Weekly Update for Law Optional UPSC

A mix of Conceptual, Current/Contemporary Topics

7th - 13th Sept, 2026

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1.A Company's Guilty Mind: Attribution, Not Arraignment, Is the Test

Topic 1 · Law of Crimes — Mens Rea; Corporate Criminal Liability

Sanofi India Ltd. v. Central Bureau of Investigation (2026) How does a **corporation form mens rea** — and can it be prosecuted for cheating and conspiracy when no individual officer has been identified or arraigned? A Bench of Justice J.B. Pardiwala and Justice Manoj Misra held that it can, at least at the threshold: **"non-identification and non-arraignment of a natural person cannot automatically vitiate prosecution against a corporation"** (2026 INSC 957).

A corporation **"can possess mens rea only through attribution"** — the minds of the natural persons who are its directing will act for it — but the Court located that doctrine at the right procedural altitude: **"the role of attribution, properly understood, is to establish mens rea conclusively, and that is a task to be undertaken during the trial."** At the threshold, the chargesheet need only show prima facie that **some natural person acted on the corporation's behalf** referably to the offence.

The Court laid down a **three-stage attribution framework**: (i) do the company's constitutional documents and company-law rules vest the person with the power to do the act; (ii) was that power delegated with sufficient discretion and independence; and (iii) does the purpose of the particular statute

warrant a **special rule of attribution**? The framework disciplines an enquiry that Indian law had left impressionistic.

***Aneeta Hada* was confined to its statute**: the rule that prosecution of the company is a precondition for prosecuting its officers belongs to the **vicarious-liability scheme of Section 141 of the NI Act**, and "cannot be generalised" into a universal requirement of naming natural persons. The decision is now the leading Indian statement of **corporate mens rea by attribution** — the identification doctrine calibrated for trial, not for the courthouse door.

2.The Restrainer Is as Guilty as the Shooter: Joint Liability Restated

Topic 2 · Law of Crimes — Joint & Constructive Liability (Ss. 34/149)

Santosh Singh v. State of Madhya Pradesh (2026) The doctrine of **joint and constructive liability** decided these murder appeals: two accused who fired no shot — one **restrained the victim**, the other **exhorted the shooter** — stood acquitted by the High Court. A Bench of Justice J.B. Pardiwala and Justice K. Vinod Chandran restored their convictions (2026 INSC 972).

The principle is the oldest in the law of group crime: participation in furtherance of the **common intention**, or membership of an assembly prosecuting a **common object**, makes each liable for the act of the hand that struck. An accused's **armed presence with the assembly** suffices — **"even if the fatal shot had not been fired by him; he can be roped in on common intention and object."** Restraint of the victim and exhortation of the killer are acts *in furtherance*, not innocent adjacency.

The Court also reiterated that ***falsus in uno, falsus in omnibus* has no application in India**: a witness partly disbelieved is not wholly discarded — the court's duty is to **"separate the grain from the chaff."** On that approach, the third accused — named by eyewitnesses only after his summoning under Section 319 — was rightly acquitted, while the two participants stood convicted.

The decision is a working restatement of Sections 34 and 149's shared logic: **liability follows participation in the common design, not authorship of the fatal act** — the law's answer to the group crime in which every hand helps and only one holds the weapon.

3.Deceit Must Exist at the Beginning: Section 69 BNS Construed

Topic 3 · Law of Crimes — BNS Offences; Mens Rea at Inception

Kunal Rameshbhai Kalyani v. State of Gujarat (2026) Among the first Supreme Court expositions of **Section 69 of the Bharatiya Nyaya Sanhita, 2023 —** sexual intercourse by 'deceitful means' or a false promise of marriage — this appeal fixed the provision's mental element in time. A Bench of Justice J.B. Pardiwala and Justice K. Vinod Chandran quashed the prosecution (2026 INSC 987).

Section 69 requires a promise **"made without any intention of fulfilling it"** — deceit, that is, **at the inception.** On the facts, the relationship was consensual and the accused's later refusal was driven by parental objection: **"the appellant refused to marry her later, because his mother did not permit it, which indicates that the promise was made with all good intention, if at all it was made."** A promise honestly made and later broken is a breach — moral or civil — not a crime.

