

**GS Advanced Program 2023****Generic Booklet**Test Name/Code/No. : **692040**

Name			
Email ID.			
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Mobile No.		Date	

Allotted Time : 60 Minutes**Instructions to Candidates -**

- There are 7 Questions in this Question paper.
- All Questions are Compulsory.
- For all updates, please visit the noticeboard -
<https://noticeboard.forumias.com/gsap-2023/>

Important -

- Answers must be attempted in the QCA Booklet only.
- To upload the Answer Copies please visit to "My Course" section on -
<https://academy.forumias.com/>
- Only those copies will be evaluated which will be submitted before the next class.

Q. No.	Grade/Score
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Overall Grade/Score	

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Q.1)

The representation of ~~jud~~ women in judiciary is very low in India —

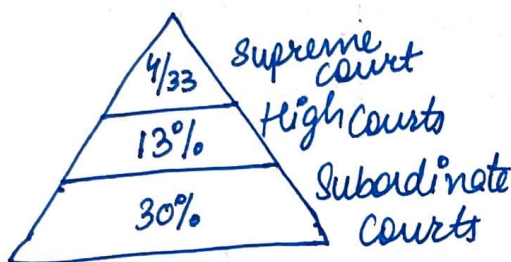


fig: proportion of women judges in Indian judiciary

Reasons

- patriarchal society
 - ↳ stereotyping of jobs
 - ↳ domestic burden on women
- opaque collegium system.

- not enough women on bar (only 15% of advocates are women).
- infrastructure not women friendly.

Need for more women in judiciary

- ① Women victims may feel more comfortable ⇒ increase women seeking justice
- ② Diversity of opinions and views
 - ↳ inclusive perspectives.

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② widen the horizon of contextual understanding of society and victims because of varied lived experiences of women vs men.

How to improve women representation?

- ① Social and behavioral change so that women don't feel discouraged to join judiciary.
- ② Objective criteria for selection of judges (transparency and objectivity in collegium)
- ③ Better judicial infrastructure which is more women-friendly.

Greater representation will ensure diversity, equity and inclusiveness in the judicial system and justice delivery.

Overall Grading (✓)

Poor			Average			Good		
1	2	3	4	5	6	7	8	9

Q.2)

Judicial legislation refers to laws being created by pronouncement of judges.

[ex] Vishakha guidelines on Prevention of Sexual Harassment at workplace.

Issues with Judicial legislation

- ① Against separation of power
- ② Judiciary does not represent will of the people.
- ③ leads to judicial overreach into the sphere of Legislature.

However, there have been many PILs demanding judicial intervention in Executive actions / legislative domain.

[ex] ban on cryptocurrency taken to courts.

What can be done to ensure that PILs don't nudge the courts towards judicial legislation —

- ① Admit PIL on merit basis.
- ② Sticking to fundamental idea behind PILs — diluting the criterion of locus standi to ensure justice for weaker and marginalised sections.
- ③ punishing individuals filing motivated PILs.

There is a thin line between judicial activism (ex-PILs) and overreach (ex-Judicial legislation). Judiciary needs to walk the tight rope, exercising restraint, to balance justice as well as uphold separation of power principle.

Overall Grading (✓)

Poor			Average			Good		
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Q.3)

The Collegium System for judicial appointments entails a collegium of the Chief Justice of India along with four seniormost judges who send recommendations to the government for appointment of judges to the Supreme Court (SC)

Case For the Collegium System

- ① ensures Judicial Independence in appointment of judges — as stated by the SC in fourth Judges case.
- ② Prevents conflict of Interest — as Government is the major litigant.
- ③ ensures separation of powers between Judiciary and executive.

Case Against the Collegium System

- ① Lack of transparency -
↳ allegations of nepotism in appointment of judges
- ② Constitution grants the power to legislature to prescribe selection procedure
- ③ NJAC-like system is prevalent in most other democracies — nowhere does "a judge appoint a judge".

Way Forward

As former CJI Justice Ramana also said — a reformed NJAC after due consultation with judiciary needs to be brought. This highlights that there is consensus for Judicial appointment reforms.

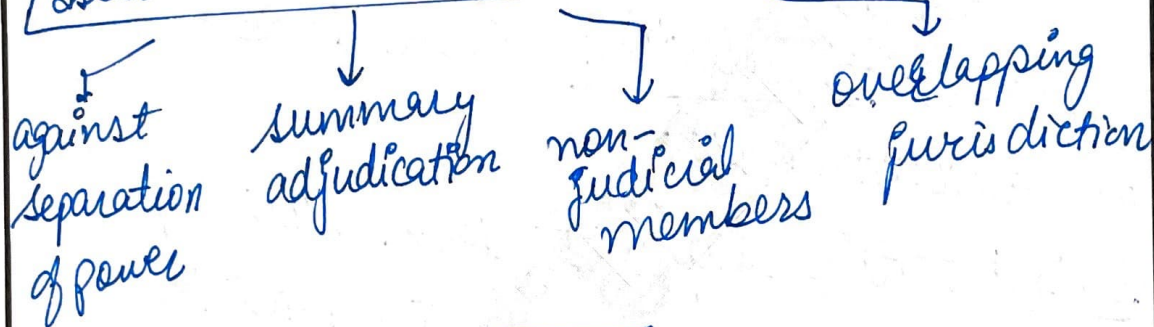
Overall Grading (✓)

