

Weekly Update for Law Optional UPSC

A mix of Conceptual, Current/Contemporary Topics

03rd Nov - 09th Nov 2024

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1. Supreme Court redefines balance between private property and state power

In a landmark judgment, a nine-judge Constitution Bench of the Supreme Court of India addressed the balance between private property and state authority, resolving 16 petitions, including one from 1992 by the Property Owners Association. The key issue was whether private property falls under the ambit of "material resources of the community" under Article 39(b) of the Directive Principles of State Policy, which aims to ensure equitable distribution of resources for the common good.

The majority opinion, authored by Chief Justice D Y Chandrachud, clarified that the inclusion of private property as a "material resource" depends on context, varying case by case.

- This nuanced approach diverges from Justice Krishna Iyer's 1977 interpretation, which broadly included private property, reinforcing socialist policies that dominated India's pre-liberalization era.
- The Court acknowledged India's high-growth trajectory post-1991, attributing it to reduced state intervention, and emphasized that no singular economic doctrine is enshrined in the Constitution.

Economic Democracy

However, the judgment also claimed that "economic democracy" and the "wisdom" of successive elected

governments were responsible for India's high-growth path. In fact, India's high-growth path is because of the choice made to reduce state intervention and control by successive governments.

While it is important and right that the court recognises no particular and dogmatic view of economic policy principles is enshrined in the Constitution, it is necessary to also consider that electoral outcomes don't always lead to growth-improving policy perspectives.

This ruling signals a shift from earlier jurisprudence that allowed state power to override private property rights, reinforcing the constitutional protection of property while maintaining the state's duty to ensure equitable resource distribution. The judgment underscores the judiciary's deliberate approach, marking a pivotal moment for constitutional principles and fostering a balanced legal framework conducive to economic growth.

2. AMU Judgment and Reinterpretation of Article 29 and 30

The Supreme Court's recent judgment on the Aligarh Muslim University (AMU) case provides critical insights into the legal framework governing minority educational institutions under Article 30(1) of the Indian Constitution.



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This decision is particularly significant as it revisits and critiques the 1968 precedent set in *S. Azeez Basha v. Union of India*, which had held that AMU was not a minority institution since it was established by the Aligarh Muslim University Act, 1920, enacted by the Imperial Legislative Council.

Reinterpreting "Establish" and "Administer"

Article 30(1) confers on minorities the right to establish and administer educational institutions of their choice.

In *Azeez Basha*, the Court narrowly interpreted "establish" to mean "bring into existence" and held that since AMU was brought into existence by the 1920 Act, it was not established by the Muslim community.

The present judgment, however, rejects this rigid formalism, emphasizing that "establishment" must be understood in a broader context, including the foundational efforts and intent of the minority community. The Court clarified that incorporation by statute, necessary for granting legal recognition, does not negate the minority's role in the institution's establishment.

Legislative Framework and Its Limits

The AMU Act of 1920 and subsequent amendments sought to formalize the university's structure while preserving its original purpose of advancing Muslim education.

The Court held that statutory recognition or incorporation is a procedural requirement to confer legal personality and enable certain powers, such as awarding degrees. This administrative formality cannot override the historical fact that AMU was established by and for the Muslim community.

Balancing Minority Rights and State Regulation

The Court also reiterated the principle that minority institutions are subject to regulatory oversight to ensure educational standards but cannot be stripped of their minority character under the guise of regulation. It distinguished between permissible regulatory measures—those that ensure institutional efficiency and academic standards—and impermissible ones that encroach on minority autonomy.

This judgment has far-reaching implications for minority institutions. It reinforces the idea that state action, including legislative enactments, must respect the constitutional guarantee under Article 30(1).

3. Human Rights and Climate Change under International Law

The Legal Basis

Several international instruments recognize the impact of climate change on human rights. The Universal Declaration of Human Rights (UDHR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) provide the foundational principles for protecting these rights. Moreover, the United Nations Framework Convention on Climate Change (UNFCCC) and the Paris Agreement acknowledge the human rights dimension of climate policies. Article 4 of the Paris Agreement explicitly calls for respect for human rights in climate action, emphasizing the protection of vulnerable populations.

