

GS Advanced Program 2023

Generic Booklet

Test Name/Code/No. : 69 2040

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
1	
2	
3	
4	
5	
6	
7	
Overall Grade/Score	

Start Writing Here

Q.1)

SC and HC have 12%, 11.5% women representation respectively. these miniscule numbers enlightens desirability of greater representation of women in the higher judiciary

What's the need/desirability

- ① will bring added perspective by bringing in diverse opinion (inclusiveness and diversity)
- ② empathy with women related cases e.g. rape, acid attack, child marriages.
- ③ will make courts more approachable for women. → removes inhibition
- ④ Breaks gender stereotyping →
(Equality) ← by education not taken by females

5. Institutional and form change among population.
6. New arena to ensure jobs and women empowerment.

7. Changing demographics of court can make judiciary more accommodative and reflect true diversity.

8. Feminine care ethics

have desirability of greater women representation in high superior judiciary should have horizontal reservation for women such as subordinate judiciary without diluting merit.

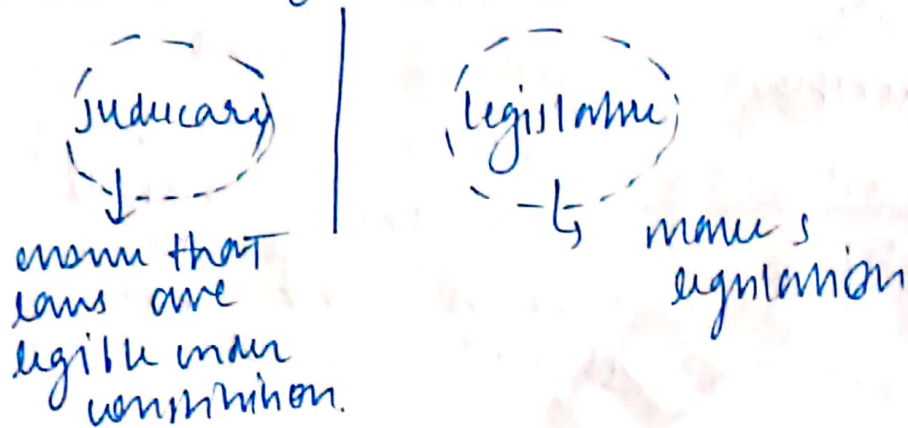
Overall Grading (✓)

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

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Q.2)

Judicial Legislation is antithetical to the doctrine of separation of powers as envisaged in the Indian constitution.



PIL is a petition that can be filed by any member of the public for any matter of public interest for reason of public wrong or injury.

- Judiciary steps in via PIL when there is executive / legislature under reach.

Justification for large number of PIL

- gives voice to victim and helps in reaching unreachable or vulnerable/marginalised.
- maintain rule of law
- further cause of justice
- facilitating effective access to justice — women, children etc.
- Turns Fundamental right into more qualitative, broad.

Where government failed → PIL delivered

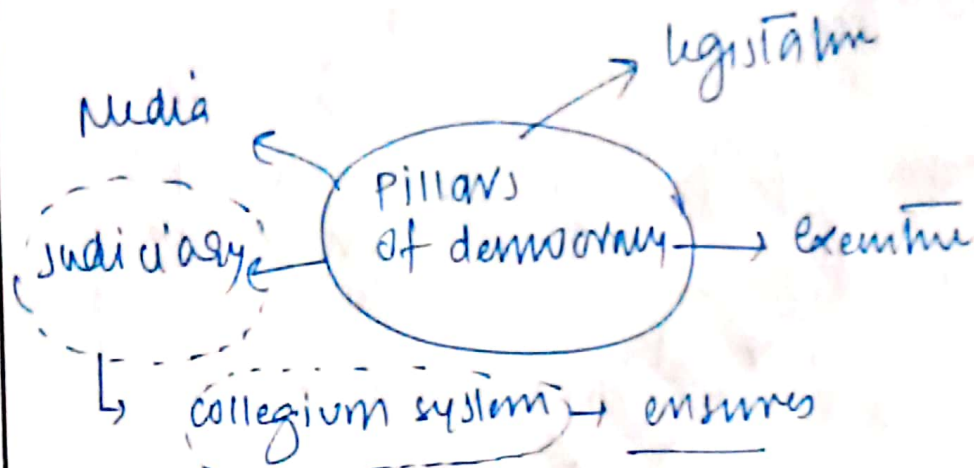
1. Sexual harassment → Vithala guidelines issued.
 2. Justice to Bhopal gas massacre later on EPA, 1986 came
 3. Rights to slum dwellers ensured through PIL (Olga Tellis case 1985)
- Now PIL fills the gaps in governance by issuing guidelines to executive authorities

