Weekly Update for Law Optional UPSC

A mix of Conceptual, Current/Contemporary Topics

29th June - 5th July, 2026

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1.A False Election Affidavit Is an Offence Against Society: SC Revives Prosecution

Chandrikabe N. Kishor Dafda v. State of Gujarat (2026) The Supreme Court held that filing a **false affidavit in the electoral process** is not a private wrong but an **offence against society at large**, which must be investigated and tried. A Bench of Justice Sanjay Karol and Justice N. Kotiswar Singh declined to quash the criminal proceedings against a candidate accused of furnishing false information in her nomination.

The prosecution invoked **Section 125A of the Representation of the People Act, 1951** — which penalises false statements in a nomination affidavit — together with Sections 192, 193 and 196 of the Indian Penal Code relating to false evidence. The appellant had sought to quash the process on procedural grounds.

The Court held that any defect in the sanction contemplated by Section 125A was a **curable defect** at this stage and did not vitiate the cognizance already taken; the falsity being *prima facie* established, the matter was **remanded to the Magistrate to take cognizance afresh** and proceed in accordance with law.

Significantly, the Court emphasised the **Returning Officer's duty** to set the criminal law in motion where a candidate is found to have furnished false or misleading information — reinforcing the integrity of the electoral process and the accountability of those who seek public office.

2.Remission: A Governor's Article 161 Policy Cannot Be Overridden by a Later Statutory One

Parveen Kumar @ Parveen Chauhan v. State of Haryana (2026) Deciding which remission policy governed a convict's premature release, the Supreme Court drew a constitutional distinction between remission traceable to the **Governor's power under Article 161** and remission under a **statutory policy.** The Bench comprised Justice Sanjay Karol and Justice N. Kotiswar Singh.

The appellant, convicted of the murder of a twelve-year-old child, contended that the **1993 and 2002 remission policies** — framed in exercise of the Governor's power under Article 161 — applied to him, rather than the later **2008 statutory policy.**

The Court accepted the contention, holding that the 1993 and 2002 policies, being referable to the constitutional power under Article 161, are **identical in source** and that a subsequent **statutory policy cannot override** a remission policy that flows from the Constitution. The appeal was allowed and the benefit of the earlier policy extended to the convict.

The ruling underscores that the executive's **constitutional power of clemency** under Article 161 occupies a higher plane than ordinary statutory remission schemes, and that a convict is entitled to the more beneficial policy applicable at the relevant time.

3.'Hallucinated' AI Citations Vitiate a Judgment: SC Sets Aside NCLT and NCLAT Orders

Pooja Ramesh Singh v. Jammu & Kashmir Bank Ltd. (2026) In a decision of real significance for the use of technology in adjudication, the Supreme Court **set aside the orders of the NCLT and the NCLAT** because the tribunal had relied upon **'hallucinated' material generated by Artificial Intelligence as if it were a binding precedent.** The judgment was authored by Justice P.S. Narasimha, sitting with Justice Alok Aradhe.

The dispute itself arose under the **Insolvency and Bankruptcy Code, 2016**, concerning a corporate guarantee executed by the corporate debtor and the initiation of insolvency proceedings after its accounts were classified as non-performing assets.

The Court held that a judgment is liable to be set aside where **even a trace of fake or hallucinated material enters the decision-making process**, as it violates the sanctity of adjudication. It stressed that maintaining the **integrity of the adjudicatory process** is paramount.

At the same time, the Court expressed a measured resolve to **adopt AI in aid of adjudication with caution**, calling for close coordination between the Bar and the Bench to identify and verify AI-assisted material — a landmark early statement on the responsible use of AI in Indian courts.

4.Weaponising Migration Before the ICJ: Poland Intervenes in Lithuania v. Belarus

Topic 4 · Public International Law

On 30 June 2026, **Poland filed a declaration of intervention under Article 63 of the Statute** of the International Court of Justice in the case concerning the **Alleged Smuggling of Migrants (Lithuania v. Belarus)** — a dispute in which Lithuania alleges that Belarus orchestrated and facilitated the movement of migrants towards its borders.

The case raises questions of **State responsibility** for the deliberate **instrumentalisation of migration**, and the obligations of States under the UN Convention against Transnational Organized Crime and its **Protocol against the Smuggling of Migrants.**

Article 63 gives every State party to a convention whose construction is in question the **right to intervene** in the proceedings; where it does so, the Court's interpretation becomes equally binding upon it. Poland's intervention illustrates how third States shape the authoritative interpretation of multilateral treaties.

Core legal tension: attributing international responsibility to a State for orchestrated migrant flows, and the scope of third-State intervention as of right in the interpretation of law-making treaties before the World Court.