The UN Human Rights Council has underscored that climate change is a pressing global issue with profound implications for the enjoyment of human rights. Resolutions like 26/27 and 29/15 have recognized the need for international cooperation to mitigate adverse impacts and have highlighted the disproportionate burden faced by marginalized groups.

Rights Most Affected by Climate Change

1. **Right to Life:** Climate-induced disasters such as floods, hurricanes, and heatwaves threaten the very survival of individuals, especially in vulnerable regions like small island states and coastal areas.
2. **Right to Health:** Climate change exacerbates health risks by spreading diseases, increasing malnutrition, and intensifying heat stress.
3. **Right to Food and Water:** Rising temperatures and changing precipitation patterns disrupt agriculture and freshwater resources, endangering food security and access to clean water.
4. **Right to Housing:** Displacement due to extreme weather events and rising sea levels jeopardizes the right to adequate housing.
5. **Right to Self-Determination:** For indigenous peoples and small island nations, climate change threatens cultural survival and territorial integrity.

Obligations under International Law

Under international law, states have an affirmative duty to respect, protect, and fulfill human rights in the context of climate change. This includes:

- **Mitigation:** States must reduce greenhouse gas emissions to prevent further harm to human rights.
- **Adaptation:** They are required to build resilience and adaptive capacities in vulnerable communities, ensuring equitable access to resources.
- **Accountability:** States must provide effective remedies for human rights violations caused by climate impacts, both within and beyond their borders.

Integration of Human Rights in Climate Action

The human rights-based approach emphasizes participation, transparency, and accountability in climate governance. Affected communities, particularly marginalized groups, must have meaningful participation in decision-making processes. The use of tools such as environmental and social impact assessments ensures that climate actions do not exacerbate inequalities.

Role of International Bodies: The Office of the High Commissioner for Human Rights (OHCHR) and the UN Special Rapporteurs have played pivotal roles in highlighting the human rights implications of climate change. Recommendations from COP21 and subsequent conferences emphasize the necessity of aligning climate action with international human rights standards.

4. Supreme Court Bars Second Arbitrator Application on Same Cause of Action

The Supreme Court recently delivered a crucial ruling in **M/s HPCL Biofuels Ltd. v. M/s Shahaji Bhanudas Bhad**, emphasizing the application of Order 23 Rule 1 of the Code of Civil Procedure, 1908 (CPC) to arbitrator appointment applications under Section 11(6) of the Arbitration and Conciliation Act, 1996 (Arbitration Act). This judgment holds significant implications for arbitration proceedings, particularly regarding the withdrawal and re-filing of applications on the same cause of action.

Application of Order 23 Rule 1 to Section 11(6)

The primary issue was whether a second application under Section 11(6) is maintainable after the unconditional withdrawal of a previous application on the same cause of action. The Court unequivocally ruled that once an application under Section 11(6) is withdrawn without permission to file afresh, it constitutes an abandonment of not only the application but the arbitration proceedings as well. Consequently, any subsequent application on the same cause of action is barred.

Key Observations and Legal Reasoning

Justice Pardiwala, writing for the Bench, clarified that Order 23 Rule 1 CPC applies to suits but its principles can extend to applications, including those under Section 11(6). This extension is supported by precedents such as *Sarguja Transport Service v. State Transport Appellate Tribunal* (1987) and *Upadhyay & Co. v. State of U.P.* (1999), which applied similar principles to writ petitions and special leave petitions.

The Court emphasized that arbitration, as a mechanism for expeditious dispute resolution, aligns with the legislative intent of Order 23 Rule 1 CPC. Allowing repeated applications for arbitrator appointment would undermine this objective, prolong disputes, and increase uncertainty. The judgment also highlighted that arbitration proceedings must adhere to strict timelines to maintain procedural efficacy, a principle reinforced by the Arbitration Act.

Exceptions to the Rule: The Court did, however, clarify that a second application under Section 11(6) could be maintainable if it pertains to a different cause of action arising from the same arbitration clause. This ensures that parties are not precluded from seeking arbitration for disputes that emerge after the initial invocation.

