

Weekly Update for Law optional
UPSC A mix of Conceptual, Current/Contemporary Topics
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1. International Law's Complex Role in the Israeli-Palestinian Conflict

The Israeli-Palestinian conflict, embedded in intricate political and territorial disagreements, is also enveloped by the constraints and mandates of international humanitarian law. Amid the ongoing political solutions' exploration, international law plays a pivotal role in safeguarding civilian lives.

Conflict Classification:

The conflict's classification is crucial in contextualising the international humanitarian law's application. The debate oscillates between considering it a non-international armed conflict, involving Hamas and Israel, or an international one, rooted in the extended occupation of Palestinian territories.

Occupation and Control:

Despite Israel's unilateral withdrawal in 2005, arguments emphasising the persistent occupation of Gaza are fortified by Israel's control over its borders and resources. The recurrent clashes since the withdrawal underscore this contention, necessitating a rigorous examination of international law's applicability.

Legal Implications:

Regardless of the conflict's classification, international humanitarian law sternly prohibits civilian targeting and hostage-taking. The imposition of a "total siege" on Gaza, while not explicitly outlined in international humanitarian law, evokes concerns due to its inevitable, consequential humanitarian violations.

Humanitarian Access:

International humanitarian law necessitates unimpeded access for humanitarian relief. The ongoing violence not only breaches these principles but accentuates the urgent need for bolstering the law's effectiveness in conflict zones.

Third States' Obligations:

Countries not directly involved in the conflict bear a significant responsibility to uphold international humanitarian law. In interactions with conflict parties, states like Canada must reiterate the involved parties' obligations, serving as custodians of international legal norms.

2. Justice U.U. Lalit Ascends to the Panel of Arbitrators at SIAC

In a significant development that underscores the fluidity and interconnectedness of the world's legal landscapes, Former Chief Justice of India, Justice U.U. Lalit, has been appointed as a member of the Singapore International Arbitration Centre (SIAC) Panel of Arbitrators.

Justice Lalit, with a storied career that resonates with dedication, expertise, and honour, was the 49th Chief Justice of India. His tenure at the helm of the Indian judiciary stretched from 27 August 2022 to 8 November 2022. Notably, Justice Lalit's journey to the Supreme Court in 2014 was marked by a direct appointment from the bar, an eloquent testament to his standing in the legal fraternity.

Before donning the robes of a judge, Justice Lalit was a prominent figure at the Supreme Court, practising as a senior counsel. His erudition and command over legal principles were evident, carving a niche for himself in the annals of law.

SIAC - A Global Arbitration Hub:

SIAC stands tall amongst the world's top arbitral institutions, an entity where disputes spanning corporate and commercial landscapes find resolution. From trade and investment to construction/engineering and beyond, SIAC has been a beacon of justice and fairness.

The SIAC panel of arbitrators, renowned for its diversity and expertise, brings together legal experts and professionals across various domains. Justice Lalit's addition to this esteemed group is a nod to his distinguished career and rich reservoir of legal acumen.

Justice Lalit's transition from the Indian judicial circuit to the international arbitration arena is emblematic of the growing synergy between national and international legal ecosystems. As legal challenges become increasingly complex and transnational, figures like Justice Lalit are poised to play pivotal roles in shaping a just, equitable world.

3. NGT Amplifies Call to Safeguard the Narmada River

In a recent landmark judgement, the National Green Tribunal (NGT) has fortified the movement to curtail pollution in the pious Narmada river. The decree, emanating from the case **Samayak Jain & Ors. v. State of Madhya Pradesh & Ors.**, establishes stringent guidelines aimed at preserving the sanctity and ecological balance of the river.

Environmental Crimes – A Grave Concern:

Justice Sheo Kumar and Dr. Afroz Ahmad of the NGT accentuated the gravity of environmental violations, equating them to severe criminal offences. The tribunal highlighted the extensive, often anonymous victimisation and the potential detrimental impacts spanning generations.

