

Weekly Update for Law optional UPSC

A mix of Conceptual, Current/Contemporary Topics

Date: 01st Aug - 07th Aug 2025

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1. Supreme Court Flags Manual Sewer Cleaning at Its Own Premises

The Supreme Court, in *Dr. Balram Singh v. Union of India & Ors.*, has taken serious note of manual sewer cleaning being carried out at Gate F of its own premises, despite prior judicial directions prohibiting such hazardous practices.

The Bench of Justices Sudhanshu Dhulia and Aravind Kumar, which has been monitoring compliance since its 2023 orders, had earlier mandated a complete ban on manual scavenging and sewer cleaning in major metropolitan cities, citing violations of the Prohibition of Employment as Manual Scavengers and Their Rehabilitation Act, 2013, and the fundamental right to life under Article 21.

On August 6, 2025, photographic evidence presented by amicus curiae K. Parameshwar revealed workers cleaning sewers without protective gear, prompting the Court to issue notices to the East Delhi Municipal Corporation (EDMC) and the Public Works Department (PWD).

The Court warned that if satisfactory explanations are not filed, it would direct the registration of FIRs against responsible officers, potentially invoking criminal liability under IPC provisions and contempt proceedings. The matter is listed for hearing on September 10, 2025, marking a strong judicial stance on enforcing statutory safety standards and holding public officials personally accountable for violations that endanger human life.

2. Plea Challenges Constitutionality of Section 152 BNS as 'Rebranded Sedition Law'

On August 8, 2025, the Supreme Court issued notice in a writ petition challenging Section 152 of the Bharatiya Nyaya Sanhita, 2023 (BNS), alleged to be a reincarnation of the colonial sedition law under a new title. The Bench of CJI B.R. Gavai and Justices K. Vinod Chandran and N.V. Anjaria

tagged the matter with an existing challenge to the same provision. The petition, filed by retired Major General S.G. Vombatkere—who had earlier contested Section 124A IPC in *S.G. Vombatkere v. Union of India*—argues that Section 152 BNS criminalises vaguely defined categories such as “subversive activities” and “encouragement of separatist feelings,” thus enabling arbitrary state action.

The provision prescribes life imprisonment or up to seven years’ imprisonment and fine for acts endangering India’s sovereignty or unity. The plea contends that its sweeping language violates Articles 14, 19(1)(a) and 21 due to vagueness, overbreadth, chilling effect, disproportionate punishment, and lack of proximate nexus to public disorder, failing the test of constitutionality laid down in free speech jurisprudence. Relief sought includes declaring Section 152 BNS void, quashing all ongoing and future proceedings under it, and restraining law enforcement from coercive action. The matter now awaits further hearing alongside related petitions.

3. SC Upholds CJI’s Authority to Recommend Judge’s Removal Under In-House Procedure

The Supreme Court, while dismissing Justice Yashwant Varma’s writ petition challenging the in-house committee report indicting him in the unaccounted cash controversy, has held that the Chief Justice of India (CJI) can recommend a judge’s removal when forwarding such a report to the President and Prime Minister.

The Bench of Justices Dipankar Datta and A.G. Masih upheld paragraph 7(ii) of the in-house procedure, terming it legal and valid, and emphasised the CJI’s moral, ethical, and legal duty to safeguard the judiciary’s integrity.

The Court clarified that the in-house procedure, formulated after *K. Veeraswami v. Union of India*, fills a constitutional gap where judicial misconduct does not amount to “**proved misbehaviour**” under Article 124 but still warrants action. If an inquiry committee finds serious misconduct justifying removal, the CJI may endorse this finding while forwarding the report.

Rejecting arguments that such recommendations prejudice Parliament, the Court noted that the CJI’s communication is confidential to the President and PM, and impeachment proceedings follow the independent process under the Judges Inquiry Act.

It stressed that the CJI is not a “mere post office” but a key figure in preserving institutional credibility, with discretion to act on substantiated complaints against judges.

