Weekly Update for Law Optional UPSC

A mix of Conceptual, Current/Contemporary Topics

10th - 16th August, 2026

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1.No Retrospective Penal Law, Either Way: Article 20(1) and the POCSO Amendment

Topic 1 · Constitutional Law — Art. 20(1); Ex Post Facto Laws

Balesh Kumar Kuraiti v. State of Chhattisgarh (2026) The **prohibition of ex post facto penal law in Article 20(1)** decided this appeal: could the **2019 amendment to Section 6 of the POCSO Act** — restructuring the punishment for aggravated penetrative sexual assault — govern an offence committed in **February 2016**? A Bench of Justice Aravind Kumar and Justice Vipul M. Pancholi held it could not (2026 INSC 850).

The High Court had relied on the amended provision to dilute the trial court's sentence of life imprisonment upon the convict — found guilty of the assault of a three-year-old child. The Supreme Court held the offence must be **punished under the law as it stood at the date of commission**: the constitutional protection against retrospectively harsher punishment is **absolute**, and, as its necessary converse, an accused **cannot be sentenced under a later statutory regime at all** for a prior offence — the later law simply does not speak to his act.

The sentence of **life imprisonment under the unamended Section 6 POCSO read with Section 376(2)(i) IPC** was restored. Article 20(1) thus cuts both ways: it shields the accused from a heavier retrospective penalty, and it equally bars the courts from transplanting an offence

into a subsequently enacted sentencing scheme, whether the transplant aggravates or mitigates.

2.Electrocution and the Liability Standard: Strict, Not Absolute

Topic 2 · Law of Torts — Strict & Absolute Liability

Karnataka Power Transmission Corporation Ltd. v. Rekha (2026) Which of the two no-fault standards — **strict liability under *Rylands v. Fletcher** *or the absolute liability of* M.C. Mehta* **— governs electricity utilities in electrocution claims? A Bench of Justice Sanjay Karol and Justice N. Kotiswar Singh answered:** strict liability (2026 INSC 847).

The transmission of electricity is an **inherently dangerous activity**, so a transmission corporation is liable **"irrespective of fault"** — negligence need not be proved. But the liability is strict, not absolute: the recognised **exceptions remain available** — the act of a stranger, the act of the victim himself, and *vis major*. The uncompromising *M.C. Mehta* standard, which admits no exceptions, was not extended to the utilities; compensation, where due, must be **"just and reasonable, fair compensation."**

The forum mattered as much as the standard. In the two claims before the Court — a lineman's widow, and a boy injured by a 66KV line while retrieving a cricket ball from a rooftop — **substantial disputed questions of fact** (of contributory conduct and causation) arose, and the Court held **writ petitions under Article 226 were not maintainable** for their resolution: the High Court's awards were set aside and the claimants relegated to civil remedies, where evidence can be led and the exceptions tried.

The decision maps the syllabus distinction onto a modern utility: no-fault liability attaches to the dangerous enterprise, the strict–absolute line determines what defences survive.

3.Provident Fund Is Not a Permanent Charge: Computing Income for Maintenance

Topic 3 · Family Law — Maintenance

A v. B (2026) How is the **income base for maintenance** to be computed when the earning spouse's salary suffers deductions? The Supreme Court held that contributions to a **Provident Fund and Employee Stock Purchase Plans cannot be deducted**: unlike income tax or professional tax — compulsory exactions gone forever — PF and ESPP contributions **"ultimately accrue as benefits" to the contributing spouse himself**, and cannot be treated as permanent charges shrinking his disposable income. The Bench comprised Justice Sanjay Karol and Justice N. Kotiswar Singh (2026 INSC 822).

The principle refines the income-determination framework of ***Rajnesh v. Neha**: the enquiry is into the earner's true financial capacity**, and savings instruments that build the earner's own capital are part of that capacity, not subtractions from it. A spouse cannot reduce the family's claim by paying himself first.

Applying the rule, the Court **enhanced the maintenance** to ₹75,000 per child — ₹1.5 lakh for the two children — together with ₹30,000 for the wife, who was undergoing treatment for cancer, with effect from 1 January 2025.