The Case at a Glance:

Samayak Jain, a concerned citizen, catalysed the legal discourse, attributing severe pollution and environmental degradation to the negligence of state authorities. Illegal constructions, unchecked sewage disposal, and environmental defacement were central to Jain's grievance.

NGT's Stance:

Affirming the river's spiritual and ecological significance, the NGT mandated stringent adherence to Central Pollution Control Board (CPCB) standards. The tribunal underscored the indispensable role of floodplains in fostering biodiversity and aquatic ecosystems.

Key Directives:

The NGT unfurled a quintet of directions, encapsulating:

- **Encroachment Eradication:** Initiating legal and compensatory actions against environmental encroachments, ensuring pristine water bodies.
- **Guardianship Role of District Collectors:** Entrusting guardianship to ensure zero encroachment on riverbanks and adjacent territories.
- **Utilisation of Treated Water:** Instituting frameworks to recycle treated water for multifarious applications.
- **STP Augmentation:** Enhancing Sewage Treatment Plants' efficacy, promoting optimal environmental preservation.
- **In Situ Remediation:** Periodic reviews to bolster interim remediation measures.

4. Nik Bakers Faces Consumer Commission's Ire for Sub-Standard Cake

In a notable verdict, the Panchkula District Consumer Disputes Redressal Commission held Nik Bakers liable for selling a "substandard" cake, bringing the spotlight on consumer rights and food safety. The case, *Anju Ahlawat vs. Nik Bakers*, highlights a consumer's ordeal and the subsequent legal proceedings.

The Incident:

Mrs. Anju Ahlawat, a scientist, ordered a cake for her son's birthday from Nik Bakers. The celebration turned sour when the cake's unhealthy dye left red marks on hands and led to her son's sickness. Despite multiple emails to the bakery, an adequate response was not received, prompting legal action.

Bakery's Defence:

Nik Bakers defended their reputation, emphasising adherence to high-quality ingredients and stringent food safety protocols. They attributed the issue to potential mishandling post-purchase and cited their impeccable record over a decade.

Commission's Verdict:

Presided by Mr. Satpal Singh, the Commission examined the presented evidence, including photos of the affected child and a medical prescription. The inadequacy of the bakery's response and their failure to initiate laboratory testing of the cake were considered significant oversights.

Imposed Penalties:**The bakery was directed to:**

- Refund the cake's cost of Rs. 3,186/- with a 9% annual interest rate.
- Compensate Mrs. Ahlawat Rs. 10,000/- for mental distress, harassment, and legal expenses.
- Penalise Nik Bakers Rs. 30,000/- for unfair trade practices, allocating a part to Mrs. Ahlawat and the rest to the "Poor Patient Welfare Fund".

5. Delhi High Court Overturns Arbitration Award Citing Misapplication of Contract Law

In a significant judgement, the Delhi High Court, led by Justice Neena Bansal Krishna, overturned an arbitral award, spotlighting the intricacies of contract law and arbitration. The case, **Zakir Hussain vs. Sunshine Agrisystem Pvt Ltd**, demonstrates the court's commitment to ensuring that arbitration awards align with the principles of contract law.

Case Background:

The dispute emanated from an agreement where Sunshine Agrisystem Pvt Ltd agreed to store carrot bags in Zakir Hussain's cold storage. A conflict arose when the stored carrots were allegedly discarded by Hussain. Sunshine invoked the arbitration clause, leading to a contentious arbitral award.

Core Issues:

Hussain challenged the award on several grounds, including the arbitrator's perceived misinterpretation of the contract, the non-arbitrability of the subject matter due to specific statutory provisions, and procedural irregularities.

Court's Analysis:

The court meticulously addressed the array of issues. Key considerations included the non-arbitrability objection, the arbitrator's refusal to consider vital evidence, and the misapplication of contract law principles of reciprocal promises and bailment.

Non-Arbitrability:

The court deduced that the Uttar Pradesh Regulations of Cold Storage Act 1976, while providing an informal mechanism for dispute resolution, didn't explicitly or implicitly exclude arbitral jurisdiction.