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Q.3)

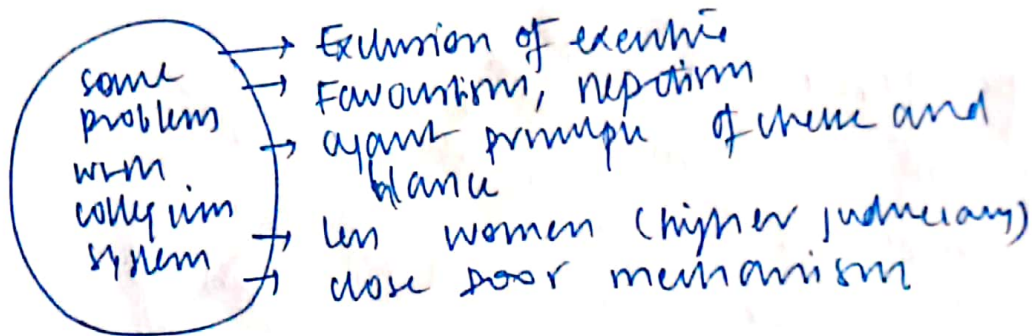
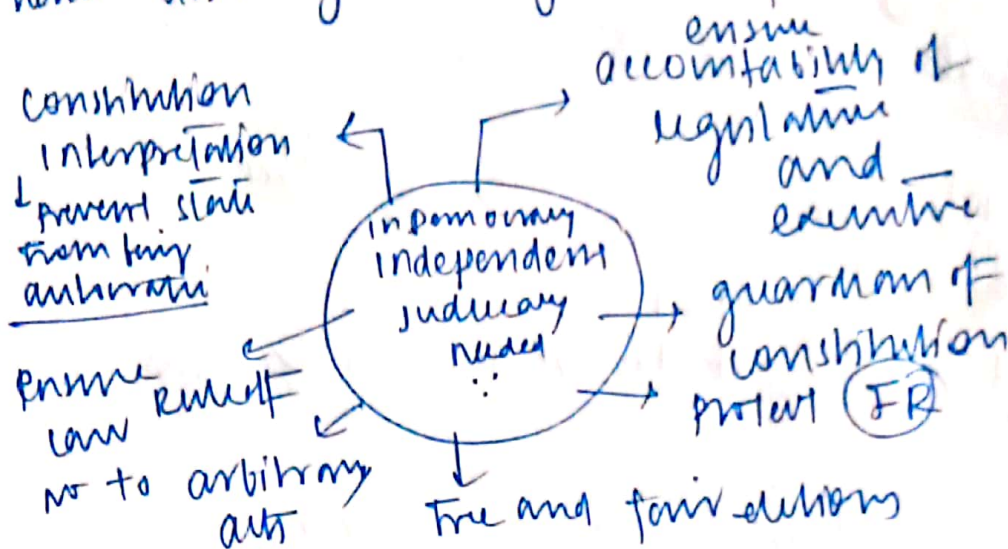
Collegium system : system for appointment and transfer of judges.



Independence of judiciary

- no influence of ^{executive} legislature (appointment)
- Increases secrecy → ensures proper and effective functioning of the institution.
- Independent from politics → unbiased verdict
 - ← doctrine of separation of power
- Executive power to transfer judges would lead to decrease in independence of judiciary

— collegium system ensures or understands requirements required for judges (not someone else) hence deserving one gets the position.



