Weekly Update for Law Optional UPSC

A mix of Conceptual, Current/Contemporary Topics

19th - 24th August, 2025

1.Environmental Clearance and Replenishment Studies in Sand Mining..... 1
2. Article 32 and Death Penalty Sentencing Safeguards..... 1
3.Media Gag Orders and Free Speech in Criminal Proceedings..... 2
4. Limits of Public Interest Litigation in Service Disputes..... 2
5. Scope of Sedition under Section 152 BNS..... 3

Weekly Focus

North Sea Continental Shelf Cases (1969)..... 4
PYQ Solution..... 4



1.Environmental Clearance and Replenishment Studies in Sand Mining

In *Union Territory of J & K v. Raja Muzaffar Bhat & Ors.*, the Supreme Court reaffirmed the principle that environmental regulation must be grounded in scientific assessment rather than administrative expediency. The Court held that Environmental Clearance (EC) for sand mining cannot be lawfully granted if the District Survey Report (DSR) lacks a replenishment study evaluating the natural capacity of a river to recover annually.

The judgment emphasizes that the DSR, as mandated under the Ministry of Environment, Forest and Climate Change's 2016 Notification and subsequent Sand Mining Guidelines, must integrate replenishment data to be legally tenable. The Court analogized this requirement to forest conservation, where the rate of tree growth must be ascertained before timber harvesting is permitted. Without such assessment, clearance for sand mining would contravene both statutory mandates and the precautionary principle under environmental law.

The Court also critiqued regulatory bodies in J&K for compromising statutory integrity by issuing ECs on incomplete reports. It underscored that regulatory failures of this nature directly undermine sustainable development principles enshrined in Articles 21 and 48A of the Constitution, as well as judicial precedents requiring scientific scrutiny in environmental decision-making.

2. Article 32 and Death Penalty Sentencing Safeguards

Vasanta Sampat Dupare v. Union of India (2025)

In *Vasanta Sampat Dupare v. Union of India*, the Supreme Court clarified the scope of Article 32 in the context of death penalty jurisprudence. The Court held that even after the conviction and sentence have attained finality, a writ petition under Article 32 is maintainable to challenge the

death sentence if there has been a demonstrable breach of procedural safeguards mandated by constitutional law.

The judgment builds upon *Manoj v. State of Madhya Pradesh (2022)*, wherein the Court laid down that sentencing in capital cases must factor in individualized mitigating circumstances, including psychological and psychiatric evaluation of the accused. The present ruling underscores that failure to follow such mandatory safeguards constitutes a violation of Articles 14 and 21, thereby inviting judicial correction through Article 32.

The Court emphasized that this extraordinary jurisdiction is not to be confused with appellate review or curative relief. Instead, it operates as a corrective mechanism to enforce fundamental rights where the sentencing process has overlooked essential safeguards. However, the bench cautioned that reopening of concluded matters under Article 32 cannot become routine, and will be limited to cases of clear procedural breaches that strike at the root of fair trial guarantees.

While affirming Dupare's conviction, the Court set aside the earlier sentencing order and directed fresh consideration of sentence in conformity with *Manoj*

3.Media Gag Orders and Free Speech in Criminal Proceedings

Case Title: *Pernod Ricard India Pvt. Ltd. & Anr. v. Karanveer Singh Chhabra*

In *Dr. K.A. Paul v. Union of India*, the Supreme Court confronted the delicate balance between freedom of the press under Article 19(1)(a) and judicial powers to restrict reporting in the interests of justice. The petitioner sought a temporary media gag order in connection with the ongoing efforts to secure clemency for Nimisha Priya, an Indian national sentenced to death in Yemen.

The Court issued notice to the Attorney General, indicating the constitutional seriousness of the issues raised. At stake is the scope of judicial power to curb press freedom where reporting may allegedly prejudice sensitive negotiations or imperil the life of an Indian citizen abroad. While Article 19(1)(a) guarantees free speech and press freedom, Article 19(2) permits reasonable restrictions in the interests of sovereignty, integrity, public order, and contempt of court. However, the petitioner's reliance was not on these conventional grounds but on the claim that publicity could sabotage delicate diplomatic negotiations, raising the novel question whether judicially imposed "media silence" can be justified beyond the textual limits of Article 19(2).

The Court's notice also signals its recognition of the principle that prior restraint on the press is constitutionally suspect and can only be justified in exceptional circumstances, as seen in precedents like *Sahara India Real Estate v. SEBI* (2012), where the Court allowed postponement orders to prevent prejudicial media coverage in trials. Whether such principles extend to international diplomatic contexts remains to be determined.

4. Limits of Public Interest Litigation in Service Disputes

In the ongoing proceedings arising from *Prakash Singh & Ors. v. Union of India* (2006), the Supreme Court has clarified the boundaries of Public Interest Litigation (PIL), holding that it cannot be misused as a vehicle for settling disputes between rival government officers.

The petitions before the Court challenged the appointment of the Director General of Police (DGP) in Jharkhand, alleging violations of the *Prakash Singh* directions. However, the bench, led by Chief

Justice B.R. Gavai, refused to entertain them on the ground that they were prompted by personal rivalry between two officers.

The Court reiterated that PIL was devised as a constitutional innovation to relax the rule of locus standi, enabling access to justice for those who are socially and economically disadvantaged. It cannot, however, be transformed into an instrument for vindicating service grievances of senior officers, who already have established remedies under service law, such as the Central Administrative Tribunal or writ jurisdiction of the High Courts. By extending this caution, the Court reinforced the principle that PIL jurisdiction is meant to advance *public* interest, not private disputes.