4.What the Statute Does Not Say, the Government Cannot Delegate

Topic 4 · Administrative Law — Delegation of Statutory Power

Sudhir v. Head of Human Resource, Dainik Bhaskar Group (2026) The limits of **delegation of statutory power** decided this appeal under the Working Journalists and Other Newspaper Employees (Conditions of Service) Act, 1955. The State Government had delegated to Additional and Deputy Labour

Commissioners its power under **Section 17(2)** to refer a working journalist's dues dispute to a Labour Court. A Bench of Justice Dipankar Datta and Justice Sheel Nagu held the delegation invalid (2026 INSC 834).

The statutory text drew the line: **Section 17(1) expressly permits delegation** of the recovery function, while **Section 17(2) "conspicuously omits" any delegation clause.** Applying ***expressio unius est exclusio alterius** — *the express mention of one thing excludes the other — Parliament's grant of delegability in one sub-section and silence in the next was read as deliberate: the referral decision must be taken by the State Government itself.**

The holding is a textbook application of ***delegatus non potest delegare**: *a statutory discretion vested in a named authority must be exercised by that authority with its own application of mind to each reference**, unless the statute itself sanctions sub-delegation. Ministerial functions may travel down the hierarchy; statutory judgment may not.

5.Compulsory to Attend, Free to Refuse: The Cambodia–Thailand Conciliation

Topic 5 · International Law — Law of the Sea; Peaceful Settlement

On 14 August 2026, the Permanent Court of Arbitration announced the **constitution of the five-member Conciliation Commission** in the **compulsory conciliation between Cambodia and Thailand under Annex V of UNCLOS** — only the second such proceeding in the Convention's history, after *Timor-Leste v. Australia*. The party-appointed conciliators — including two former ITLOS Presidents — chose Ambassador Katrina Cooper of Australia as Chairperson.

The mechanism is the Convention's answer to opt-outs. Both States have **declarations under Article 298** excluding sea-boundary delimitation from binding settlement; but **Article 298(1)(a)(i)** channels precisely such disputes into **compulsory conciliation under Annex V, Section 2** — participation is obligatory, while the Commission's report and recommendations, due within twelve months under **Article 7 of Annex V**, are **not binding.** The strategic predicate was Cambodia's own accession: it **ratified UNCLOS in January 2026**, becoming its 172nd party, weeks before Thailand terminated the 2001 memorandum of understanding on the overlapping claims area.

The stakes are a resource-rich overlap of some 26,000 km² in the Gulf of Thailand. Cambodia invokes the *Timor Sea* precedent — where compulsory conciliation produced a boundary treaty — and seeks movement toward **joint development**; Thailand accepts the process while insisting that the outcome binds no one and that delimitation under **Articles 15, 74 and 83** must ultimately be settled bilaterally, disputing the colonial-era line Cambodia asserts near Koh Kut.

6.Sentencing a Former Head of State: Assad Condemned in Absentia

Topic 6 · International Law — International Criminal Law; Immunities & Asylum

On 11 August 2026, a criminal court in Damascus sentenced former President Bashar al-Assad, his brother Maher and other members of the former regime's inner circle to death in absentia for war crimes and crimes against humanity — the first sentences against the Assad circle since the government fell in December 2024. Assad holds political asylum in Russia.

The trial sits at the junction of several regimes. As a matter of immunity, a former head of State enjoys at most immunity ratione materiae before foreign courts — and no immunity at all before the courts of his

own State; the proceeding is also the paradigm of complementarity under the logic of Article 17 of the Rome Statute — the domestic forum exercising primary jurisdiction over core crimes (Syria signed but never ratified the Statute). Yet the trial in absentia strains Article 14(3)(d) of the ICCPR — the right to be tried in one's presence — and a capital sentence pronounced in the convict's absence sharpens the fair-trial objection.

Enforcement exposes the asylum problem: no extradition obligation binds Russia to Syria, and the asylum grant makes the sentence, for now, symbolic. Critics press that asylum for a person credibly accused of crimes against humanity sits uneasily with the exclusion clause of Article 1F of the Refugee Convention and with the aut dedere aut judicare obligation of the Torture Convention (Articles 5–7) — extradite or prosecute, not shelter.

Weekly Focus

In Re: Article 370 of the Constitution, [2023] 16 S.C.R. 1 : 2023 INSC 1058

Facts: Article 370 incorporated special arrangements for the governance of Jammu and Kashmir. In August 2019, during the subsistence of a **Proclamation under Article 356**, the President issued **Constitutional Order 272** — applying the entire Constitution of India to the State under Article 370(1)(d) and amending **Article 367** so that the reference to the 'Constituent Assembly' in Article 370(3) would read 'Legislative Assembly' — and **CO 273**, declaring Article 370 inoperative.

