Weekly Update for Law Optional UPSC

A mix of Conceptual, Current/Contemporary Topics

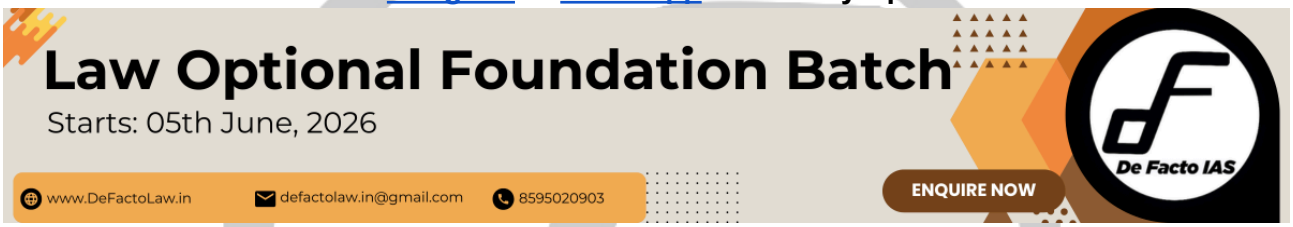
19th April-25th April, 2026

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1.SC: Indemnity Clause Triggers Immediate Liability, Not Deferred Obligation

In **VPS Healthcare Pvt. Ltd. v. Prabhat Kumar Srivastava & Anr.**, the Supreme Court settled a key question of law on the nature and enforceability of indemnity clauses in contractual and arbitral contexts.

A Bench of Justices S.V.N. Bhatti and Prasanna B. Varale held that an indemnity clause creates an **immediate and absolute obligation**, and is not contingent upon final adjudication by an appellate court. The issue arose when the Delhi High Court deferred enforcement of a consent award, reasoning that liability would crystallize only after confirmation by the Singapore Court of Appeal.

Rejecting this view, the Supreme Court ruled that the contractual language—particularly the obligation to "ensure that no liability is recovered"—imposed a present duty on the indemnifier to shield the indemnified party from financial exposure. The Court emphasized that once a court-directed deposit or recovery occurs, the indemnity obligation is triggered, irrespective of pending appeals.

On the legal principle, the judgment reinforces that indemnity clauses must be interpreted based on their **plain meaning and commercial intent**, rather than speculative future contingencies.

Allowing the appeal, the Court directed the promoters to deposit ₹15.86 crore within 30 days, reaffirming that contractual risk allocation cannot be postponed by pending litigation outcomes.

2. SC Allows Unsuccessful Party to Seek Post-Award Interim Relief

In **Home Care Retail Marts Pvt. Ltd. v. Haresh N. Sanghavi**, the Supreme Court resolved a significant question of law concerning the maintainability of post-award interim relief under the Arbitration and Conciliation Act, 1996.

A Bench of Justices Manoj Misra and Manmohan held that even an **unsuccessful party in arbitration** can invoke Section 9 of the Act after the arbitral award is passed. The core issue was whether the statutory expression "a party" under Section 9 excludes a party that has lost in arbitration.

Rejecting restrictive interpretations adopted by certain High Courts, the Court ruled that the statute does not distinguish between successful and unsuccessful parties. Imposing such a limitation would amount to judicial rewriting of the provision. The Court emphasized that Section 9 serves a distinct purpose—**to preserve the subject matter of the dispute or secure the amount in controversy**, even during pendency of a challenge under Section 34.

However, the Court cautioned that such relief is not automatic. It held that courts must apply stricter scrutiny, requiring a strong prima facie case, balance of convenience, and risk of irreparable harm.

3.SC: Legal Heirs Must Challenge Arbitral Awards Under Statutory Remedy

In **V.K. John v. S. Mukanchand Bothra (HUF) & Ors.**, the Supreme Court clarified a crucial question of law on the appropriate remedy available to legal representatives challenging an arbitral award.

A Bench of Justices Sanjay Karol and N. Kotiswar Singh held that the exclusive remedy lies under Section 34 of the Arbitration and Conciliation Act, 1996, and not under supervisory jurisdiction of High Courts under Article 227 of the Constitution of India or revisional powers under Section 115 CPC.

The issue arose when the appellant, claiming to be the sole legal heir of a deceased party, challenged an arbitral award before the Madras High Court under Article 227, alleging lack of notice. The High Court dismissed the petition, directing recourse to Section 34.

Affirming this view, the Supreme Court held that the Arbitration Act is a **self-contained code**, and the term "party" includes legal representatives stepping into the shoes of the deceased. It emphasized that arbitration proceedings do not abate upon death, and awards bind persons claiming under the parties.

On the legal principle, the Court ruled that bypassing the statutory mechanism would defeat the scheme of arbitration law. The appeal was dismissed, reinforcing procedural discipline in arbitral challenges.

4.ICC Confirms Jurisdiction *and* Confirms Charges Against Duterte — Path to Trial Cleared

In a landmark twin ruling, the ICC's Appeals Chamber on 22 April confirmed (by majority) that the Court retains jurisdiction over the Prosecutor v. Rodrigo Roa Duterte case, despite the Philippines' 2019 withdrawal from the Rome Statute.

