Weekly Update for Law Optional UPSC

A mix of Conceptual, Current/Contemporary Topics

26th Oct - 1st Nov, 2026

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1.A Law That Overruled a Judgment: Separation of Powers Strikes Back

Topic 1 · Constitutional Law — State PSCs; Separation of Powers

Srinivasa T. v. State of Karnataka (2026) Can a legislature **validate by statute a selection the courts have struck down for fraud?** Karnataka's 2011 gazetted-probationers recruitment — 362 posts — was cancelled in 2014 after a CID inquiry found manipulation, corruption and nepotism in the Public Service Commission; the High Court upheld the cancellation and the Supreme Court affirmed. The legislature then enacted the **Validation Act of 2022**, resurrecting the scrapped appointments. A Bench of Justice J.B. Pardiwala and Justice K. Vinod Chandran struck the Act down (2026 INSC 1173).

The principle is structural: a legislature may change the **law** retrospectively, but it cannot **annul a judicial decision** — what the 2022 Act did "in substance" was to reverse a cancellation that constitutional courts had affirmed, and that the legislature cannot do "even by a legislation." Validation is lawful only when it **removes the defect** on which the judgment rested; it is

unconstitutional when it simply decrees the opposite result. Tellingly, the State's own counsel did not defend the Act.

The equities fared no better: the Court refused to sever 'untainted' candidates from a selection cancelled as a whole — the taint ran through the process, not merely its beneficiaries — and selectees appointed under a void Act acquired no rights. The 15-year-old selection was not revived; **fresh recruitment** was directed, with a one-time age relaxation, seniority only from new appointment, and prior service counted for pension alone.

2.The RTI Reaches What the Registrar Can Reach: Private Bodies, Public Access

Topic 2 · Contemporary Legal Developments — Right to Information Act

Muppathadam Service Co-operative Bank v. State Chief Information Commissioner (2026) How far does the **Right to Information Act** reach into private bodies? A member of a Kerala co-operative bank sought its construction agreement and general-body minutes; the bank resisted — it is not a 'public authority'. A Bench of Justice J.B. Pardiwala and Justice K. Vinod Chandran upheld the member's right (2026 INSC 1153).

The key lies in **Section 2(f)**'s tailpiece: 'information' includes material **relating to any private body which can be accessed by a public authority under any other law**. The Registrar of Co-operative Societies holds statutory powers of inquiry, supervision and inspection over the bank — and that access, the Court held, **"cannot be fettered at all."** What the Registrar can lawfully obtain, the citizen can obtain through the Registrar.

The exemptions failed on their own terms: **Section 8(1)(d)** (commercial confidence) had no purchase — no trade secret was involved and the bid process was over; **Section 8(1)(j)** (personal information) could not shield institutional documents from the bank's **own member**, who is no stranger to its affairs. The Joint Registrar was directed to obtain and supply the documents within two weeks.

3.Assets Beyond Known Income: The Burden Architecture of Section 13(1)(e)

Topic 3 · Law of Crimes — Prevention of Corruption Act; Disproportionate Assets

V. Gopalakrishnan v. State of Kerala (2026) The PC Act's **disproportionate-assets offence** received a full restatement. A Sub-Registrar's assets exceeded his known income by over fifty per cent across an eight-year check period; convicted in 2009, he fought to the Supreme Court. A Bench of Justice Sanjay Kumar and Justice Sanjeev Sachdeva dismissed the appeal (2026 INSC 1172).

The proof structure is sequential: once the prosecution establishes the public servant's **known sources of income** — meaning sources known to it through **lawful investigation** — and assets disproportionate to them, a prima facie case stands, and the **burden shifts to the accused** to satisfactorily account for the excess. The prosecution need not chase and negate

every hypothetical income source raised later: undisclosed income lies within the accused's **special knowledge** (s.106, Evidence Act; now s.109 BSA).

Two clarifications sharpen the doctrine: the Explanation to Section 13(1)(e) does not license a **roving inquiry** into imagined receipts; and the ten per cent margin of *Krishnanand Agnihotri* is **not a rigid rule** — here, even on the defence's own arithmetic, the disproportion exceeded a quarter of known income. The *P. Nallamal* and *R. Soundirarasu* line was applied; surrender was directed.