Weekly Focus

Case of the week: T.M.A. Pai Foundation v. State of Karnataka, (2002) 8 SCC 48

The landmark judgment in **T.M.A. Pai Foundation v. State of Karnataka**, (2002) 8 SCC 481, delivered by an eleven-judge bench of the Supreme Court, profoundly shaped the interpretation of Articles 29 and 30 of the Indian Constitution, which safeguard the rights of minorities to establish and administer educational institutions. The judgment addressed pivotal questions concerning the autonomy of minority institutions and the extent of regulatory control by the State.

Article 29(1) guarantees the right of any section of citizens to conserve their distinct language, script, or culture. Article 30(1) provides minorities, based on religion or language, the right to establish and administer educational institutions of their choice. Article 30(2) prohibits the State from discriminating in granting aid to educational institutions on the basis of their minority status.

These provisions are designed to preserve the distinct identity of minority communities and ensure their active participation in the educational and cultural development of the nation.

Core Issues in T.M.A. Pai Foundation

The T.M.A. Pai Foundation case arose from disputes regarding the extent to which the State could regulate the administration of minority educational institutions. The key questions were:

1. **Who constitutes a minority?**
2. **What is the scope of the right under Article 30(1)?**
3. **To what extent can the State regulate minority institutions without infringing upon their autonomy?**
4. **Does Article 30(1) confer absolute immunity from regulatory measures aimed at ensuring quality education?**

Key Findings and Legal Reasoning

1. **Definition of Minority:** The Court clarified that minorities are to be determined at the level of the State, not the national level. In a federal structure like India, linguistic and religious minorities are identified state-wise, as the socio-cultural fabric varies across states.
2. **Scope of Article 30(1):** The judgment emphasized that Article 30(1) is a protective provision ensuring minority communities' ability to establish and administer institutions without undue interference. However, this right is not absolute and must align with national interests, such as maintaining educational standards.
3. **Regulatory Control by the State:** The Court held that while minority institutions are entitled to autonomy in their administration, the State can impose reasonable regulations to ensure the institutions serve public interest and adhere to standards of excellence. These regulations must not impinge upon the core of minority rights, such as the right to appoint staff or admit students. The Court provided a detailed framework:

- **Unaided Minority Institutions:** Greater autonomy with minimal state interference.
 - **Aided Minority Institutions:** Subject to more significant state regulation, particularly concerning admissions and fee structures, since they receive public funds.
4. **Article 30(2) and State Aid:** The Court interpreted Article 30(2) to mean that if the State provides aid to educational institutions, it cannot discriminate against minority institutions on the ground of their minority status. However, receiving aid subjects these institutions to certain regulatory controls.

The T.M.A. Pai Foundation judgment overruled earlier restrictive interpretations in cases like **St. Xavier's College v. State of Gujarat** (1974), which had upheld more substantial state control. It also laid the groundwork for subsequent cases like **P.A. Inamdar v. State of Maharashtra** (2005), which further examined the rights of minority institutions concerning admissions and fees.

PYQ Solution

Describe the various powers and Functions of the General Assembly [20 Marks]

The General Assembly is one of the six main organs of the United Nations (UN). According to the UN Charter, it's a forum for member states to discuss and coordinate on international issues. All 193 member states of the UN have representation in the General Assembly, with each state having one vote.

Here are some of the key powers and functions of the General Assembly:

- 1. Legislative Powers:** The General Assembly can make recommendations to member states on international issues within its competence, such as international peace and security, the development of friendly relations among nations, and international cooperation in solving international problems of an economic, social, cultural, or humanitarian character (Articles 10-14, UN Charter).
- 2. Budgetary Powers:** The General Assembly approves the UN's budget and decides on the financial assessments of member states (Article 17, UN Charter).
- 3. Electoral Powers:** The General Assembly elects non-permanent members to the Security Council and the Economic and Social Council. It also elects the judges of the International Court of Justice along with the Security Council (Articles 4, 22, and 31, UN Charter).
- 4. Oversight of UN Activities:** The General Assembly receives and considers annual and special reports from other UN organs, such as the Security Council and the Secretariat (Article 15, UN Charter).
- 5. Custodian of International Law:** The General Assembly can initiate studies and make recommendations to promote international political cooperation, the development and codification of international law, the realization of human rights, and international collaboration in the economic, social, humanitarian, cultural, educational and health fields (Articles 13, 55, and 56, UN Charter).
- 6. Admission and Suspension of Members:** The General Assembly can admit new member states to the UN and, in conjunction with the Security Council, can suspend or expel a member state that has persistently violated the principles of the UN Charter (Articles 4-6, UN Charter).

