



GS Advanced Program 2023

Generic Booklet

Test Name/Code/No. : ...28.....

Name			
Email ID.			
Roll No.			
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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2	
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Overall Grade/Score	

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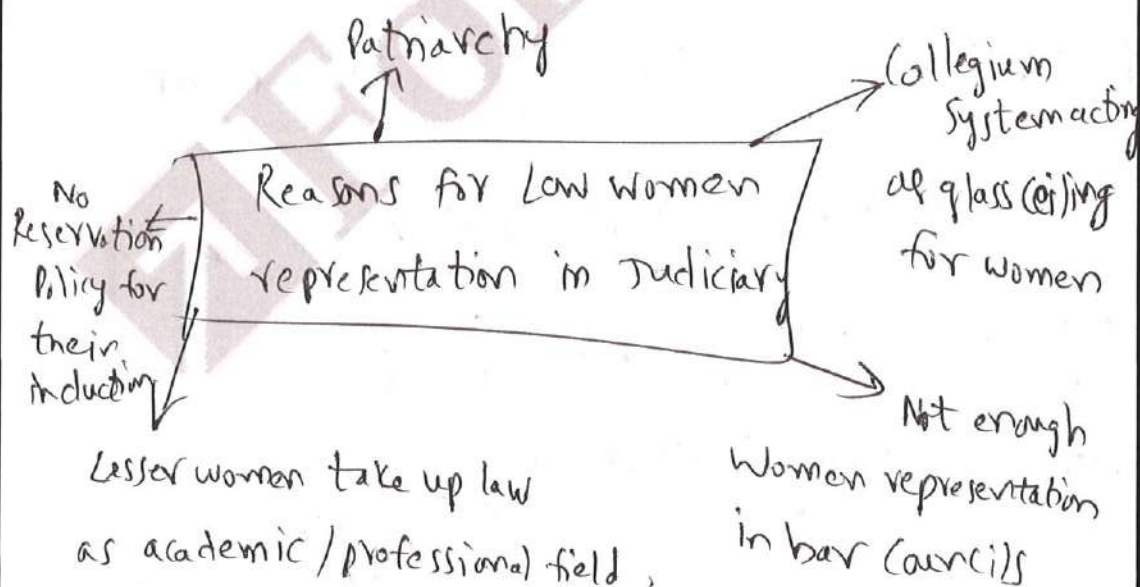
Start Writing Here

Q.1)

Discuss the desirability of greater representation of women in the higher judiciary to ensure diversity, equity and inclusiveness.

Answer:-

In India, in high courts women judges constitute just only 11.5%. In Supreme Court there are only 12% women judges (4/33) with no CJI till now and 15% women of 1.7 Million advocates.



Desirability of greater representation of Women.

in the higher judiciary to ensure equity,
diversity, inclusiveness :

- Helps in bringing gender perspective in the judicial process
- Motivates women to come forward & seek justice
- Helps in bringing care ethics
- Strives towards alternative & inclusive perspectives in diversity of the bench.

Gender sensitive institutions are a key in achieving SDG-16 (Peace, Justice & Strong institutions)

Overall Grading (✓)

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

Q.2)

Judicial legislation is antithetical to the doctrine of separation of powers as envisaged in the Indian Constitution. In this context, justify the filing of large number of public interest petitions praying for issuing guidelines to the executive authorities.

Answer:

Each organ of the state is entitled with separate powers in their domains (Legislative, Judiciary, Executive). This is called Doctrine of Separation of powers. However in India there is no strict separation of powers but a kind of check & balance. PIL is public interest litigation to make justice accessible to those who can't access (Judicial activism).

PIL - Justification for filing:

→ Any public spirited individual can move to the Court No law standii required.

[Eg] Hussainara Khatoon Case on conditions of inmates / languishing under trials in jails / prisons.

→ Facilitates effective access to justice to socially & economically weaker sections of society

[Eg]: Rights of Slum dwellers.

→ Making state to perform any essential function.

[Eg] Delhi CNG buses to curb ^{air} pollution

→ turning fundamental rights to qualitative & broad.

[Eg] Right to sleep case by Supreme Court

Concern : → Use of PIL for vested interest by

WE. → Judicial Overreach
[Eg]: MP's Asbestos Company case [Eg]: Liquor shops on NH

Allow PIL of only substantial public interest with

Overall Grading (✓)

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

Court restraining from Judicial overreach.

Q.3) The independence of the judiciary is one of the central elements of India's democratic system. In light of this statement analyse the Collegium system.

Answer |

Collegium system evolved in 3rd Judges case (1998) for appointment & transfer of judges in Supreme & High Courts. (Higher Judiciary).

Need of Collegium system :

→ Upholds independence of judiciary
(Basic structure of Constitution)

→ Prevents excessive executive interference and judges
* facing path to executive.