4.A Relationship Is Not Retrospectively Rape: Consent, Deceit and the Discharge Court

Topic 4 · Law of Crimes — Offences Against Women; Consent & Deceit

Santhosh Kumar N.P. v. State (2026) The boundary between **vitiated consent and failed relationships** returned in stark facts: a seven-year cohabitation begun with a temple 'marriage', the man already married — the woman learning of the first marriage within months, yet continuing the relationship for years before alleging rape, cheating and bigamy. A Bench of Justice B.V. Nagarathna and Justice R. Mahadevan discharged the accused (2026 INSC 1179).

The consent holding: sexual acts within a long, functioning relationship **cannot be carved out and recharacterised** — "a souring relationship cannot retroactively make earlier consensual acts rape." Once she knew the truth and stayed, the foundation of deceit collapsed: the misconception-of-fact doctrine protects the woman **kept in the dark**, not the relationship that ended badly. Section 420 failed for want of any property delivered; the bigamy counts failed because continued cohabitation after knowledge excludes deception.

The Court's caution preserved the doctrine's other edge: where a woman is **genuinely kept in the dark** — the suppressed first marriage never discovered, the false promise dishonest from inception — consent remains vitiated and the offence real. The line runs through knowledge, not through outcome.

The institutional message was pointed: **"courts cannot pass moral judgments on the choices of consenting adults,"** and the criminal process is not the forum for avenging heartbreak.

5.The Arbitrator Is a Creature of the Contract — Not Its Author

Topic 5 · Contracts & Mercantile Law — Arbitration; s.28(3)

Shreeram Builders v. Upendra Kantilal Thanawala (2026) How far may an arbitral tribunal travel from the bargain it enforces? A 2003 development agreement was terminated; the majority award held the termination illegal — and then granted specific performance on terms the contract never contained: conveyance ordered before the agreed sequence of performance had begun, a rate **six times the contractual rate** applied without reasons, excluded property

included, an express supersession clause ignored. A Bench of Justice Sanjay Kumar and Justice Sanjeev Sachdeva upheld the award's annulment (2026 INSC 1176).

The anchor is **Section 28(3)**: the tribunal "shall decide in accordance with the terms of the contract." An arbitrator who **rewrites the bargain** — substituting his own sequence, price and subject-matter — does not err within jurisdiction; he exceeds it. On the *Associate Builders* standard, an award reading the contract as **no fair-minded person could** is open to challenge.

On appellate structure, the Court confirmed that **Section 37 jurisdiction is coextensive with Section 34** (*Gayatri Balasamy*): the appellate court polices the same boundaries, no wider and no narrower. Under Article 142, amounts received were ordered refunded with interest — unwinding, not re-making, the parties' positions.

6.Six Years Erased by a Concocted Story: The Price of Wrongful Prosecution

Topic 6 · Law of Torts — State Liability; Compensation for Wrongful Incarceration

Arun @ Deepak v. State of U.P. (2026) A man spent **six years in custody** in a kidnapping-murder case built, the Supreme Court found, on "surmises and conjectures": not named in the FIR, a ransom demand that surfaced for the first time in court, electronic evidence without certification, recoveries never proved. Acquitting him, a Bench of Justice J.B. Pardiwala and Justice K. Vinod Chandran did what acquittals rarely do — it made the State pay (2026 INSC 1150).

The order: **₹6 lakh compensation from the State of Uttar Pradesh**, with the judgment sent to the DGP and the Home Secretary, and a direction that the State's police need training in the elements of investigation. The Court's sentence rings as the ratio: **"six years have been erased from the life of a man on the strength of a concocted story."**

Doctrinally the award stands in the **constitutional-tort lineage** of *Rudul Sah*, *Bhim Singh* and *Nilabati Behera*: compensation under the public law jurisdiction for deprivation of Article 21 liberty by the State's own machinery — sovereign immunity long since irrelevant where the violation is of fundamental rights.

