

Weekly Update for Law Optional UPSC

A mix of Conceptual, Current/Contemporary Topics

23rd Mar - 31st March 2025

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1) Proximity in Abetment to Suicide

In *R. Shashirekha v. State of Karnataka & Ors.*, the Supreme Court reiterated the crucial legal principle that *instigation under Section 306 IPC must have a proximate and direct nexus to the suicide*. The Court upheld the Karnataka High Court's decision to quash abetment to suicide charges against the deceased's business partners, emphasizing the lack of immediate proximity between the alleged acts of harassment and the act of suicide.

The deceased, a partner in *M/s. Soundarya Constructions*, died by suicide on April 14, 2024. A suicide note discovered over a month later alleged cheating and blackmail by his business partners. The FIR, registered on May 22, 2024, invoked Sections 306, 420, 506 read with 34 IPC. However, the High Court found no actionable instigation under Section 306 IPC due to the 39-day gap between the alleged harassment and the suicide.

The Supreme Court, affirming the High Court's findings on Section 306 IPC, relied on *Prakash v. State of Maharashtra, 2024 SCC OnLine SC 3835*, underscoring that a one-month delay breaks the chain of causation essential for abetment.

However, the Court took exception to the High Court's blanket quashing of the Section 420 IPC charge (cheating), criticizing the lack of judicial reasoning. The Court clarified that posthumous allegations of fraud are not invalid merely because the victim did not report them during his lifetime.

2) Supreme Court on the Right to Be Forgotten

In *X v. Union of India (2025 SCC OnLine SC 450)*, the Supreme Court has, for the first time in clear terms, recognized the **Right to Be Forgotten (RTBF)** as an integral part of the **right to privacy under Article 21** of the Constitution. This landmark judgment is especially relevant in cases where an individual has been **acquitted of criminal charges** but continues to suffer reputational harm due to residual digital footprints.

The petitioner, though acquitted, remained publicly associated with the alleged offence due to the persistence of search results and online content. He sought judicial relief in the form of **removal or de-indexing** of such material from search engines and digital platforms.

The Court, in a forward-looking interpretation of privacy in the digital age, held that once a person is acquitted and the matter has lost contemporary public relevance, the **continued online presence of such information violates human dignity and personal liberty**. The Court thus directed that search engines **de-index the content**, effectively removing it from public searchability.

However, the Court was careful to strike a **balance with Article 19(1)(a)** – the freedom of speech and expression. It clarified that the RTBF is **not absolute**, and should be evaluated in light of:

- The **nature and seriousness** of the offence,
- The **public standing** of the individual,
- The **current relevance** of the content,
- And the **need to preserve judicial transparency**.

3) Madras High Court Upholds Mandatory Voting in Local Elections

In *M. Ilango v. State of Tamil Nadu*, the Madras High Court addressed the constitutional validity of the **Tamil Nadu Local Bodies (Compulsory Voting) Act, 2024**, a first-of-its-kind legislation mandating citizen participation in local body elections. This judgment offers significant insights into the **intersection of civic duties and fundamental rights** in a constitutional democracy.

The petitioner challenged the Act through a Public Interest Litigation (PIL), arguing that **mandating voting violates Article 19(1)(a)**—the right to freedom of speech and expression—which implicitly includes the **right not to vote**. The petitioner contended that electoral silence is also a legitimate form of political expression.

The High Court, however, upheld the law, drawing a **constitutional distinction** between **mandatory voting and coercive enforcement**. It emphasized that the **absence of punitive measures** in the Act is pivotal. Since no penalties are imposed for non-compliance, the provision functions as a **moral obligation rather than legal coercion**.

Crucially, the Court viewed voting not just as a right but as a **democratic duty**, particularly vital in the context of **local self-governance** under Parts IX and IX-A of the Constitution. It held that increased participation strengthens democracy at the grassroots level.

The Court also recognized that the Act preserves the **right to choose** by allowing the use of **NOTA (None of the Above)**, thereby ensuring that **freedom of choice remains intact**.

This decision stands as a **measured affirmation of participatory democracy**, reinforcing the principle that civic responsibility can be encouraged—*but not compelled*—within constitutional bounds.

4). Innocent Passage under UNCLOS

The concept of "innocent passage" serves to harmonize the conflicting interests between coastal states and the global community at large. According to UNCLOS 1982 (Art. 17), ships of all states, be they coastal or landlocked, have a right to innocent passage through the territorial sea.

Definition of 'Passage': Passage refers to the act of navigating through the territorial sea either:

- Without entering internal waters or stopping at a port (Article 18(1)(a)), or
- On the way to or from internal waters or a port (Article 18(1)(b)).

The passage must be continuous and speedy, though stopping and anchoring is allowed if it is part of normal navigation or necessary due to emergencies or to help others in distress (Article 18(2)).

Criteria for 'Innocence': A passage is deemed 'innocent' as long as it doesn't jeopardize the peace, order, and security of the coastal state (Art. 19, UNCLOS). Activities like espionage, unauthorized fishing, and causing pollution are expressly categorized as prejudicial to these interests.

A passage is considered innocent as long as it does not threaten the peace, order, or security of the coastal State and follows the Convention and international law (Article 19(1)).

However, certain actions make the passage not innocent, such as:

- Using or threatening force (Article 19(2)(a))
- Military exercises or spying (Article 19(2)(b)-(c))
- Unauthorized loading/unloading of cargo or people (Article 19(2)(g))
- Pollution, fishing, research, or interfering with communication systems (Article 19(2)(h)-(l))

Special Considerations: Submarines and other underwater vehicles must navigate on the surface and display their flag, as per UNCLOS (Art. 20). Moreover, ships powered by nuclear energy or carrying dangerous substances are subject to special precautions (Art. 23).