[Ex] : Earlier PH Indira Gandhi appointed CJI
to the path of executive

→ Helps in upholding Constitutionalism and its protection of constitution, rights of citizens

However, there are concerns with the Present Collegium system as

→ opaqueness in functioning

↳ Procedure of appointment not open

→ Nepotism & favouritism in appointments & transfers

↳ Uncle Judge Syndrome of Indian Judiciary

→ Poor Accountability

↳ Not open to RTI

Way Forward : A new transparent appointment system needs to be worked out with members from judiciary (with primacy) & executive.

Judiciary as Watchdog of citizens rights

Overall Grading (✓)

Poor			Average			Good		
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Q.4)

What do you understand by tribunalization of justice? How can working of tribunals can be more effective?

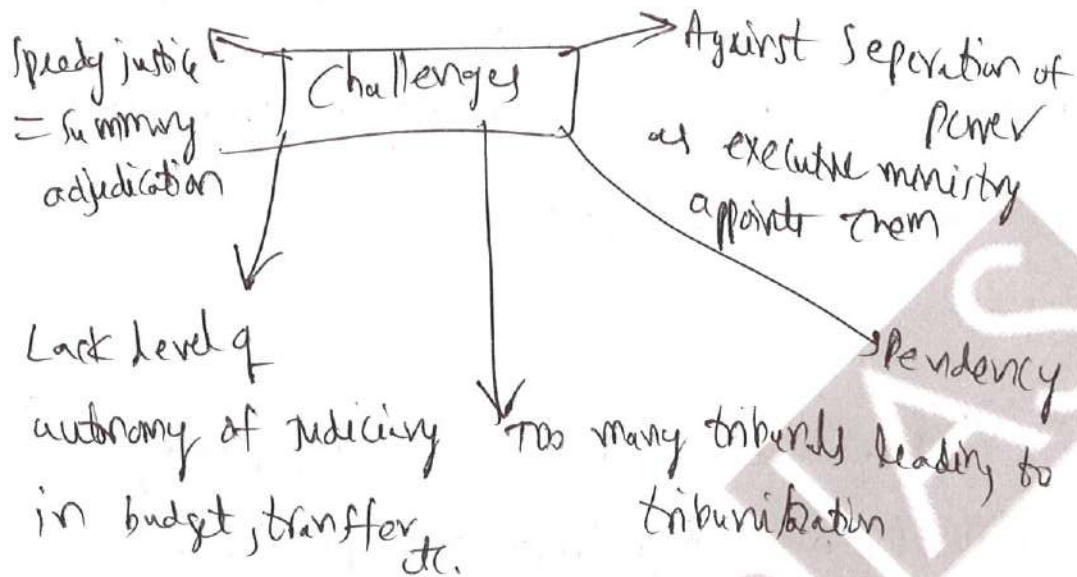
Answer

Tribunalization refers to by passing the authority of High Court & passing it to tribunals established by Parliament through Ar-323A & 323B. It adversely affected role of High Courts as Court of Appeal & role of Judicial review.

Need & Advantage of tribunals:

- flexible in approach (Not by GPC, IPC)
- Expert views in judgements
 ↳ NGT
- Follows principle of natural justice.
- Speedy adjudication, reduces burden on Judiciary
 ↳ Cost effective.

However, they are faced with challenges like,



Working of tribunals can be made effective by,

- Appointments of members by an independent selection committee
 - Increase accessibility by benches in different parts.
 - Administrative support only from Law Ministry.
 - Qualifications of judge in rank of constitutional courts as said in 'UOI vs R. Gandhi' (2016) (SC)
- Reforms in Tribunals are needed for speedy justice

Overall Grading (✓) as Justice delayed is Justice denied.

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

Q.5) What is judicial activism? How is it different from judicial overreach? Is judicial activism desirable?

Answer,

Judicial activism is a proactive role played by judiciary in the protection of citizens' rights & in the promotion of justice. It helps in forcing the other 2 organs to discharge their Constitutional duties.

It is different from judicial overreach.

→ Judicial activism
Proactive role by
Judiciary

Judicial overreach
→ overstep powers

→ Results in checks & balances upholding Constitutionalism

→ Needed for evolving society

→ Helps in upholding
Art-21 (due process of law)
PIL

→ Overstep powers interfering in legislative/executive organs of State.

→ Destroy spirit of separation of powers

→ Undesirable in democracy (Supervestiture)

→ Lead to policy paralysis

Eg: Coal, 2G spectrum block allocation issues.

Judicial activism is desirable because :

→ Art-162 gives complete powers to Supreme Court to do Justice

→ Helps in realising constitution as evolving/
organic document.

Ex: Right to clean environment under
Art-21

→ Helps in justice to down trodden, vulnerable

Ex: PIL.

However, Care to be taken to prevent
activism leading to overreach. violating
basic structure → Separation of powers in
the constitution.