7.Two Drafts, One Veto, No Mission: Western Sahara's Mandate Lapses

Topic 7 · International Law — United Nations; Self-Determination

The MINURSO story ended the week in institutional rubble. On 30 October the Security Council voted on **two rival drafts**: the US text — renaming the mission, making Moroccan **autonomy "the only basis"** for negotiation — fell to a **Russian veto** (11–1–3, China, Pakistan and Somalia abstaining); Russia's plain-renewal draft then failed for want of votes (3–1–11, the US against). At midnight on 31 October, **the mandate lapsed** — the mission that existed to hold a referendum liquidating after thirty-five years, with Morocco demanding UN personnel leave and the Polisario calling self-determination a "red line."

The legal frame makes the collapse legible: peacekeeping has no express Charter basis (*Certain Expenses*) — a mission lives by resolution and dies by non-renewal, so the lapse is procedurally clean. But the **substantive law survives the mission**: Western Sahara remains a non-self-governing territory under Article 73; the ICJ's 1975 Advisory Opinion found no Moroccan tie of sovereignty; *Chagos* (2019) confirmed self-determination as customary law of erga omnes force. The Secretary-General said it plainly on 1 November: the departure **"does not abrogate"** the right to self-determination.

The veto politics inverted the usual roles: Russia cast its veto, it said, because the Council **"cannot automatically predetermine matters relating to sovereignty"** — the P5 member blocking the pen-holder's attempt to legislate an outcome. Under Resolution 76/262 the General Assembly's **veto-initiative debate** must follow within ten working days — the third such debate this session.

What a Security Council text may lawfully *decide* — whether eleven votes can convert a decolonisation question into a sovereignty settlement, and what remains of a peremptory right when the institution built to implement it has been allowed to die.

8.'This Council Is Not a Maritime Delimitation Court': Greece, Türkiye and the Libya MoU

Topic 8 · International Law — Law of the Sea; Treaties and Third States

At the Security Council's maritime-security debate on 29 October, Greece's Prime Minister called the **2019 Türkiye–Libya maritime memorandum** — freshly ratified by Libya's eastern House of Representatives — **"illegal" and "arbitrary"**: it draws a delimitation corridor across waters generated by Greek islands, between two States whose coasts, Greece says, are neither opposite nor adjacent. Türkiye's ambassador answered with jurisdiction: **"this Council is not a maritime delimitation court"** — and Türkiye, a non-party to UNCLOS, is not bound by provisions "assumed to be custom."

The treaty-law core is **pacta tertiis** (VCLT Article 34): a bilateral delimitation binds only its parties and cannot deprive a third State of entitlements — yet as a fact on the water it licenses exploration in zones Greece claims from its islands' **full EEZ and shelf entitlement** under UNCLOS Articles 56, 74, 83 and 121. Türkiye's counter runs through equity: island effect is discretionary in delimitation, and its **persistent objection** to UNCLOS rules shields it from their customary force.

What is absent decides everything: **no compulsory forum**. The ICJ refused jurisdiction over the same sea in *Aegean Sea Continental Shelf* (1978); Türkiye accepts neither the Court's compulsory jurisdiction nor UNCLOS dispute settlement — so the dispute lives in letters to the Secretary-General, Council speeches and competing licences, the law complete and the forum empty.

Question to think: whether islands command full maritime zones or equitable discounts — the oldest open question of delimitation law — litigated by press release because the one thing both sides agree on is that no tribunal has been given the power to answer it.

Weekly Focus

The Case of the S.S. Lotus (France v. Turkey), PCIJ Ser. A, No. 9 (1927)

Facts: On the high seas of the Mediterranean, the French steamer **Lotus** collided with the Turkish collier **Boz-Kourt**, which sank with the loss of eight Turkish sailors. When the Lotus reached Constantinople, Turkey arrested the French **officer of the watch, Lieutenant Demons**, and prosecuted him for involuntary manslaughter. France protested that Turkey had no jurisdiction over a Frenchman's conduct aboard a French ship on the open sea; by special agreement the two States put the question to the Permanent Court of International Justice.

Question of Law: Did Turkey, by exercising **criminal jurisdiction** over a foreign national for acts aboard a foreign vessel on the high seas, act contrary to international law? And beneath it, the systemic question: must a State point to a rule **permitting** its jurisdiction — or must the objector point to a rule **prohibiting** it?