Parliament contemporaneously enacted the **Jammu and Kashmir Reorganisation Act, 2019**, bifurcating the State into the Union Territories of Jammu and Kashmir and Ladakh. The challenges were heard by a **five-Judge Bench** (Chandrachud, CJI, Kaul, Khanna, Gavai and Surya Kant, JJ), which decided them on 11 December 2023.

Question of Law:

Was Article 370 **temporary or permanent**?

Could Article 370 be amended **through the interpretation clause (Article 367)** under Article 370(1)(d)?

Did the power under **Article 370(3) survive the dissolution of the State's Constituent Assembly**?

What limits govern the exercise of power **during a Proclamation under Article 356**? And was the **reorganisation of the State under Article 3** valid?

Decision: Unanimously, the Court upheld the abrogation. Jammu and Kashmir **retained no element of sovereignty** after the Instrument of Accession and the 1949 Proclamation — it possessed no 'internal sovereignty' distinguishable from other States, Article 370 being a feature of **asymmetric federalism, not sovereignty** (Kaul, J., relying on *Prem Nath Kaul*, differed on internal sovereignty while concurring in the result). Article 370 was, from its **historical context and placement in Part XXI, a temporary provision.**

Paragraph 2 of CO 272 was ultra vires insofar as it amended Article 370 through Article 367 — an **interpretation clause cannot be used to bypass the amendment procedure**, and what cannot be done directly cannot be done indirectly — but the application of the entire Constitution under Article 370(1)(d) was valid, such exercise having the same effect as Article 370(3), for which the State's concurrence was not required.

The **power under Article 370(3) survived** the Constituent Assembly's dissolution — only the Assembly's recommendatory role lapsed — so **CO 273 was valid** as the culmination of the continuous process of constitutional integration, rendering the Jammu and Kashmir Constitution redundant. The **Ladakh**

carve-out was upheld under Article 3(a) read with Explanation I, statehood restoration having been assured by the Solicitor General.

Ratio: Presidential action **after an Article 356 Proclamation is judicially reviewable**: it must bear a **reasonable nexus to the object of the Proclamation**; the challenger must make a prima facie case of mala fide or extraneous exercise, upon which the onus shifts to the Union.

Parliament's power under Article 356(1)(b) extends to **both law-making and non-law-making powers** of the State legislature; the views of the State legislature under the **first proviso to Article 3 are recommendatory.**

PYQ Solution

How does the separation of powers in our constitution reflect the principles of Constitutionalism? Cite provisions to support your answer. (20 Marks)

Constitutionalism means limited government — that public power is derived from and confined by a fundamental law — and the **separation of powers** is its primary structural guarantee against the concentration of authority. India adopts not a rigid American-style separation but a functional distribution with **checks and balances**, vesting the three powers in distinct organs:

- Legislative power in Parliament (**Article 79**) and the State Legislatures (**Article 168**);
- Executive power in the President (**Article 53**) and the Governor (**Article 154**);
- Judicial power in the Supreme Court (**Article 124**) and the High Courts (**Article 214**).

The Court has accepted that the scheme contemplates no strict separation — the executive is drawn from and answerable to the legislature — yet the broad demarcation of functions is preserved (**Ram Jawaya Kapur v. State of Punjab, 1955**). The decisive constitutionalist device is **judicial review**: under **Article 13** any law inconsistent with the **Fundamental Rights** is void.

- Separation of powers and judicial review are themselves part of the **basic structure**, so even a constitutional amendment cannot abolish them — an attempt to oust judicial scrutiny of an election dispute was struck down (**Indira Nehru Gandhi v. Raj Narain, 1975**), as was the claim of unlimited amending power (**Kesavananda Bharati v. State of Kerala, 1973**), and
- the immunising of laws in the Ninth Schedule was subjected to the basic-structure test (**I.R. Coelho v. State of Tamil Nadu, 2007**). Functions overlap — the President is part of the legislature, the executive legislates by **ordinance** under **Articles 123 and 213** — but the essence of the doctrine endures as the mechanism that keeps each organ within its sphere.