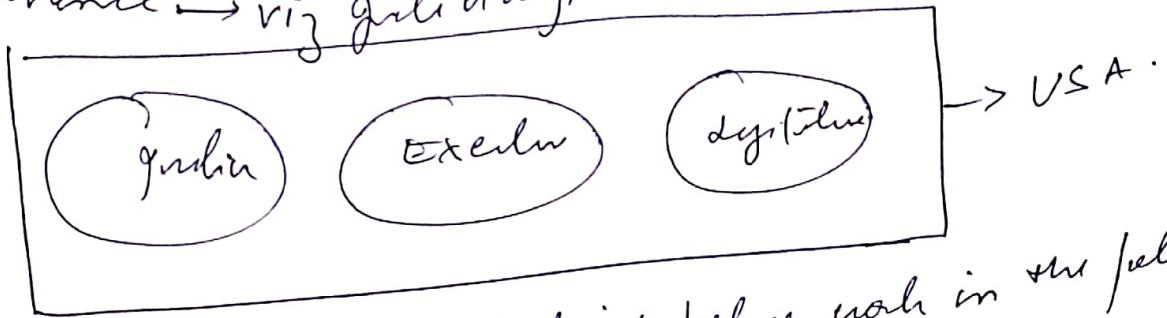
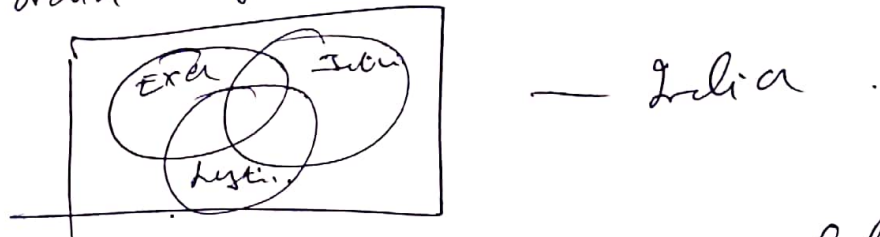


Q2: Separation of Powers:

Concept of separation of Powers is borrowed from the Constitution of the USA, which envisages clear demarcation of the jurisdiction, sphere of influence of various arms of Governance → viz Judiciary, Executive, Legislature.



However, in India this doctrine does not work in the following manner:



This outcome of "constant interaction" and "overlap" of interests is not by default but by design: as can be ascertained from the various provisions of the constitution.

- ① Head of Executive, signs a bill to provide his assent after which it becomes a bill even though the bill is discussed extensively in the Parliament.
- ② The same act can be questioned on the grounds of:
 - Being unconstitutional → arbitrary. By the
 - Violation of FR. Judiciary -
 - Discretionary.

In the recent past the NSAC, 100th Amendment Act was struck down by the S.C. for being violative of the independence of the judiciary.

In the past as well, any attempt to fetter judiciary's independence, insertion of schedule 9 or various amendments of the 42nd Amendment Act have been challenged and reversed in the court.

Landmark judgements such as Keshavn. vs State of Madh. '73 established Basic Structure doctrine which acts as a guiding principle for law makers.

In the same breath, we should also highlight.

- > Anti-judicial Powers of the Executive
- > Pardoning Power of the President & Governor. [Art 72]
- > Extraordinary Power of issuing Ordinances superseding legislature.
- > Anti-judicial Function of State legislature in impeachment & removal of Judges.
- > Section Art 143. where executive seeks legal opinion from SC.

Thus, the interdependent approach of this doctrine in the Indian context highlights the following

- Checks & Balances mechanism, exercised in governance prevents excesses of all kinds
- At the heart of it, it aims to safeguard the key objective of being a welfare state abiding by the principles enshrined in the Preamble of the ~~to~~ constitution.

This design however is not without its challenges and concerns like 'judicial overreach / activism', 'Arbitrary Action of Executive' have emerged.

Though keen adherence to the constitution keeping in mind the prevailing societal, political, economic circumstances, all organs need to function harmoniously guided by the above factors.