Decision: By the **casting vote of the President** — the Court having divided equally — Turkey prevailed. The judgment's foundation: international law's rules **"emanate from their own free will"** of States, and **"restrictions upon the independence of States cannot therefore be presumed."** The one undoubted prohibition is territorial: a State **"may not exercise its power in any form in the territory of another State"** — enforcement abroad requires a permissive rule. But prescribing and trying, in its own courts, conduct abroad is not forbidden merely because no permissive rule exists: the effects of the collision were felt on the Boz-Kourt, assimilated to Turkish territory.

Ratio: The **Lotus principle**: whatever international law does not prohibit to a sovereign State, it permits — sovereignty is the rule, restriction the exception, and the burden of proof lies on the State asserting the limit. Enforcement jurisdiction is strictly territorial; prescriptive jurisdiction is presumptively free. Judge Moore's dissent survives as the classic attack on **passive personality** jurisdiction: a visitor would "in the course of an hour unconsciously fall under the operation of a number of foreign criminal codes" — the traveller is protected by local law, not by a radiating national code.

Legal Significance: The specific holding is gone — the Geneva Convention and **UNCLOS Article 97** reversed it, giving collision jurisdiction to the flag State alone — but the principle refuses to die. The Nuclear Weapons Opinion could not escape it; the *Arrest Warrant* separate opinion called the dictum "the high water mark of laissez-faire," since overtaken by a community-interest vision of jurisdiction — yet in every unregulated field, from cyberspace to contested seas, the first question remains Lotus's: **where is the prohibition?** This very week Türkiye stood in the Security Council arguing it is unbound by rules it never accepted — the Lotus argument, a century on, made by the State that won it.

PYQ Solution

Can the legislature overrule a judicial decision? Distinguish a valid validating law from an impermissible legislative reversal of a judgment, with reference to decided cases. (15 MARKS)

The separation of powers permits each organ to undo the other's work only in its own constitutional way: the courts may strike down laws, and the legislature may change the law — even retrospectively. The boundary lies in one proposition: **"the Legislature cannot reverse a judicial decision, for, that would be an exercise of judicial power by the legislative body."**

The validation doctrine

1. **What a valid validating Act does:** Validation is achieved **"only by removing the cause of the defect which led the Court to declare it to be invalid"**: the legislature may retrospectively cure the want of competence, supply the missing authority, or re-enact the measure on an altered legal foundation — so that the judgment, left untouched, simply no longer governs the new legal landscape. A declaratory decision may thus be **rendered ineffective** by retrospectively changing the law on which it rested.

2. **What it cannot do:** It cannot **"merely declare that the decision of the Court shall not be binding"** — a bare mandate that the judgment shall not operate, with no change in the underlying law, is the exercise of judicial power by a legislature and void. *Madan Mohan Pathak v. Union of India* (1978) is the classic: a statute could not override the mandamus the Court had already issued — the direction inter partes survived the Act.

3. **The executive's narrower room:** What the legislature may sometimes do by retrospective law, the executive may never do by retrospective rule: a party bound by a court's direction **cannot nullify the judgment by amending subordinate legislation** (*P.S. Mahal v. Union of India*) — the hierarchy of norms protecting the hierarchy of organs.

4. **The test in operation:** Every validation case asks the same two questions: has the **basis** of the judgment been altered, or only its **binding force** denied? And could the legislature have validly enacted the new rule originally? Where the answer to the first is 'basis' and the second is 'yes', the validation stands; where the Act simply decrees the opposite of the decree, it falls — however large the majority that passed it.

The current application: The Supreme Court applied the full doctrine this week, striking down Karnataka's 2022 Act that 'validated' the fraud-cancelled 2011 KPSC recruitment after the cancellation had been upheld by the constitutional courts: the Act removed no defect — it simply annulled the adjudication, and that the legislature cannot do "even by a legislation."

Conclusion: The validation doctrine is separation of powers in working clothes: the legislature commands the future and may even re-write the past — but the authoritative application of law

to a decided cause belongs to the courts alone, and no statute can sit in appeal over a judgment.