At the same time, the Court acknowledged continuing concerns over state non-compliance with the *Prakash Singh* directions relating to police reforms. Submissions by Prakash Singh himself and the amicus curiae highlighted the need for stronger judicial monitoring, especially on structural aspects such as State Security Commissions and Police Complaints Authorities.

The bench, however, distinguished between genuine institutional reform—falling within PIL's ambit—and individual service matters, which must be pursued through ordinary legal remedies.

5. Scope of Sedition under Section 152 BNS

In *Suleman v. State of Himachal Pradesh*, the High Court examined the contours of sedition under Section 152 of the Bhartiya Nyaya Sanhita (BNS), the provision which has replaced Section 124A of the IPC. The Court clarified that mere expression of admiration for a foreign nation—here, by posting "Pakistan Zindabad" on social media—does not constitute sedition unless it is accompanied by words or actions denouncing India or inciting violence, rebellion, or separatist tendencies.

Justice Rakesh Kainthla emphasized that the offence of sedition requires a proximate link between the impugned speech and the creation of disaffection or hostility against the Government of India. The statutory requirement under Section 152 BNS is not satisfied by mere slogans or statements that do not carry an incitement to violence or dismemberment of the nation. This aligns with long-standing constitutional principles of free speech, particularly the Supreme Court's interpretation in ***Kedar Nath Singh v. State of Bihar*** **(1962)**, which confined sedition to acts inciting public disorder.

The Court rejected the State's contention that the strained relationship between India and Pakistan made the slogan "Pakistan Zindabad" inherently seditious. Instead, it reiterated that restrictions on speech must be tested against the substantive ingredients of the offence, not against subjective notions of nationalism. Since there was no evidence that the post caused or was likely to cause rebellion or disaffection, the essential mens rea for sedition was absent.

By granting bail, the Court reinforced that Section 152 BNS cannot be invoked mechanically and must be applied with constitutional fidelity to free speech guarantees under Article 19(1)(a), subject only to the narrow limitations of Article 19(2).

Weekly Focus

North Sea Continental Shelf Cases (1969)

Federal Republic of Germany v. Denmark; Germany v. Netherlands

Court: International Court of Justice **Decision Date:** 20 February 1969

Legal Issues and Holdings

1. **Equidistance Not a Binding Rule:** Germany had argued for delimitation based on coastline length, asserting that equidistance would unfairly disadvantage its concave coastline. The ICJ rejected the notion that the equidistance formula (as in Article 6 of the 1958 Geneva Continental Shelf Convention) constituted a rule of customary international law, especially since Germany had not ratified the Convention.
2. **Natural Prolongation & Equity:** The Court established that delimitation must be governed by **equitable principles**, taking into account **natural prolongation** of land territory under the sea. States were instructed to reach agreement based on fair consideration of geographic, geological, and other relevant factors.
3. **Customary International Law – Two-Pronged Test:** The ruling emphasized that customary international law requires:
    - **State practice** (objective component)
    - **Opinio juris** (subjective component)

      The Court ruled that neither the Geneva Convention's equidistance rule nor other practices had crystallized into binding custom

Significance in Law of the Sea

- **Precedent-Setting:** These cases were the first to address maritime delimitation beyond territorial seas, influencing over thirty subsequent cases in the field.
- **Clarified Custom Formation:** The ICJ's analysis remains a key reference point for courts evaluating the formation of customary norms under international law.
- **Shift from Geometric to Equitable:** The decision marks a shift from rigid geometric calculations toward flexible, equitable solutions tailored to geographic realities.

PYQ Solution

6. Discuss the doctrine of 'Transferred Malice' as applied to law relating to culpable homicide under the Indian Penal Code, 1860.(10 Marks)

The doctrine of 'Transferred Malice', or "malice aforethought", essentially implies that if an individual intends harm to one person but ends up causing harm to another, the malice or intention is transferred from the intended victim to the actual victim. In essence, the person is held accountable as if the harm was intentionally caused to the actual victim.
Section 301 of the Indian Penal Code, 1860 (IPC) codifies the doctrine of 'Transferred Malice' in the context of culpable homicide. This provision ensures that an individual cannot escape liability if

the actual outcome of their act differs from their initial intention, especially if it results in the death of a person other than the intended victim.

Implications

Doctrine of Transferred Malice: Section 301 clearly embodies the principle of transferred malice. If an individual intends to kill person A but ends up killing person B, the intention to kill A is transferred to B. The individual is then held responsible for the death of B as if he had intended to kill B from the outset.

Nature of the Offence: The provision emphasizes that the nature or degree of the crime (whether it amounts to murder or culpable homicide not amounting to murder) will be determined based on the original intent or knowledge of the offender. If the offender had the requisite intention or knowledge to commit murder against the intended victim, then even if another person dies due to the act, the offence would still be considered as murder.

No Escape from Liability: The provision ensures that an individual cannot absolve themselves from the consequences of their actions merely because the result was unintended. The death of an unintended victim is treated with the same gravity as the death of the intended victim.

Illustration

"A intends to kill Z by shooting him with a gun. A misses Z but hits Y, whom A did not intend to kill. Y dies. A has committed the offence of culpable homicide."

This illustration exemplifies the doctrine of transferred malice. Although A's intention was to kill Z, the fact that his act resulted in the death of Y makes him liable for Y's death. The malice or intent to kill Z gets transferred to Y, even though there was no direct intent to harm Y.

De Facto IAS