7. Peace and Security: While the Security Council has primary responsibility for maintaining international peace and security, the General Assembly can discuss, make recommendations, and, under certain circumstances, take action on such matters (Articles 11-14, UN Charter).

8. Amendment of the UN Charter: The General Assembly can consider and approve proposed amendments to the UN Charter, which then must be ratified by two-thirds of the member states, including all the permanent members of the Security Council (Article 108, UN Charter).

It's important to note that while the General Assembly has broad powers to discuss and make recommendations on a wide range of issues, its resolutions are generally not binding on the member states, except in budgetary matters and certain other cases.

[Law Optional and GS Papers overlap](#)

Law optional and GS - II: Social Justice and Subdivision Among OBCs

The recent Supreme Court judgment in **State of Punjab v. Davinder Singh (2024)** revisits the issue of sub-classification within Scheduled Castes (SCs) for the purpose of reservations, marking a significant departure from the earlier precedent in **E.V. Chinniah v. State of Andhra Pradesh (2004)**. The seven-judge bench, by a 6:1 majority, upheld the constitutional validity of sub-classification, emphasizing its role in advancing social justice and substantive equality.

The principle of social justice forms a cornerstone of India's constitutional framework, aimed at ensuring equality and addressing historical injustices faced by marginalized communities. Reservation policies under Articles 15(4), 16(4), and 46 of the Constitution are central to this effort, particularly for Scheduled Castes (SC), Scheduled Tribes (ST), and Other Backward Classes (OBC).

However, the question of **sub-classification within reserved categories**—whether to provide differential benefits based on varying degrees of backwardness within these groups—has been a contentious legal and constitutional issue.

Addressing "Backwardness Within Backwardness"

Heterogeneity Within Reserved Groups: The socio-economic and educational conditions within the SC, ST, and OBC communities are not uniform. Certain sub-groups within these categories remain more disadvantaged than others. Sub-classification seeks to ensure that reservation benefits are equitably distributed among all sub-groups, preventing dominant sub-castes from monopolizing opportunities.

Targeted Affirmative Action: Sub-classification allows for more precise targeting of affirmative action measures, ensuring that the most marginalized within a community receive adequate support. This approach aligns with the constitutional goal of achieving substantive equality by addressing varying degrees of historical and social deprivation.

The Court, by a 6:1 majority, upheld the power of states to make sub-classifications within the SC community. The majority reasoned that:

- The SC community is not homogenous, as socio-economic disparities exist within it.
- Sub-classification does not alter the Presidential List as it neither adds nor removes any caste from the list.
- Article 341(2) does not preclude states from recognizing internal disparities to ensure equitable distribution of reservation benefits.

Justice Bela Trivedi dissented, arguing that sub-classification creates inequality within the SC group and undermines the principle of equality under Article 14. She emphasized that it could deprive some castes within the Presidential List of their rightful share of benefits.

Arguments in Favor

- **Equitable Distribution of Benefits:** Sub-classification ensures that dominant sub-castes within reserved categories do not monopolize opportunities, leaving the most disadvantaged without adequate support.
- **Dynamic Interpretation of Equality:** Sub-classification embodies the principle of substantive equality, focusing on actual conditions of backwardness rather than formal equality.
- **Empowering the Marginalized:** It enables the State to tailor affirmative action policies, ensuring that benefits reach those in greatest need, thereby fostering inclusive development.

Arguments Against

- **Homogeneity Principle:** Opponents argue that sub-classification undermines the constitutional recognition of SCs and STs as homogenous groups under Articles 341 and 342.
- **Potential for Discrimination:** Sub-classification could lead to intra-group discrimination, where certain sub-castes are deprived of their share of reservation benefits.
- **Violation of Article 14:** Critics contend that differential treatment within the same group violates the principle of equality.