4. S.142 NI Act | Jurisdiction Lies Where Payee Maintains Bank Account

The Supreme Court, in *Prakash Chimanlal Sheth v. Jagruti Keyur Rajpopat*, reiterated that under Section 142(2)(a) of the Negotiable Instruments Act, 1881, territorial jurisdiction for filing a cheque dishonour complaint lies with the court where the payee maintains the bank account through which the cheque was deposited for collection—not where it was physically presented.

A Bench of Justices Sanjay Kumar and S.C. Sharma set aside the Karnataka High Court's order that had upheld the Magistrate's dismissal of a complaint filed in Mangalore on the ground that the cheques were presented in Mumbai.

The appellant had deposited the cheques at Kotak Mahindra Bank's Opera House Branch, Mumbai, but his account was maintained at the Bendurwell Branch, Mangalore.

Relying on *Bridgestone India Pvt. Ltd. v. Inderpal Singh* (2016), the Court held that once it is shown the payee's account is in Mangalore, the complaint there is maintainable. The lower courts' contrary interpretation was "erroneous and completely opposed" to the statutory mandate.

The appeal was allowed, directing the Judicial Magistrate First Class, Fifth Court, Mangalore, to entertain and decide the complaints expeditiously in accordance with law.

5. Promise of Marriage with Consensual Relationship Not Rape

In *Kunal Chatterjee v. State of West Bengal & Ors.*, the Supreme Court quashed an FIR under the POCSO Act and IPC provisions against a man accused of rape on the basis of a promise to marry.

The prosecutrix, aged 15 at the time, had entered into a consensual relationship with the appellant, allegedly on a promise of marriage.

The complaint was lodged three years later, after she attained majority and the appellant refused to marry her.

A Bench of Justices Sudhanshu Dhulia and Aravind Kumar held that while consensual sex with a minor technically constitutes statutory rape under POCSO, the absence of medical or forensic evidence and the belated filing of the FIR justified quashing proceedings.

The Court noted the prosecutrix's own admission of consent and relied on precedents including *Prithvirajan v. State* (2025), *Pramod Suryabhan Pawar v. State of Maharashtra* (2019), and *Maheshwar Tigga v. State of Jharkhand* (2020), which establish that consensual relationships based on a promise to marry do not amount to rape unless it is shown that the promise was false from inception.

Finding no evidence of initial fraudulent intent, the Court allowed the appeal and directed that the pending FIR be quashed.

6. PCBs Empowered to Levy Environmental Compensation

In *Delhi Pollution Control Committee v. Lodhi Property Co. Ltd.*, the Supreme Court held that Pollution Control Boards (PCBs) under the Water (Section 33A) and Air Acts (Section 31A) can impose environmental compensation or require bank guarantees as restitutionary or preventive measures against entities causing, or imminently likely to cause, environmental harm.

A Bench of Justices P.S. Narasimha and Manoj Misra clarified that such compensation is distinct from punitive fines or imprisonment under the Acts' penal provisions, which require judicial process. Compensation is permissible only when environmental damage has occurred or is imminent—not for every statutory violation.

The Court grounded its reasoning in the *Polluter Pays* principle, constitutionally and statutorily embedded in Indian law, citing *Vellore Citizens Welfare Forum* (1996) and *Indian Council for Enviro-Legal Action* (1996).

It laid down guiding principles: distinguishing remedial/ex-ante measures from punitive sanctions; recognising regulators' duty to act preventively; and equating PCB powers under the Water and Air Acts with those under Section 5 of the Environment Protection Act, which allows the Central Government to direct payment for environmental restoration.

Overturning the Delhi High Court's view that such monetary demands were unauthorised penalties, the Supreme Court upheld the DPCC's authority, thereby reinforcing the regulatory mandate for proactive environmental protection.

Weekly Focus

Case of the Week: K.S. Puttaswamy v. Union of India (2017)

The Supreme Court's decision in *K.S. Puttaswamy v. Union of India* is a **constitutional milestone** that firmly entrenched the **Right to Privacy** as a **fundamental right under Part III of the Constitution**, specifically under **Article 21**. Delivered by a **nine-judge bench**, this unanimous judgment overruled previous decisions and reshaped the landscape of **individual liberties, constitutional morality, and state surveillance**.