5.Appeals Into the Void: The WTO's Dispute-Settlement Crisis Persists

Topic 5 · International Economic Law

International trade law remained dominated in 2026 by the continuing paralysis of the **World Trade Organization's Appellate Body**, which has been unable to function since December 2019 because the appointment of new members has been **blocked**, chiefly by the United States. With no quorum, appeals are filed **'into the void'**, leaving panel reports unadopted and disputes unresolved.

The crisis strikes at the heart of the WTO's **binding, rules-based dispute-settlement system** under the **Dispute Settlement Understanding**, long regarded as the 'jewel in the crown' of the multilateral trading order.

As a stop-gap, a group of members operates the **Multi-Party Interim Appeal Arbitration Arrangement (MPIA)** under **Article 25 of the DSU**, which reproduces appellate review by arbitration; but it binds only its participants, and reform negotiations to restore a fully functioning system continue without consensus.

Core legal tension: preserving an enforceable, law-governed trading system when its apex tribunal is disabled — and the larger contest between **power and rules** in the governance of world trade.

Weekly Focus

Aligarh Muslim University v. Naresh Agarwal, [2024] 11 S.C.R. 1647 : 2024 INSC 856

Facts: The minority character of the **Aligarh Muslim University (AMU)** had long been contested. In *S. Azeez Basha v. Union of India (1967)*, a Constitution Bench had held that AMU was neither established nor administered by the Muslim minority — since it was brought into existence by a 1920 statute — and so could not claim the protection of **Article 30.** The correctness of that view was referred to a **seven-judge Bench.**

Question of Law: What are the **indicia for an educational institution to be a 'minority educational institution' under Article 30(1)**? Does an institution lose its minority character merely because it is **incorporated by a statute** or is a pre-Constitution body — and was *Azeez Basha* correctly decided?

Decision: By a majority of **4:3**, the Bench led by Chandrachud, CJI **overruled the reasoning in *Azeez Basha** *and laid down the tests for minority status, while remitting the final determination of AMU's own status** to a regular Bench to apply those tests. Justices Surya Kant, Dipankar Datta and Satish Chandra Sharma dissented.

The Tests Laid Down: The Court held that **'establishment' is distinct from 'incorporation'**: a statute that merely incorporates an institution does not, by itself, destroy its minority character. The inquiry is into **who founded the institution and the idea behind it**; the right under Article 30(1) applies even to universities **established before the Constitution**, and a declaration that an institution is of 'national importance' does not alter its minority character.

Legal Significance: The judgment recasts **minority-institution jurisprudence under Article 30**, freeing the enquiry from the formalism of the incorporating statute and directing attention to the genesis and purpose of the institution — a decisive shift whose practical effect on AMU awaits application of the new tests by the regular Bench.

PYQ Solution

Compare and contrast the pardoning power of the President under Article 72 with that of the Governor under Article 161 of the Constitution. (15 MARKS)

The Constitution vests the executive with the power of **clemency** — to pardon, remit, commute or reprieve — as a safeguard against judicial error and an instrument of mercy. It is conferred on the **President by Article 72** and on the **Governor by Article 161.**

Scope and comparison

1. **Nature of the power:** Both are **executive powers** exercised on the **aid and advice of the Council of Ministers**, not the personal discretion of the President or Governor, and both are subject to **limited judicial review** — for arbitrariness, mala fides or non-application of mind (*Epuru Sudhakar v. State of A.P.*).
2. **Article 72 — President:** The President's power extends to (a) offences against **Union law**, (b) all cases of punishment by **court-martial**, and (c) — exclusively — every case where the sentence is a **sentence of death.** Only the President can pardon a death sentence.
3. **Article 161 — Governor:** The Governor's power extends to offences against laws relating to matters within the **State's executive power.** Crucially, the Governor **cannot grant a pardon in a death-sentence case**, though the Governor may **commute, remit or suspend** such a sentence.
4. **Overlap and precedence:** For a death sentence the powers to commute or remit overlap, but only the **President** can grant a full pardon. The Governor's power under Article 161 is a **constitutional power** that a mere statutory remission policy cannot override.

Judicial position: The clemency power is wide but not unfettered: it must rest on relevant material and is amenable to judicial review on the limited grounds recognised in *Maru Ram v. Union of India* and *Epuru Sudhakar*. It cannot be exercised on wholly irrelevant, arbitrary or discriminatory considerations.

Conclusion: Articles 72 and 161 confer parallel clemency powers differing chiefly in **scope (Union vs State law), court-martial cases, and the death sentence** — which only the President can pardon — while sharing the same character as advised, judicially reviewable executive functions.