The Chamber held — interpreting Articles 12, 13, and 127 of the Rome Statute — that withdrawal only takes effect 12 months after notice is filed, and that a State cannot escape accountability for crimes already under the Prosecutor's examination by strategically withdrawing.

This is a "case of first impression" establishing that withdrawal is not retroactive. The ruling rejected all four grounds of the defence appeal and declared the release bid moot. Then on 23 April, Pre-Trial Chamber I unanimously confirmed the charges, finding substantial grounds that Duterte committed three counts of crimes against humanity — murder and attempted murder — as an indirect co-perpetrator during the "war on drugs" (2011–2019). Duterte becomes the first Asian former head of state to face an ICC trial. His defence is preparing for trial expected later in 2026.

5.WTO Dispute Settlement Crisis Deepens — Trump Tariffs, MFN Violations, and Appellate Body Paralysis

During the week of April 19–25, 2026, the global trade law crisis reached a new intensity as the Iran war, Hormuz closure, and US unilateral actions combined to push the WTO framework to its limits.

Academic and institutional analyses published this week — including by Bruegel (13 April) and the Munich Security Conference — confirm that the US under Trump is openly breaching WTO principles: (i) the Most Favoured Nation (MFN) clause under GATT Article I, by imposing discriminatory tariffs on China and other partners; (ii) the National Treatment principle (GATT Article III) through the CHIPS Act and IRA subsidies; and (iii) the Dispute Settlement System by "appealing into the void" — exploiting the paralysis of the Appellate Body (non-functional since 2019 due to US blocking appointments).

The EU-led Multi-Party Interim Appeal Arbitration Arrangement (MPIA) has stepped in, but lacks universal legitimacy. Former USTR Michael Froman's assessment that "the global trading system as we know it is dead" has gained renewed attention. This week, the EU's 20th Russia sanctions package further stressed the already-strained relationship between WTO non-discrimination norms and unilateral economic coercive measures.

Weekly Focus

Case of the Week: ADM Jabalpur v. Shivkant Shukla — Case Summary

Background & Facts:
During the Emergency in India (1975–1977) declared under Article 352, the government suspended fundamental rights, including the right to move courts for enforcement of Article 21 via a Presidential Order under Article 359. Several individuals were detained under preventive detention laws like MISA. Habeas corpus petitions were filed across High Courts challenging unlawful detentions despite the suspension.

Issue (Question of Law):
Whether, during the Emergency, a detenue could approach courts under Article 226 to challenge illegal detention when the right to enforce Article 21 (right to life and personal liberty) stood suspended. In essence, does the rule of law survive suspension of fundamental rights?

Held (Majority 4:1):
The Supreme Court (Ray C.J., Beg, Chandrachud, and Bhagwati JJ.) held that no person had locus to move any writ, including habeas corpus, for enforcement of the right to personal liberty during the Emergency. The majority reasoned that once Article 21 enforcement is suspended, courts cannot examine legality of detention.

Dissent:
Justice H.R. Khanna famously dissented, holding that right to life and liberty is not solely a creature of Article 21 and cannot be extinguished even during Emergency. He upheld the supremacy of rule of law.

Legal Principles:

- Executive power can override judicial remedies during Emergency (majority view).
- Suspension of enforcement ≠ extinction of rights (dissent).

Significance:
Widely regarded as a low point in Indian constitutional history, ADM Jabalpur was later overruled in Justice K.S. Puttaswamy v. Union of India, which affirmed that fundamental rights, especially life and liberty, are inalienable. The case remains a cautionary precedent on judicial deference during crises and the importance of constitutional safeguards.

PYQ Solution

What are unilateral acts in international law? Can they be considered a source of legal obligation? Explain with examples. (10 Marks)

Unilateral acts in international law refer to statements or actions undertaken independently by a single state intending to create legal obligations or effects without requiring acceptance or reciprocity from other states. These acts represent a state's sovereign intention to bind itself legally in international relations.

Nature and Legality: According to the International Law Commission's Guiding Principles (2006), unilateral acts must be clear, unequivocal, and publicly communicated to generate obligations. Not every unilateral statement creates binding obligations; the determining factor is the state's clear intention (ICJ, Nuclear Tests Case, 1974).

Can Unilateral Acts be Sources of Obligation?:
Yes, unilateral acts can establish legal obligations, provided specific conditions are met. The ICJ clearly confirmed this in the Nuclear Tests Cases (Australia and New Zealand v. France, 1974), holding France's unilateral declaration to cease atmospheric nuclear testing as legally binding due to France's intent and international reliance.

Examples:

- **Nuclear Tests Case (1974)**: France's unilateral statement created binding legal obligations despite no treaty being signed.
- **Eastern Greenland Case (1933)**: The Permanent Court of International Justice considered Norway's unilateral assurance to Denmark binding, affirming the creation of legal obligations.
- **Egypt's 1957 Declaration on the Suez Canal**: Egypt's unilateral act established international obligations regarding canal usage and operation.