The construction carries forward into the new Code the settled distinction of the s.375/s.90 jurisprudence: **a false promise vitiates consent only when falsity infects the promise from the start**; supervening inability or changed circumstances negate the deceitful mind the offence demands.

The judgment matters doubly — as the template for **Section 69's ingredients** (deceitful means; promise without intent; consent induced thereby), and as an early marker that the BNS's new offences will be read with the **mens rea discipline** the criminal law's general principles supply.

4.Woven into the Fabric: The Guarantor Bound by the Loan's Arbitration Clause

Topic 4 · Contracts & Mercantile Law — Guarantee; Arbitration (s.7(5))

National Skill Development Corpn. v. Surya Wires Pvt. Ltd. (2026) The **contract of guarantee** met the **Arbitration Act's incorporation rule** in this appeal: personal guarantees executed as a mandatory pre-disbursement condition of loan agreements contained no arbitration clause of their own — could the guarantors nonetheless be brought into arbitration under the loan agreements' clause? A Bench of Justice P.S. Narasimha and Justice Alok Aradhe held they could (2026 INSC 977).

The Court read the transaction as one: **"the Personal Guarantees do not stand apart from the Loan Agreements, and are woven into their fabric."** The guarantees' deeming provisions incorporated the facility agreement **"as if provisions thereof were set out herein in extension"** — language that satisfies **Section 7(5)** of the Arbitration and Conciliation Act, 1996: an arbitration clause in one document binds a party to another that incorporates it by reference.

The commercial anatomy mattered: guarantee and loan were born of a **single composite transaction** — the guarantee's existence was a condition of the loan's disbursement, its obligations measured by the loan's terms. To sever the guarantor from the loan's dispute-resolution machinery would fragment one bargain into two forums.

The decision aligns the law of **suretyship** with modern arbitration doctrine: the guarantor's liability is co-extensive with the principal debtor's, and where the instruments interlock, so does the forum — incorporation by reference doing for composite transactions what the veritable-party doctrine does for composite parties.

5.A Dissolved Firm's Assets Belong to All Its Partners

Topic 5 · Contracts & Mercantile Law — Partnership; Dissolution

V. Sumitra Reddy v. K. Ranganadha Reddy (2026) The rights of partners upon **dissolution of a partnership at will** — and the pretensions of a 'reconstituted' firm to the old firm's assets — were settled by a Bench of Justice Ujjal Bhuyan and Justice Vipul M. Pancholi (2026 INSC 979).

The principle is categorical: **"The reconstituted firm has no right whatsoever to utilise the assets of the dissolved firm unless all the partners of the dissolved firm reach an agreement to settle the accounts and to pay the outgoing partner his share in the value of the assets."** Continuing partners cannot, by the device of 'reconstitution', carry the dissolved firm's property into a new venture over the outgoing partner's head.

Absent such an agreement, the Partnership Act's dissolution machinery governs: the assets must be **liquidated and accounts settled**, and **"all the partners are entitled to their share of profits rateably."**

Until the winding up is complete, every partner's interest subsists in every asset — partnership property belongs to the firm, and on dissolution, to all its partners according to their shares.

6.Discretion Under the Discipline of Article 14 — And Delay as Arbitrariness

Topic 6 · Administrative Law — Judicial Review of Discretion; Art. 14

Indian Kayaking and Canoeing Association v. Union Territory of J&K (2026) A small case stated a large principle. A teacher-coach was denied a relieving order for a national sporting assignment — a matter of pure administrative discretion, said the administration, generating no rights. A Bench of Justice Aravind Kumar and Justice Vipul M. Pancholi disagreed: **"Article 14 of the Indian Constitution operates upon the exercise of administrative discretion as much as it does upon a statutory decision"** (2026 INSC 981).

The **absence of an absolute right is not the absence of a right to fair consideration**: discretion must rest on **relevant factors**, exclude irrelevant ones, and — the case's distinctive addition — be exercised **within a reasonable time.** The administration had decided only after a month, when the event was over: **the delay was itself the arbitrariness**, a decision by effluxion rather than deliberation.

The remedy was concrete — a relieving order directed for the Asian Games 2026 assignment — but the doctrine travels: a discretionary power exercised too late to matter is, in law, not exercised at all, and Article 14 audits the **timing** of administrative action as strictly as its content.