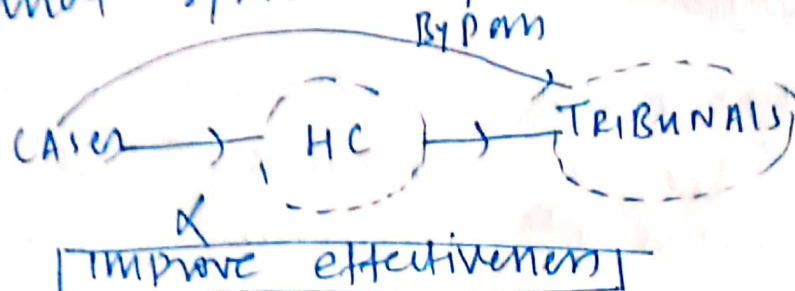
collegium system evolved through 1st, 2nd & 3rd judges com, though it ensures independence but system overemphasizes ability to cater demands of democratic India.

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Q4)

"Tribunalisation of justice" means a way to analyse the position and outcome of justice with regard to the tribunal system of India.



① level of autonomy enjoyed by tribunals should be increased ex in budget, appointment, transfer etc.

② proper jurisdiction demarcation

pendency increases ← else overlapping

③ consensus based model should be adopted to reduce chasm between judicial and expert members.

- ④ reduce numbers of Tribunals → causing Tribunali-
isation.
 - ⑤ proper amalgamation of
(lawyers) ^{same} Judicial and experts required
(within) in selection committee (primary
to judiciary).
 - ⑥ autonomous oversight body
for the administration and
regulation of tribunals — National
Tribunal Commission.
 - ⑦ reappointment and appointment
of retired judges → affect
unbiased verdict ← independence
 - ⑧ Non uniformity across tribunals
service conditions, tenure etc.
improve ← malfunctioned
administration
 - ⑨ improve geographical accessibility +
varying nodal ministry should not be
in charge of different Tribunals
- [Political will needed to reform
tribunal system to solve judicial delay
and backlog] ← way forward

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Q.5)

Proactive role played by the judiciary in the protection of the rights of citizens and in the promotion of justice is known as judicial activism.

How different from judicial overreach

Judicial Activism

1. Judiciary plays an active role to dispense social justice.

2. Separation of power doctrine remain intact

Judiciary

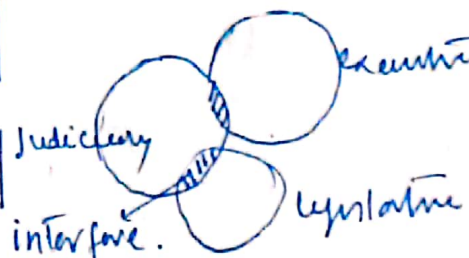
Executive

Legislature

Judicial overreach

1. Judicial activism crosses its limit and becomes judicial adventurism.

2. Separation of power violated



3. ^{common} desirable in
democracy.

4. suo motu
cases and PIL al-
lows judiciary
to intervene in
public issues.

Does not cause
policy paralysis or
judicial coercion.

5. Ex

Kesavananda
Bharati case,
Minerva Mills
[case

14 provision of Art. 31C
unconstitutional
and void

Art 39 (b), 39 (c) can
prevail over Art. 14, 19
not an DPSP.

3. undesirable
in democracy.

4. No such
tools are
there to
exercise judiciary
steps in when
there is executive
and legislative
under & each.

5. Ex high

Judiciary
guiding on
Diwali fireworks,
banning liquor
on highways
etc.

Is judicial activism desirable?

(PPSP part IV)

- ① India being a welfare state,
 - underprivileged dispenses (social) social justice
 - judicial activism
 - ② Prevents breach of separation of power. (check and balances)
Ex: minor films can.
 - ③ When law fails to establish balance, it allows judges to use their personal judgement.
 - ④ Increases trust in judicial system
 - ⑤ Check on misuse of power of government.
 - ⑥ Legislature stuck in taking decisions (majority issues)
 - judiciary address problem
- hence judicial activism is desirable with some cautions.

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Q.6)

the term 'Lok adalat' means people's court. It is based on Gandhian principles. NALIA along with other legal services institutions conducts Lok adalats.