Background and Issues

The case originated from a challenge to the **Aadhaar scheme**, which mandated biometric data collection. The petitioners argued that this violated the right to privacy. The larger issue before the Court was whether **privacy is a constitutionally protected fundamental right** under the Indian Constitution, especially in light of earlier decisions like *M.P. Sharma v. Satish Chandra* (1954) and *Kharak Singh v. State of U.P.* (1962), which had held otherwise.

Supreme Court's Holding

The nine-judge bench unanimously held that the **Right to Privacy is a fundamental right** protected under **Articles 14, 19, and 21**. The Court overruled the contrary findings in *M.P. Sharma* and *Kharak Singh*, affirming that privacy is intrinsic to personal liberty and dignity.

Justice Chandrachud, delivering the plurality opinion, stated that privacy includes:

- **Bodily autonomy**
- **Informational privacy**
- **Decisional autonomy** (e.g., reproductive rights, sexual orientation, etc.)

The Court adopted the three-pronged test for any restriction on the right to privacy:

1. **Legality** (existence of law),
2. **Legitimate aim** of the state,
3. **Proportionality** (rational connection between the law and its object, and least restrictive means).

PYQ Solution

Question:

Discuss the doctrine of proportionality as applied by the Indian judiciary in balancing fundamental rights with legitimate state interests. Illustrate your answer with reference to recent case law. (20 Marks)

Answer:

The **doctrine of proportionality** is a constitutional tool used by courts to assess the legitimacy of restrictions imposed by the State on **fundamental rights**. Rooted in **comparative constitutional law**, particularly in **German and European Union jurisprudence**, the doctrine requires that a **limitation on a right must not be excessive or arbitrary** but must be **rationally related to a legitimate aim**.

Meaning and Structure of the Doctrine

In Indian constitutional law, the doctrine has evolved as part of **Article 21 jurisprudence**. It ensures that State actions which curtail fundamental rights are:

1. **Sanctioned by law** (legality),
2. **Pursue a legitimate aim** (legitimacy),
3. **Are rationally connected to the objective**, and
4. **Are the least restrictive means available** (necessity and balance).

This four-pronged test ensures that fundamental rights are not sacrificed unnecessarily at the altar of public interest.

Judicial Application in India

The doctrine has found explicit judicial recognition in several landmark cases:

- **Modern Dental College v. State of Madhya Pradesh**: The Supreme Court clearly endorsed the proportionality test as applicable in economic and social rights, such as regulation of private education.
- **K.S. Puttaswamy v. Union of India**: In this nine-judge bench decision, the Court emphasized that any invasion of privacy must satisfy the proportionality test, thus introducing it as a cornerstone of fundamental rights protection.
- **Anuradha Bhasin v. Union of India**: In the context of the internet shutdown in Jammu & Kashmir, the Court reiterated the proportionality standard, holding that restrictions must be necessary, temporary, and justified.
- **Internet and Mobile Association of India v. RBI**: The Supreme Court struck down the RBI's banking ban on cryptocurrency exchanges for failing the proportionality test, as there was no empirical justification for the drastic measure.

Critical Analysis

The application of the proportionality doctrine has significantly **strengthened constitutional review** in India. It has allowed courts to strike a **balance between individual freedoms and collective interests**, particularly in **national security, data privacy, economic policy, and digital rights**.

However, critics argue that Indian courts have **not always applied the doctrine uniformly**, especially in cases involving **preventive detention or freedom of assembly**, where the State often escapes strict scrutiny.

The doctrine of proportionality is now a **vital component of constitutional adjudication** in India. It promotes **judicial accountability, rights-based reasoning, and rational policy-making**. As India confronts evolving challenges—digital surveillance, misinformation, and public health emergencies—the doctrine will continue to guide the courts in ensuring that **constitutional freedoms are not rendered illusory**.

