Weekly Update for Law Optional UPSC

A mix of Conceptual, Current/Contemporary Topics

20th July - 26th July, 2026

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1.No Death Sentence Without Effective Counsel: Capital Trial Vitiated

Topic 1 · Constitutional Law — Fair Trial & Legal Aid (Arts. 21, 22(1), 39A)

Dr. Abdul Hameed v. State of Rajasthan (2026) The guarantee of a **fair trial under Article 21**, the right to counsel under **Article 22(1)** and the State's obligation of **free legal aid under Article 39A** converged in this capital case arising from the 1996 Samleti bus blast, in which fourteen persons died. A three-Judge Bench of Justice Vikram Nath, Justice Sanjay Karol and Justice Sandeep Mehta **set aside the conviction and the death sentence** of an accused who had stood trial without effective legal representation (2026 INSC 734).

The record showed that the accused **"was left to fend for himself without legal representation"** — he had personally cross-examined prosecution witnesses in a trial in which his life was at stake. The Court held that a conviction in a capital case **cannot stand where the accused is denied effective legal representation** through the trial, unless the right to counsel has been **consciously and intelligently waived** — a waiver that cannot be presumed from silence or poverty.

The consequence was drastic but inevitable: the trial stood **vitiated at its root**, and the Court ordered a **de novo trial** before a Special Court at Jaipur, with competent defence counsel and fresh opportunity of cross-examination — thirty years after the blast.

The decision carries forward the constitutional line that legal aid is not charity but an element of due process: representation must be **effective, not formal**, and the graver the charge the stricter the scrutiny

of its denial. A proceeding that places an undefended man against the prosecution's trained machinery is not, in constitutional terms, a trial at all.

2.Murder Is a 'Heinous Offence': Life Imprisonment Is the Implied Minimum

Topic 2 · Law of Crimes — Juvenile Justice; Interpretation of Penal Statutes

X v. State of Bihar (2026) A gap in the **Juvenile Justice (Care and Protection of Children) Act, 2015** reached the Supreme Court: a **'heinous offence' under Section 2(33)** is one punishable with a **minimum sentence of seven years or more** — but murder under **Section 302 IPC** prescribes death or imprisonment for life and **no stated minimum**. Is murder, then, a heinous offence for which a child of sixteen to eighteen may be tried as an adult? A Bench of Justice J.B. Pardiwala and Justice Ujjal Bhuyan answered yes (2026 INSC 728).

The Court held that **life imprisonment is the implied minimum punishment for murder**: where the legislature provides only the two gravest punishments known to law, the lesser of them operates as the floor, and the offence satisfies Section 2(33). The alternative reading would produce the absurdity that the gravest offence in the Code falls outside the category of 'heinous' while lesser offences with stated minima fall within it — the anomaly left open in *Shilpa Mittal* for offences with no prescribed minimum.

Consequently, the **preliminary assessment under Section 15** — of the child's mental and physical capacity to commit the offence, ability to understand its consequences, and the circumstances of its commission — may be undertaken, and the Juvenile Justice Board may transfer the child for trial as an adult under **Section 18(3).** The Court emphasised that the Board must **independently evaluate all relevant material** in the assessment; the exercise is not a formality.

The ruling is an exercise in **purposive construction of a penal-welfare statute**: the categorisation of offences in the JJ Act calibrates the response to the gravity of the crime, and the implied-minimum reading keeps the statutory scheme coherent at its gravest end while preserving the individualised assessment that stands between a child and an adult trial.

3.Sale or Agency? The Substance of the Bargain, Not Its Label, Decides

Topic 3 · Contracts & Mercantile Law — Agency; Sale of Goods

Commissioner of Service Tax v. Bharat Petroleum Corporation Ltd. (2026) The boundary between a **contract of sale** and a **contract of agency** — a classical question of mercantile law — decided this appeal: were the oil-marketing companies selling Mahanagar Gas's CNG through their retail outlets **buyers who resold the gas**, or **agents facilitating the principal's sale**? A Bench of Justice Aravind Kumar and Justice N.V. Anjaria held the relationship to be **agency** (2026 INSC 723).

The Court held that **"the substance and cumulative effect of a commercial agreement determines"** the character of the relationship — the parties' own label concludes nothing. The indicia all pointed one way: **Mahanagar Gas fixed the retail price** of the CNG, **owned the dispensing equipment** installed at the outlets, and **retained authority over unsold stock**; the oil companies earned a **quantity-based commission** and at no point took **title to or risk in** the goods.

Transfer of property and risk is the hallmark of sale; its absence, coupled with remuneration measured as commission and the principal's continuing control, is the hallmark of agency. Because the companies rendered a service as **commission agents**, the consideration was exigible to service tax as a **'business auxiliary service'** under Section 65 of the Finance Act, 1994, and the demand of over ₹16 crore was restored — the fiscal consequence following, as it always does, from the true legal character of the bargain.

The decision restates a principle that runs through the law of sale of goods and agency alike: courts look to **who bears the risk, who controls the price and the stock, and how remuneration is structured** — the economic reality of the arrangement — rather than to the nomenclature the parties have chosen for it.

