that depriving a person of livelihood would effectively amount to depriving them of life itself. This interpretation marked a significant doctrinal shift, embedding socio-economic dimensions into a provision originally framed in negative terms.

- However, the Court carefully balanced individual rights with public interest. While recognising the right to livelihood, it upheld the authority of the State to remove encroachments in accordance with law.
- The evictions were not struck down per se, but the Court mandated that such actions must comply with **procedural fairness**, including reasonable notice and humane treatment. This reinforced the principle that any deprivation of life or liberty must be "just, fair and reasonable," as established earlier in *Maneka Gandhi v. Union of India*.

Legally, *Olga Tellis* is significant for two reasons. First, it entrenched the doctrine that **Article 21 is not confined to mere animal existence**, but encompasses conditions necessary for a life with dignity. Second, it demonstrated the Court's role in harmonising fundamental rights with administrative necessity.

PYQ Solution

Explain the principle of Double Criminality' and the Rule of Speciality under the international law of extradition. [10 Marks, 2021]

The principles of "Double Criminality" and the "Rule of Speciality" are two fundamental concepts under international law that govern the extradition process.

These principles provide safeguards and conditions for the transfer of individuals accused or convicted of crimes from one country to another.

1. **Double Criminality:** The principle of Double Criminality stipulates that extradition can only take place if the alleged offense for which extradition is sought is recognized as a crime in both the requesting and the requested country. In other words, the conduct must be considered criminal in both jurisdictions.

This principle ensures that individuals are not extradited for acts that are not considered crimes in the requested country. It acts as a safeguard against political or arbitrary extraditions and ensures a certain level of consistency and fairness in the extradition process. The principle of Double Criminality is a widely accepted norm in extradition treaties and customary international law.

European Convention on Extradition (1957):

- Article 2 of the Convention incorporates the principle of Double Criminality, stating that extradition shall be granted only for offenses that are punishable by deprivation of liberty for a maximum period of at least one year in both the requesting and requested states.

For example, if Country A seeks to extradite an individual from Country B for a specific offense, Country B will review its own laws to determine if the alleged conduct constitutes a crime in its jurisdiction. If the offense is not recognized as a crime in Country B, extradition may be refused.

In **R v. Bow Street Magistrates' Court, ex parte Pinochet (No. 3) [2000].** In this case, the House of Lords (now the Supreme Court of the United Kingdom) affirmed that extradition requires the presence of dual criminality, meaning the alleged offense must be recognized as a crime in both the requesting and requested countries. The court held that the principle of Double Criminality is a fundamental requirement to prevent extradition for acts that are not considered offenses in the requested jurisdiction.

2. **Rule of Speciality:** The Rule of Speciality, also known as the principle of specialty, governs the limitations on the prosecution or punishment of an extradited individual. According to this rule, the extradited person can only be tried, punished, or detained for the specific offense for which they were extradited. They cannot be prosecuted for any other offense committed prior to their extradition unless certain conditions are met.

Under the Rule of Speciality, the requested country grants extradition with the understanding that the extradited person will only be tried or punished for the offense specified in the extradition request. If there are additional offenses committed prior to extradition, the requesting country must seek consent from the requested country to proceed with prosecution or punishment for those offenses.

Article 16 of the European Convention on Extradition (1957) establishes the Rule of Speciality, stipulating that an extradited person may not be prosecuted, detained, or subjected to any other restriction of personal liberty for an offense committed prior to extradition, except with the consent of the requested state.

Exceptions to the Rule of Speciality include cases where the extradited person voluntarily waives the rule, cases where the requested country provides consent for prosecution or punishment of other offenses, or cases where the extradited person leaves the country and subsequently returns.

These principles of Double Criminality and the Rule of Speciality aim to protect individuals from unjustified or unfounded extradition requests and ensure that the extradition process respects the rights of the accused. They provide legal safeguards and help maintain the integrity and fairness of the extradition system in international law.

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