The judgment compresses the modern law of discretion into two sentences of principle: no pocket of public power is beyond equality review, and **administrative silence past the point of usefulness is a decision — an arbitrary one.**

7.The Absent State's Shield: Nicaragua v. Germany Argued at The Hague

Topic 7 · International Law — ICJ Jurisdiction; Erga Omnes Partes

From 7 to 10 September 2026, the International Court of Justice heard **Germany's preliminary objections** in *Alleged Breaches of Certain International Obligations in respect of the Occupied Palestinian Territory (Nicaragua v. Germany)* — the claim that Germany's arms exports and defunding of UNRWA breach its **own obligations** of genocide prevention and respect for humanitarian law. The Court reserved its judgment.

Germany's central shield is ***Monetary Gold***: *the Court cannot adjudicate German 'complicity' or 'failure to prevent' without first determining that Israel — an absent third State — committed the underlying wrongs, a determination that would form 'the very subject-matter' of the judgment without Israel's consent. It adds objections* ratione materiae* to the Genocide Convention's compromissory clause and to Nicaragua's compliance with preconditions.

Nicaragua's answer separates the obligations: the case targets **Germany's autonomous duties** — the **duty to prevent (Genocide Convention Article I)**, non-complicity (Article III(e)), the **Common Article 1** obligation to ensure respect for the Geneva Conventions, and the customary rule against **aid or assistance (ARSIWA Article 16)** — all assessable on what *Germany* knew and did, without any binding finding against Israel. Standing rests on the ***erga omnes partes** *character of the obligations, the doctrine of* Belgium v. Senegal *and* The Gambia v. Myanmar*.

8.Twelve States Ban Settlement Trade: The Advisory Opinion Grows Teeth

Topic 8 · International Law — State Responsibility; Non-Recognition

On 8 September 2026, the United Kingdom **banned all imports from Israeli settlements in the occupied West Bank** and prohibited services — financing, construction, real estate, advertising — supporting them, alongside sanctions on violence-inciting settlers; **eleven other States** (including France, Canada, Spain, Ireland and the Nordic countries) acted or announced jointly. Goods from Israel proper remain exempt — the **'differentiation' line.** Israel retaliated by **closing the British Consulate in Jerusalem** — itself a reminder that consular posts exist only by consent under the Vienna Convention on Consular Relations.

The measures translate the **ICJ's Advisory Opinion of 19 July 2024** on the Occupied Palestinian Territory into trade law: the Opinion held that third States must **neither recognise the unlawful situation nor render aid or assistance in maintaining it**, and must abstain from dealings that entrench the unlawful presence — the *Namibia* duties, resting on **ARSIWA Articles 40–41** (serious breaches of peremptory norms) and on **Security Council Resolution 2334's** command to distinguish, in relevant dealings, between Israel and the territories.

The legal contest is over obligation versus discretion: proponents say the bans **implement binding third-State duties** flowing from jus cogens breaches — the Advisory Opinion merely declared law that already bound; critics answer that an advisory opinion **binds no one**, no Council measure mandates an embargo, and the measures are unilateral discrimination — at most **lawful retorsion** giving effect to the differentiation principle. Beneath sits a trade-law question: departure from most-favoured-nation treatment, defended on the footing that **settlements are not Israeli territory** at all.

Weekly Focus

Neeraj Dutta v. State (Govt. of N.C.T. of Delhi), [2022] 5 S.C.R. 104

Facts: Prosecutions under the **Prevention of Corruption Act, 1988** repeatedly founder when the complainant — the person who allegedly paid the bribe — **dies or turns hostile** before trial. Divergent two- and three-Judge decisions (*B. Jayaraj* and *P. Satyanarayana Murthy* on one side, *M. Narasinga Rao* on the other) appeared to disagree on whether, in the absence of the complainant's direct evidence, a public servant could be convicted under **Sections 7 and 13(1)(d) read with 13(2)**. The conflict was referred to a **five-Judge Constitution Bench** (Nazeer, Gavai, Bopanna, Ramasubramanian and Nagarathna, JJ), which answered it on 15 December 2022.

Question of Law: Is the **demand and acceptance of illegal gratification** capable of proof only by the complainant's direct evidence — or may the court draw an **inferential deduction of guilt** from other evidence when direct or primary evidence is unavailable?