4.A Direction to Obey Regulations Is Not Adjudication: The Regulator's Domain

Topic 4 · Administrative Law — Classification of Functions; Regulatory Bodies

Telecom Regulatory Authority of India v. Polimer Cable Network (2026) The **classification of an authority's functions** — regulatory, administrative or quasi-judicial — once again proved decisive. The question: when TRAI directs a regulated entity to comply with its regulations, does it 'adjudicate' — a function the TRAI Act reserves to the **Telecom Disputes Settlement and Appellate Tribunal (TDSAT)**? A Bench of Justice S.V.N. Bhatti and Justice N.V. Anjaria held it does not (2026 INSC 742).

The Court held that **"a direction to obey a regulation operates upon the regulated entity in the discharge of TRAI's regulatory function under Section 11(1)(b)"** of the TRAI Act, 1997. Securing compliance with subordinate legislation already in force is the core of the **regulatory function**; it involves no determination of a *lis* between rival parties.

Adjudication, by contrast, is the quasi-judicial resolution of **disputes between service providers** — a distinct function the statute assigns to the TDSAT. The distinction preserves the statutory architecture: the regulator regulates, the tribunal adjudicates, and neither absorbs the other's province.

The judgment is a working application of the administrative-law taxonomy of functions: the **character of the power exercised — not the body exercising it** — determines the applicable procedural obligations and the forum of challenge, and a compliance direction, though it binds and burdens, remains an act of regulation rather than a judgment inter partes.

5.Removing a Prosecutor: The ICC Assembly of States Parties Invokes Article 46

Topic 5 · International Law — International Criminal Court

On 24 July 2026, at a special session at UN Headquarters, the **Assembly of States Parties of the International Criminal Court removed Prosecutor Karim Khan from office** — the first removal of an elected official in the Court's history. By secret ballot, **82 States voted in favour, 13 against, with 15 abstentions**, comfortably clearing the required **absolute majority of the 125 States Parties.** Deputy Prosecutor Mame Mandiaye Niang assumed charge of the Office of the Prosecutor.

The governing law is **Article 46 of the Rome Statute**: removal lies for **"serious misconduct or a serious breach of duty"** (Article 46(1)(a), defined in Rule 24 of the Rules of Procedure and Evidence), and — pointedly — the **Prosecutor is removed by an absolute majority of States Parties (Article 46(2)(b))**, whereas a **judge** requires a two-thirds majority of States Parties acting upon a **recommendation of two-thirds of the judges themselves** (Article 46(2)(a)). The vote followed a two-year external investigation by the UN Office of Internal Oversight Services into allegations of misconduct toward a subordinate, reviewed by an advisory judicial panel applying a beyond-reasonable-doubt standard; Khan denies wrongdoing — and the Statute provides **no appeal** from the Assembly's decision.

The removal divided opinion along legal, not merely political, lines. One side saw the **Assembly discharging its disciplinary function** under the Statute — accountability being itself a condition of the Court's integrity. The other pressed **due-process and independence objections under Articles 46(4) and 42**: the collapsing of a two-stage procedure into a single vote, and the structural worry that the **lower removal threshold for the Prosecutor** offers States a lever against the office — concerns sharpened by

the backdrop of sanctions against Court officials and the recent withdrawal notifications of three Sahel States under **Article 127.**

6.Reviving Chapter VI: The Security Council Debates Peaceful Settlement of Disputes

Topic 6 · International Law — Peaceful Settlement of Disputes (UN Charter)

On 23 July 2026, the Security Council held a **high-level open debate on strengthening the mechanisms for the peaceful settlement of disputes**, chaired by the Democratic Republic of the Congo as Council President. The Secretary-General presented the concrete recommendations mandated of him by **resolution 2788 (2025)**, and some sixty delegations took the floor; no outcome document was adopted.

The legal frame is **Chapter VI of the UN Charter**. **Article 33(1)** obliges parties to any dispute likely to endanger international peace and security to seek a solution by **"negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice"**; **Article 34** empowers the Council to investigate any dispute; and **Articles 36(3) and 96** point legal disputes toward the **International Court of Justice** — referral powers the debate repeatedly described as under-used.

The interventions exposed a structural argument: whether Council follow-up to resolution 2788 should be **institutionalised** — a dedicated agenda item and periodic reporting — or folded into existing machinery; and beneath it, the familiar critique that a Council deadlocked among its permanent members preaches Chapter VI settlement while its practice and identity rest on **Chapter VII coercion.**

Weekly Focus

Cox and Kings Ltd. v. SAP India Pvt. Ltd., [2023] 15 S.C.R. 621 : 2023 INSC 1051

Facts: In *Chloro Controls* (2013), a three-Judge Bench had imported the **'group of companies doctrine'** into Indian arbitration law by reading it into the phrase **"claiming through or under"** in Section 45 of the Arbitration and Conciliation Act, 1996 — allowing an arbitration agreement signed by one company of a corporate group to bind its **non-signatory affiliates.**

The doctrine was questioned as trenching upon **party autonomy, privity of contract and separate legal personality**, and its validity was referred to a **five-Judge Constitution Bench** (Chandrachud, CJI, Hrishikesh Roy, Narasimha, Pardiwala and Manoj Misra, JJ), which decided the reference on 6 December 2023.