Law Optional and GS - IV: Euthanasia: Legal, Social and Ethical Perspectives

Euthanasia, or mercy killing, is a contentious issue worldwide, blending medical ethics, human rights, and moral philosophy. It involves ending a person's life to relieve intractable suffering, often raising complex legal and ethical questions. In India, the Supreme Court has addressed euthanasia in landmark judgments, evolving its legal framework while considering social and ethical dimensions.

1. **Aruna Shanbaug v. Union of India (2011):** The Court rejected active euthanasia but allowed passive euthanasia, where life support can be withdrawn under specific conditions. It laid down guidelines, including approval by a High Court bench, ensuring procedural safeguards to prevent misuse.

The judgment balanced the right to life under Article 21 with the sanctity of life, acknowledging that prolonged suffering without hope violates the dignity inherent in life.

2. **Common Cause v. Union of India (2018):** In this landmark case, the Supreme Court expanded the scope of euthanasia, recognizing the validity of living wills or advance directives. It upheld that the right to life under Article 21 encompasses the right to die with dignity, reinforcing passive euthanasia as a constitutional right.

The Court provided a detailed framework for implementing living wills, requiring judicial oversight and medical board approval to ensure transparency and safeguard against abuse.

Dignity in Death

Proponents argue that euthanasia respects an individual's autonomy and right to die with dignity. Terminally ill patients enduring unbearable pain often seek control over their end-of-life decisions. This aligns with the principle of personal liberty, emphasizing that the right to life includes the right to live with dignity and, by extension, the right to die with dignity.

1. **Sanctity of Life:** Opponents counter that life is inherently valuable, irrespective of its quality. This view, rooted in religious and moral philosophy, posits that human life should be preserved at all costs. Allowing euthanasia, they argue, undermines the sanctity of life and could lead to a slippery slope where the value of life is compromised.
2. **Potential for Abuse:** A significant ethical concern is the potential misuse of euthanasia, particularly for vulnerable groups such as the elderly, disabled, or economically disadvantaged. Critics fear that legalizing euthanasia could lead to coercion or abuse, where individuals are pressured to end their lives prematurely.
3. **Impact on Medical Ethics:** Euthanasia challenges the Hippocratic Oath, which obliges doctors to "do no harm." While alleviating suffering is central to medical practice, actively ending a life raises profound ethical dilemmas. Opponents argue it could erode trust in the medical profession, blurring the line between healing and harming.

Arguments in Favor of Euthanasia

1. **Right to Autonomy:** Supporters argue that individuals should have control over their own lives, including decisions about death. Denying euthanasia infringes on personal liberty and self-determination, core tenets of human rights.
2. **Compassion and Relief from Suffering:** For terminally ill patients, euthanasia offers an escape from relentless pain and suffering. Compassion dictates that society should not force individuals to endure a life of agony when no hope of recovery exists.
3. **Resource Allocation:** In cases of terminal illness, medical resources such as ICU beds and life support systems could be redirected to patients with better prognoses. This pragmatic view suggests that euthanasia could alleviate the burden on healthcare systems.

Arguments Against Euthanasia

1. **Moral and Religious Objections:** Many religious traditions, including Hinduism, Christianity, and Islam, view euthanasia as morally unacceptable. They argue that life is a divine gift, and humans have no right to end it prematurely.
2. **Risk of Coercion and Abuse:** Critics highlight the danger of vulnerable individuals being coerced into euthanasia. Economic pressures, familial expectations, or societal stigma could unduly influence the decision to end one's life.
3. **Undermining Medical Ethics:** Legalizing euthanasia could alter the fundamental role of doctors, shifting their focus from preserving life to facilitating death in certain cases. This could weaken the moral fabric of medical practice and erode patient trust.
4. **Slippery Slope Argument:** Opponents fear that legalizing euthanasia for terminally ill patients could lead to broader applications, including non-terminal cases, thereby devaluing life over time.

Euthanasia remains a deeply divisive issue, requiring a delicate balance between individual rights and societal values.