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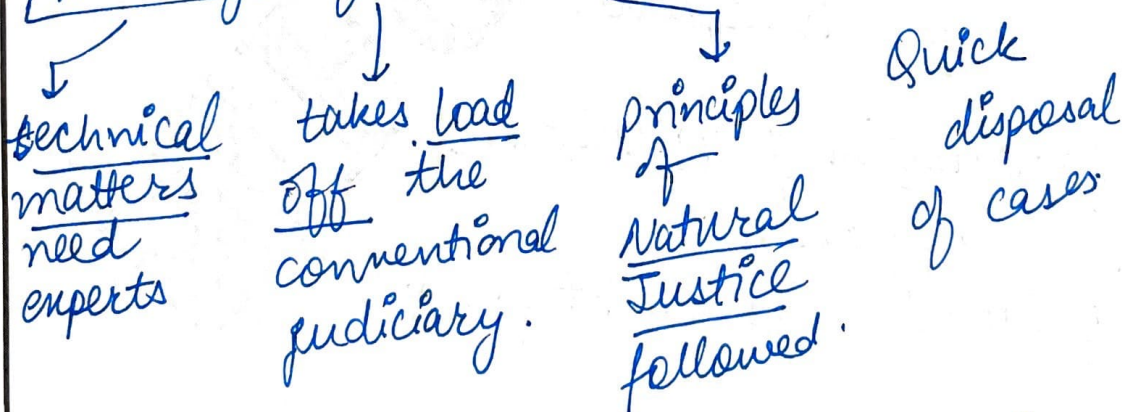
Q.4)

Tribunalisation of Justice refers to bypassing the authority of conventional judiciary by setting up tribunals for specified matters.

Issues with Tribunalisation



Advantages of Tribunals



Given the high case load on Indian judiciary, the desirability of alternate

dispute resolution mechanisms like tribunals in indisputable.

Making Tribunals more effective

- ① qualified personnel should be appointed.
 - ② setting up regional benches of tribunals for better accessibility.
 - ③ Independent selection committee for appointments.
 - ④ Administrative support from Ministry of Law & Justice instead of line ministries to ensure independence.
 - ⑤ Rationalisation of tribunals to save unnecessary costs ~~as~~
- [ex] Tribunals Reform Act 2021.

Overall Grading (✓)

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Q.5)

Judicial Activism refers to the proactive role played by the judiciary to protect the rights of citizens and to promote justice in society.

Judicial Overreach happens when judicial activism begins to encroach upon the powers of other organs of the State.

How is judicial activism different from judicial overreach?

Judicial Activism	Judicial Overreach
① Judiciary being proactive in delivering its <u>functions</u> and responsibilities.	① Judiciary perform- ing <u>function</u> of <u>other organs</u>

Judicial Activism

② Means of judicial activism —

* *suo motu* cognizance of a matter

* entertaining PIL

③ Examples —

(i) government instructed to pay cond engratia

(ii) staying ~~or~~ demolition that did not follow due process of law.

④ It is in line with the principle of due process of law and Rule by Law.

Judicial Overreach

② Means of overreach —

* Judicial activism in areas beyond judiciary's jurisdiction.

③ Examples —

(i) striking down NJAC

(ii) revoking RBI's ban on crypto-currencies.

④ It violates the principle of separation of power

Is Judicial Activism desirable ?

Case For

- ① embedded in the Constitution indirectly as the judiciary is meant to uphold the Constitution and law.
- ② ensures protection of rights of citizen - especially the marginalised who can't seek justice by themselves.
- ③ ensures effective Checks & Balances on legislature and Executive.

Case Against

→ undesirable if it becomes an overreach.