Procedural Irregularities:

The arbitrator's refusal to admit additional evidence on procedural grounds was deemed violative of natural justice and amounted to patent illegality, according to the court.

Misinterpretation of Contract Law:

The court critiqued the arbitrator's interpretation of the reciprocal promises and bailment under the Indian Contract Act, concluding that the award was steeped in misapplication and perverse interpretation.

6. Case of the Week

Anglo-Norway Fisheries case

The Anglo-Norwegian Fisheries Case (United Kingdom v. Norway) is a seminal case in the field of international law, particularly concerning maritime boundaries and the principles governing territorial waters. Decided by the International Court of Justice (ICJ) in 1951, the case presented

complex issues related to the sovereignty over fishing zones adjacent to Norway's coastline. The judgement is considered a cornerstone for the development of the modern law of the sea.

Factual Background

The United Kingdom initiated proceedings against Norway, objecting to the latter's 1935 decree that unilaterally extended its fishing zone up to a line where the depth of the sea is not more than four metres at low tide. The U.K. argued that this extension was in violation of international law, specifically the concept of a three-nautical-mile territorial limit measured from low-water mark.

Legal Issues

- **Territorial Waters:** What constitutes territorial waters under international law?
- **Baseline Methodology:** Is Norway's method of drawing baselines from which territorial waters are measured valid under international law?
- **Customary International Law:** Is Norway's decree supported by local custom?

Judgment Analysis

Territorial Waters

The Court affirmed the notion that coastal states have sovereignty over the maritime areas adjacent to their coasts, but it didn't necessarily support the strict three-mile rule insisted upon by the U.K. Instead, the Court posited that the limits of territorial waters should be subject to various geographical and other factors.

Baseline Methodology

The Court upheld Norway's "straight baseline" method, which connected the outermost points of the Skjaergaard (the rugged, deeply-indented coastline). It ruled that the straight baseline method was reasonable given Norway's unique coastline and did not violate international law. This part of the ruling has significant implications on subsequent cases and international treaties, including the United Nations Convention on the Law of the Sea (UNCLOS).

Customary International Law

The Court found that Norway's fishing zone limits were backed by long-standing local custom, which had been accepted by other states, including the U.K., at least tacitly. The Court also observed that the 1935 decree did not create new rights but only codified existing ones.

7. Repeated PYQ

Q.1 A minor is liable to pay out of his property for necessities supplied to him. Discuss with the help of decided cases.

The liability of a minor in contract law is a subject matter of great importance, especially concerning contracts for necessities. The Indian Contract Act, 1872, lays down provisions for the same, particularly in Section 68. This section contemplates that a minor is not personally liable for any debt, but his property can be charged for the "necessaries" supplied to him.

Necessaries"

"Necessaries" are not strictly limited to items essential for survival such as food, clothing, or shelter. They can include goods or services suitable to the minor's condition in life and his actual requirements at the time of sale or delivery. The definition of "necessaries" is somewhat elastic, designed to adapt to the specific circumstances surrounding the minor and the contract.

Section 68 of Indian Contract Act, 1872

Section 68 states that if a person incapable of entering into a contract or anyone whom he is legally bound to support, is supplied with necessaries suited to his condition in life, the person who has furnished such supplies is entitled to be reimbursed from the property of such an incapable person.

Nash v. Inman (1908): Although this is an English case, it is often cited in Indian law schools and judgments for its principles. In this case, a minor was supplied with 11 fancy waistcoats. The court held that these were not necessary given that the minor already had an ample supply of clothing.

Chapple v. Cooper (1844): This case classified items such as medicines, essential food items, and basic clothing as "necessaries."

Critical Analysis

The property liability concept concerning minors aims to strike a balance between protecting minors from exploitative contracts and ensuring that suppliers of necessaries do not go unpaid. Courts adopt a flexible approach in determining what constitutes "necessaries," taking into consideration various factors such as the minor's social standing, lifestyle, and existing provisions. However, there is no universal list of items that are considered necessary, making it a complex legal terrain to navigate.