5. Scope of Article 311(1) in Disciplinary Proceedings

In *State of Jharkhand v. Rukma Kesh Mishra*, the Supreme Court delivered an important clarification on **Article 311(1) of the Constitution**, emphasizing that it does **not require disciplinary proceedings to be initiated by the appointing authority**, nor does it mandate that the charge-sheet be approved by such authority, unless explicitly stated in the relevant service rules.

The respondent, a state employee, was dismissed following disciplinary proceedings initiated by the Deputy Commissioner of Koderma, with prior approval of the draft charge-sheet and other proposals by the Chief Minister. Although his dismissal was approved by the State Cabinet and the Governor, the High Court quashed the dismissal on the ground that the **charge-sheet was not separately approved by the Chief Minister**, allegedly violating procedural safeguards.

Overturning the High Court, the Supreme Court held that **approval of disciplinary proceedings inherently includes approval of the draft charge-sheet**, especially where both were placed together before the approving authority. The Court clarified that **Article 311(1)** safeguards only against *dismissal or removal by an authority subordinate to the appointing authority*, and **does not extend to the initiation of disciplinary action**.

The Court drew a clear distinction between **dismissal (which must be by the appointing authority)** and **initiation of proceedings (which may be by a superior officer)**, absent specific contrary rules. Reliance was placed on *P.V. Srinivasa Sastry v. CAG*, (1993) 1 SCC 419 and distinguished *BV Gopinath* and *Promod Kumar, IAS* as being based on different statutory contexts.

Weekly Focus

Case of the week : United Kingdom v. Norway

The **Anglo-Norwegian Fisheries Case** (United Kingdom v. Norway) is a seminal 1951 judgment by the International Court of Justice (ICJ) that addressed the delimitation of territorial waters and the application of international law to coastal states' maritime claims.

Background: In 1935, Norway issued a decree establishing straight baselines along its rugged northern coastline, connecting outermost points of islands and skerries (known as the "skjærgård") to define its territorial sea. This method encompassed areas traditionally used by Norwegian fishermen but also included waters where British trawlers operated. The United Kingdom contested this approach, arguing it deviated from customary international law, which typically measured territorial seas from the low-water mark following the natural contours of the coast.

ICJ Judgment:

On December 18, 1951, the ICJ ruled in favor of Norway, upholding the validity of its straight baseline system. Key points from the judgment include:

1. **Geographical Considerations:** The Court recognized Norway's unique coastal geography, characterized by a fragmented coastline with numerous islands and inlets. It held that the method of straight baselines was appropriate given these special geographical circumstances.
2. **Historic Title and Long-Standing Practice:** The ICJ acknowledged Norway's consistent and long-standing practice of exercising sovereignty over the waters within these baselines. The lack of protest from other states over an extended period was seen as acquiescence, reinforcing Norway's claims.
3. **Customary International Law:** The Court found no uniform international practice limiting the length of baselines or prescribing specific methods for their determination. Thus, Norway's approach was not deemed contrary to international law.

PYQ Solution

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| 1. Briefly explain the grounds on which administrative actions can be subjected to judicial review. (10 MARKS) |
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Judicial review serves as a vital mechanism for courts to assess the legality and propriety of administrative actions, ensuring that public authorities act within their legal bounds and uphold principles of fairness and justice. The primary grounds upon which administrative actions can be subjected to judicial review, elucidated through pertinent case law, include:

1. **Illegality:** This ground arises when an administrative authority exceeds its legal powers or fails to act within the confines of the law. For instance, in *State of Gujarat v. Patel Raghav Nath* (1969), the revisional authority, while exercising powers under the Land Revenue Code, delved into questions of title, which was beyond its jurisdiction.

The Supreme Court observed that when the title of the occupant was in dispute, the appropriate course would be to direct the parties to approach the civil court and not to decide the question itself.

2. **Irrationality (Unreasonableness):** An action is deemed irrational if it is so unreasonable that no reasonable authority would have made such a decision. This principle was articulated in the landmark case of *Associated Provincial Picture Houses Ltd. v. Wednesbury Corporation* (1948), giving rise to the "Wednesbury unreasonableness" standard. According to this principle, courts have the power to interfere in a decision if it is

absurd and no reasonable decision-maker would have made it.

3. **Procedural Impropriety:** This ground addresses failures in adhering to prescribed procedures or breaches of natural justice principles.

In *Maneka Gandhi v. Union of India* (1978), the Supreme Court emphasized the necessity of adhering to the principles of natural justice, holding that the procedure established by law must be fair, just, and reasonable, thereby reinforcing the importance of procedural propriety in administrative actions.

4. **Proportionality:** Originating from European administrative law, proportionality assesses whether the means used to achieve a particular objective are appropriate and not excessive.

In *Om Kumar v. Union of India* (2001), the Supreme Court recognized the applicability of the proportionality principle in administrative law, particularly when administrative actions infringe upon fundamental rights, necessitating a balance between the action taken and the right affected.

5. **Legitimate Expectation:** When an individual has been led to anticipate a certain treatment or benefit based on a public authority's representations or consistent past practices, they may challenge decisions that frustrate these expectations without adequate justification.

In *Navjyoti Co-op. Group Housing Society v. Union of India* (1992), the Supreme Court held that the doctrine of legitimate expectation arises when a person has been led to believe that certain procedures will be followed, and failure to adhere to such expectations can be grounds for challenging administrative actions.