Question of Law: Is the group of companies doctrine valid in Indian arbitration jurisprudence? Does the Arbitration Act permit the **joinder of a non-signatory as a party** to an arbitration agreement; can an **intention to arbitrate be inferred from conduct** under Section 7; and what is the true construction of **"claiming through or under"** in Sections 8, 35 and 45?

Decision: The Constitution Bench **retained the doctrine** — but re-founded it. The definition of **'parties' in Section 2(1)(h) read with Section 7 includes non-signatories**: signature is "the most profound expression" of consent, but not its only expression.

- Since **consent is the cornerstone of arbitration**, a non-signatory cannot be forced into arbitration;

- it may, however, be bound where the **mutual intention of all the parties** to bind it is established from the factual circumstances — its relationship with the signatories and its **active involvement in the performance of commercial obligations intricately linked to the subject-matter.**
- The anchoring of the doctrine in "claiming through or under" in *Chloro Controls* was held **erroneous.**

Doctrine: The doctrine is **consent-based, not an exception to consent**: it identifies the real intention of parties in **complex multi-party, multi-agreement transactions** while preserving **corporate separateness**, which yields only in exceptional cases such as fraud.

The **cumulative factors of *ONGC v. Discovery Enterprises** *govern the enquiry, which is fact-specific; the principle of a 'single economic unit' can never be the sole basis** for invoking the doctrine, and avoiding multiplicity of proceedings, though in the interests of justice, is never by itself sufficient.

The judgment settles the juristic foundation of non-signatory joinder in Indian arbitration: consent remains sovereign, but it is ascertained from **commercial reality rather than formality of signature.** By locating the doctrine in Sections 2(1)(h) and 7 rather than in "claiming through or under", the Court aligned Indian law with the international mainstream while disciplining the doctrine's application through the *Discovery Enterprises* framework.

PYQ Solution

"The liability of the State for the tortious acts of its servants is co-extensive with that of an ordinary employer." Examine the vicarious liability of the State in India with reference to Article 300 of the Constitution and the sovereign–non-sovereign distinction. (15 MARKS)

Article 300(1) makes the Union and the States suable **"in the like cases"** as the Dominion and the Provinces — a chain of incorporation running through Section 176 of the Government of India Act, 1935 and Section 32 of the Act of 1915 back to **Section 65 of the Act of 1858**, so that the State's liability today is measured by that of the **East India Company** — and the Company, since *P. & O. Steam Navigation Co.* (1861), was liable for torts committed otherwise than in the exercise of sovereign functions.

The two poles and the modern position

1. **State of Rajasthan v. Vidhyawati (1962):** A Government jeep driver, returning the Collector's car from repairs, negligently killed a pedestrian. The State was held **liable like any other employer**: the tortious act was "committed in circumstances wholly dissociated from the exercise of sovereign powers", and the State is **"in no better position insofar as it supplies cars and keeps drivers for its civil service."**
2. **Kasturilal v. State of U.P. (1965):** Gold seized from a bullion merchant by the police was misappropriated by a Head Constable who fled. The claim **failed**: the arrest, search and seizure were referable to **statutory powers of a sovereign character**, and for torts committed in their exercise the State was held not liable — the high-water mark of **sovereign immunity.**
3. **The narrowing of 'sovereign' functions:** In ***N. Nagendra Rao v. State of A.P.*** **(1994)**, the Court confined the immunity to the **primary, inalienable functions of the State** — the ordinary run of governmental activity, including the exercise of statutory powers of seizure, attracts liability like any other employer's. The sovereign–non-sovereign line drawn in the nineteenth century no longer answers to the functions of a welfare State.

4. **The constitutional-tort route:** In parallel, ***Nilabati Behera v. State of Orissa* (1993)** established **compensation under Articles 32 and 226 for the violation of fundamental rights** as a public-law remedy in which the defence of sovereign immunity is simply **unavailable** — so that for custodial death or police excess, the citizen no longer depends on the tort action that failed in *Kasturilal.*

Assessment: *Kasturilal* has never been formally overruled, but it has been **distinguished into a narrow compass**: the immunity survives, at most, for the irreducible core of sovereign activity, while the constitutional remedy operates wholly outside it. The result approaches the proposition in the question — the State answers for its servants' torts substantially as an ordinary employer does.

The trajectory from *P. & O. Steam Navigation* through *Vidhyawati*, *Kasturilal* and *N. Nagendra Rao* to *Nilabati Behera* is a movement from **immunity toward accountability**: Article 300 supplies the forum and the measure, the case law supplies the principle, and the fundamental-rights jurisdiction supplies what the tort action historically withheld.

De Facto IAS