MERITS

- ① NO court fee. enforces Article 39(A) — to provide free legal aid.
- ② Speed of settlement high.
- ③ NO strict application of procedural laws such as CrPc, 1908 etc → People don't afraid to approach.

4. Flexible approach. + Large social economic problem solved.

5. One can directly present the case before judge.

↓
Lack of administrative and procedural complexity.

6. Award → Binding and non appealable

↓
NO delay in dispute settlement

reduces judiciary burden and prevent backlog of cases.

7. Accessible to locals

∴ English used in higher courts.

no communication gap

case study : govt → Lok Adalat
non preferred dispute resolution alternative.

Demerits

1. Pure conciliatory, no adjudication or judicial function.
↓
sometimes justice not served.
2. compromises are imposed on poor. (poor vs rich litigants)
3. Lack of awareness about Lok Adalat in society.
4. unavailability of option to appeal against award. also no power over execution of award by courts.
↓ (by court)
5. limited jurisdiction w.r.t criminal offences.
6. members qualification not defined and recruitment process litigants trust issues.
↓
power to execute award, normalising App pending infrastructural support, increase sittings, streamline Lok Adalat with judicial system — needed to bring effectiveness.

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Q7)

The idea of AJS is being proposed in the backdrop of judicial reforms. It was first proposed by 14th Law Commission report, 1958.

constitutional and legal hurdles

① Dichotomy between article
(233) and 312

↳ recruitment to subordinate judiciary is the prerogative of the state.

↳ ∴ states / high courts opposed
against
federalism.
and Basic structure
doctrine

②. constitutional limitation:-

Article 312 (3)

↳ restriction

AJIS

shall not

appointment include a post
of inferior to that of a
subordinate district judge.
judiciary

through AJIS

↳ constitutional barrier.

③. constitution → affirmative

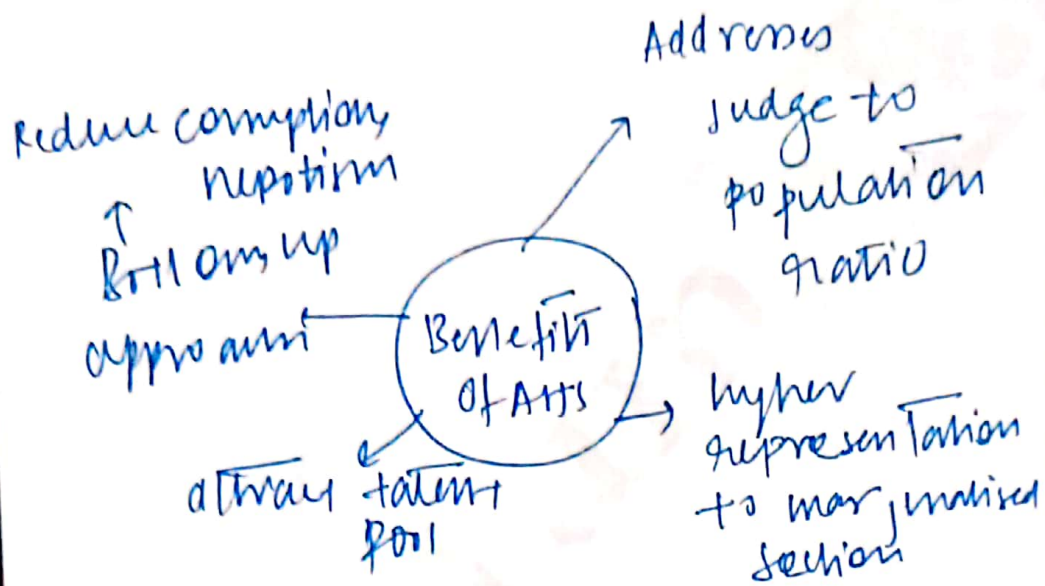
①
separation of
power
undiminished.

②
action
undiminished if
state specific
reservation for
linguistic minority,
caste based dilution

④. dilution of administrative
control of high court

state judiciary
independence
jeopardised.

⑤. Issue of preserving the judicial independence of district judges who may be part of such a service in the future.



competitive recruitment system would intake efficient judges

hence consensus should be made between centre and states. (cooperative federalism)

← speedy disposal cases

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