Decision: The Bench held there is **no conflict** in the precedents rightly read, and settled the law: **proof of demand and acceptance is a sine qua non** for the offences under Sections 7 and 13(1)(d)(i) and (ii) — but that foundational fact **"can also be proved by circumstantial evidence in the absence of direct oral and documentary evidence."** In the complainant's absence — through death or otherwise — it is **"permissible to draw an inferential deduction of culpability/guilt"** of the public servant from the other evidence adduced by the prosecution.

Ratio: The judgment rebuilds the proof-architecture of corruption offences. Under **Section 20**, the words **"shall presume"** enact a **legal, compulsory presumption**: once acceptance of gratification other than legal remuneration is proved — by whatever admissible evidence — the court is commanded to presume it was a motive or reward, subject to rebuttal; the provision nowhere requires the trigger fact to be proved by direct evidence. The Bench's exposition of **fact, evidence, and presumption** — factum probandum and factum probans, direct versus circumstantial proof, 'may presume', 'shall presume' and conclusive proof — supplies the general theory on which the specific holding rests.

Legal Significance: The decision closes the escape route by which corruption prosecutions died with their complainants: the bribe-giver's silence no longer immunises the bribe-taker where circumstances prove the demand. It calibrates the **PC Act's protective purpose** — probity in public life — with the ordinary law of proof, and stands as the governing authority on the **ingredients and proof of bribery** under Sections 7, 13 and 20.

PYQ Solution

Distinguish between common intention under Section 34 and common object under Section 149 of the Penal Code. When can a person who inflicted no injury be convicted with the aid of these provisions? (15 MARKS)

Sections 34 and 149 are the Penal Code's two engines of **group liability**: each makes a person answerable for an act "not committed by him but by another person" with whom he shared a criminal purpose. **Section 34 "is a rule of evidence and does not create a substantive offence"** — it gives "statutory recognition to the commonsense principle that if more than two persons intentionally do a thing jointly, it is just the same as if each of them had done it individually."

The two provisions distinguished

1. **Common intention — s.34:** Liability rests on a **pre-arranged plan**: "common intention within the meaning of the section implies a pre-arranged plan, and to convict… it should be proved that the criminal act was done in concert pursuant to the pre-arranged plan" (*Mahbub Shah*). The pre-concert "may develop on the spot or during the course of commission of the offence but the crucial test is that such plan must precede the act" — and since direct proof of intention is rarely possible, it is "inferred from his act or conduct or other relevant circumstances."

2. **Common vs. similar intention:** The line "between 'common intention' and 'similar intention' may be fine but is nonetheless a real one and if overlooked may lead to miscarriage of justice" (*Mohan Singh*): several persons attacking with identical but **un-concerted** intentions are each liable only for their own acts (*Pandurang*) — sharing, not coincidence, is the gravamen of Section 34.

3. **Common object — s.149:** Liability is **constructive and membership-based**: an offence committed by any member of an **unlawful assembly of five or more** in prosecution of the common object — or one the members knew likely — binds every member. No pre-arranged plan need be proved; the object may crystallise on assembly. But the five-member floor is structural: where the charge and evidence are confined to named persons and acquittals reduce the count below five, "Section 149 cannot be invoked" — unless the evidence shows the assembly included **other, unidentified members** (*Mohan Singh*; *Maina Singh*).

4. **The non-striking participant:** Under both provisions, "it is not necessary to prove that each and everyone of them had indulged in overt acts" — what is required is material connecting the accused's participation to the common design. **Physical presence coupled with participation — even "of a passive character such as standing by a door"** with readiness to play a part in the plan — suffices under s.34 (*Ramaswami Ayyangar*: standing guard is participation); under s.149, proved membership of the assembly at the crime is itself the actus reus of the constructive offence.

The essential contrast: Section 34 requires **participation in the criminal act with shared intention** and applies to any plurality of two or more; Section 149 requires **membership of a five-strong unlawful assembly** and stretches further — to offences the member never intended but knew likely in prosecuting the object. The first is a principle of joint doing; the second, of guilt by continued membership.

Conclusion: Both provisions answer the same forensic problem — the group crime in which the fatal hand cannot be, or need not be, singled out — and the recent case law continues to apply them exactly so: the restrainer of the victim and the exhorter of the shooter are convicted with the marksman, for in the eye of Sections 34 and 149 the act of one, in furtherance of the design of all, is the act of each.

De Facto IAS