Way Forward

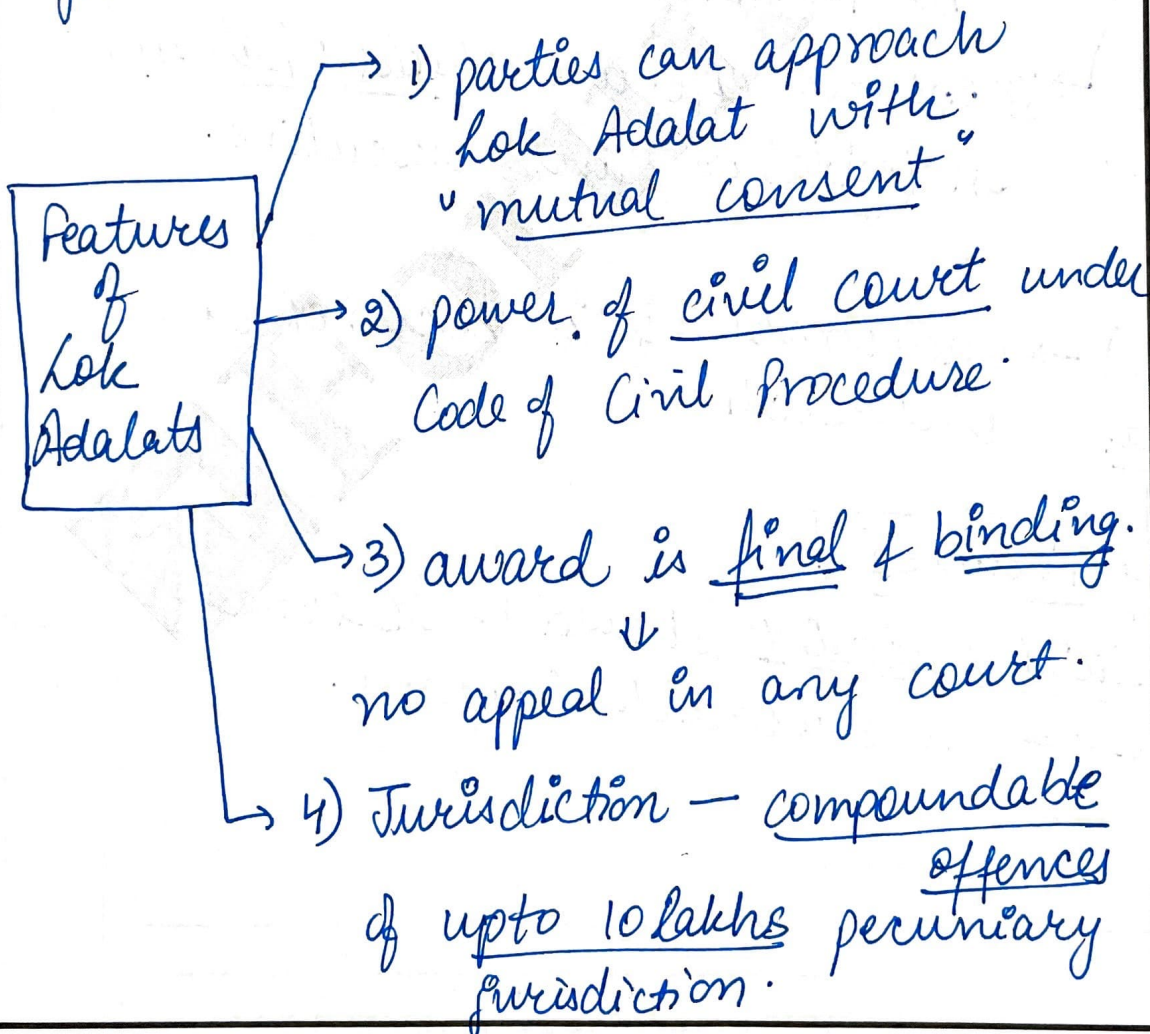
Judicial restraint should be observed to ensure no overreach happens.

Overall Grading (√)

Poor			Average			Good		
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Q.6)

Lok Adalats (meaning "People's courts") are justice delivery institutions established under NALSA Act 1987 (National Legal Services Authority Act) to ensure faster, cheaper, accessible justice.



Merits of Lok Adalats

- ① conciliatory approach taken —
no victor / vanquished.
 - ↳ efforts for settlement made.
 - ② Quick justice delivery
 - ↳ final and binding
 - ↳ most cases settled same day.
 - ③ Takes load off the conventional judiciary.
- Ex Around 8-9 crore cases have been settled so far through Lok Adalats.
- ④ Accessible justice
 - ↳ no court fee
 - ↳ not strictly bound by conventional judicial procedures

Challenges with Lok Adalats

- ① No appeal — decision is final.
- ② More of a settlement approach
↳ may lead to travesty of justice for the weak and marginalised.
- ③ Summary adjudication — may lead to inadequately thought-through judgements.

Given the high caseload on Indian judiciary, alternate dispute resolution mechanisms like Lok Adalats need to be encouraged as a policy and given adequate resources.

Overall Grading (✓)

Poor			Average			Good		
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Q.7)

All India Judicial Services (AIJS) refers to a system of recruitment of judges for the lower judiciary along the lines of All India Services ~~to~~ selected by the UPSC.

AIJS — step in the right direction

- ① ensure uniformity in quality of candidates selected.
- ② in line with the concept of "Integrated Judiciary" model
- ③ attract bright and young talent ⇒ improve justice delivery mechanism.

Constitutional Hurdles

- ① Rajya Sabha resolution needed to introduce new All India Services
- ② under Article 312-
- ② Infringement on power of State Governments and high courts who currently appoint district judges.

Legal Hurdles

- ① uniform judiciary cannot incorporate variation in local laws as efficiently.
- ② more appointments to HCs from bar ⇒ discourage joining AJS.
- language barrier for judges from outside the state.

Other challenges

- UPSC — not judicial body — may impact Independence of judiciary.

Way forward

A meritocratic judiciary is the need of the hour.

- AIJS recruits can be trained in local language like the civil servants.
- incentivise youth to join as district judges by increasing appointments from district judges to High Courts.

Overall Grading (✓)

Poor			Average			Good		
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