Judicial activism should be adhered to
and should not lead to Judicial Coersion
against will of popular democratic institutions

Overall Grading (✓)

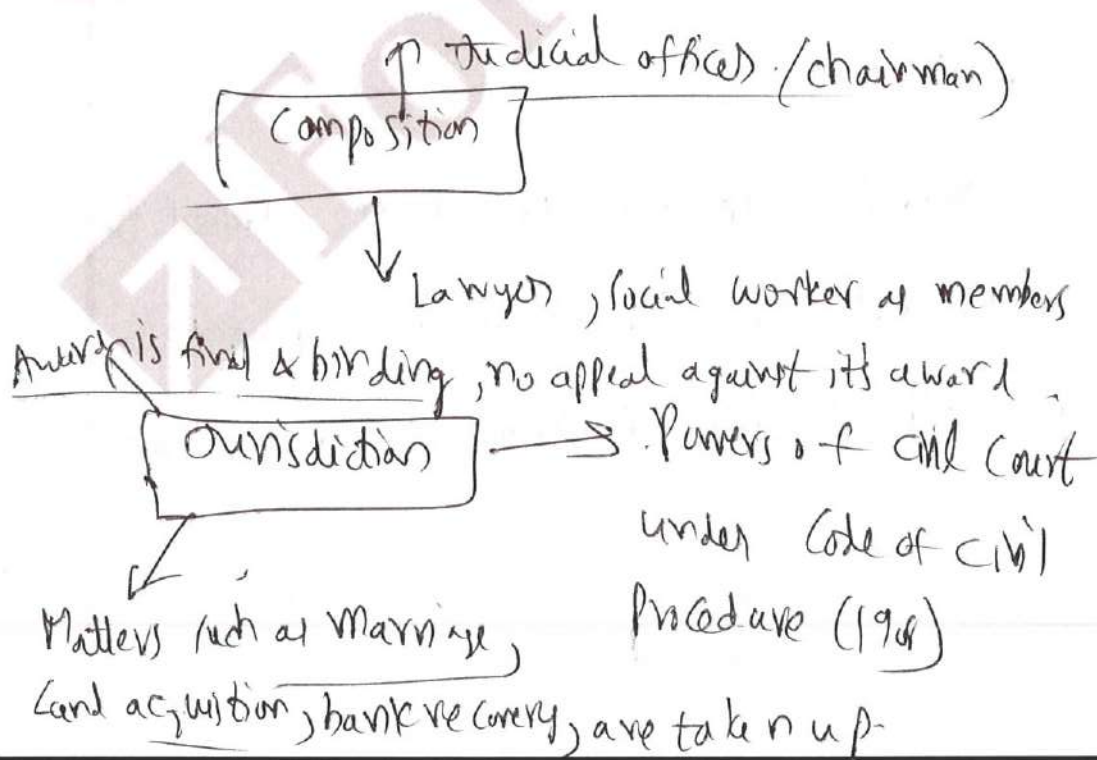
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Q.6)

Examine the merits & demerits of Lok Adalats?

Answer:

Lok Adalats are people's courts to make justice faster, cheap & accessible as an alternate dispute resolution mechanism established under Legal Services Authority Act, 1987



Advantages of Lok Adalat :

- Speedier settlement of disputes
- Reduced pendency, burden on higher judiciary.
- No Court Fee → equitable, accessible to the poor.
- No need of lawyer & can directly present their case to the judge.
- No strict application of CrP, 1908 & Indian Evidence Act, 1872.

However, they are marred with problems like

Disadvantages of Lok Adalats :

- Purely Conciliatory & has no judiciary/

adjudicatory function.

- Poor budgetary autonomy.
- Leading to just summary adjudication.
- Lack of awareness to citizens regarding Lok Adalats.
- Generally composers are on poor accepting judgement/awards.

Way Forward

- Awareness by NGOs
- More financial autonomy

Justice delayed is justice denied. So, proper functioning of Lok Adalats is needed for equitable justice to all. (UDHR, 1948 Right to Justice)

Overall Grading (✓)

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

Q.7)

The AITS is seen as a right step in the right direction; however it is marked with many Constitutional & legal hurdles. Discuss.

Answer:

AITS is a proposed reform in the subordinate Courts recruitment for District judges & below.

AITS as right step in right direction as

- Ensure uniformity in standard of selection and attract bright & young talent in the judiciary ⇒ fair trial, speedy justice
- Increase Quality of judgement and hence decrease burden on higher judiciary

→ Uphold Integrated Judiciary Model in India.

→ Uphold model ^{at par with} District Magistrate

→ Already voted by Panchayat for its creation.

→ Reduce nepotism & favouritism

→ Uncle Max Syndrome.

Many Constitutional & Legal hurdles

→ Issue of local laws differences

→ Issue of local language & dialects

→ Conflict in Centre-State relations

→ Low status of legal education in India

- opposition from High Court chief justice who labelled this as infringement on their rights.
- Commercialization by coaching institutes -
- Against Independence of judiciary if some body will appoint judicial members.
- Low district to High Court judge penetration ($< \frac{1}{3}$ rd filled) Mostly by bars directly.

Way Forward

- UPSC should take recruitment responsibility
- Training in local languages, laws to handle the job

Meritocracy in judiciary is need of hour which is possible with a Competitive recruitment process

Overall Grading (V)

Poor			Average			Good		
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