



ALL INDIA JUDICIAL SERVICES - GS II MAINS

Q. The creation of an All-India Judicial Service (AIJS) will help diversify the judiciary. Discuss the need of All-India Judicial Service (AIJS) along with its challenges in the Indian federal structure. (15 marks, 250 words)

News: *President Murmu advocates for All India Judicial Service: What the idea is, why it hasn't been implemented*

What's in the news?

- The President of India recently suggested that the creation of an All-India Judicial Service (AIJS) will help diversify the judiciary.

All-India Judicial Service (AIJS):

- **Article 312** of the Constitution, as amended by the **42nd Amendment**, provides for the creation of an AIJS.
- It also requires a **resolution adopted by the Council of States with a two-thirds majority and a parliamentary law.**
- The AIJS is a reform push to centralise the recruitment of judges at the level of additional district judges and district judges for all states.
- In the same way that the Union Public Service Commission conducts a central recruitment process and assigns successful candidates to cadres, judges of the lower judiciary are proposed to be recruited centrally and assigned to states.

Significance of All India Judicial Services:

1. Fresh talent:

- A properly framed All India Judicial Service is important to strengthen the overall justice delivery system.
- A national service for judges not inferior to the post of district judges, with a superannuation age of 60, will be an attractive proposition for young lawyers to apply for it.
- This will give an opportunity for induction of suitably qualified fresh legal talent selected through an all-India merit selection system

2. Representation to deprived sections:

- It will also address the issue of social inclusion by enabling suitable representation to marginalized and deprived sections of society.
- It may also facilitate inclusion of competent persons from marginalized sections and women in the judiciary.



3. Reducing the pendency of the cases:

- Data from earlier this year said the backlog in the lower judiciary comprising the district and subordinate courts stood at 3.8 crore cases, thus accounting for the bulk of the more than 4.4 crore cases pending across the Indian judiciary.

4. Judge-to-population ratio:

- In India there are about 19 judges per 10 lakh population even though the Law Commission had recommended that it should be at least 50 per 10 lakh people.

Challenges in Bringing out All India Judicial Services:

1. Dilute separation of power:

- The creation of AIJS will transfer control over state judiciary to the Union government, by removing control of the High Court on the recruitment process. It would undermine the independence of the judiciary and dilute the separation of power mandated under Article 50. 13 HCs are in disagreement with the All India Judicial Service.

2. Against India's Federal structure:

- A centralised recruitment process is seen as an affront to federalism and an encroachment on the powers of states granted by the Constitution.

3. Local language problem:

- Courts up to District and Sessions Judge transact their business in State language. AIJS officers would find it difficult to acclimatize themselves with local language, thus hampering dispensation of justice.

4. Local laws and customs problem:

- AIJS does not take into account the problem of wide variation in the local laws, practices and customs across States.

5. Discriminatory for weaker sections and Possibility of elitism:

- Candidates from elite legal schools and large cities may benefit from the centralized recruitment. This could be discriminatory for people from less fortunate homes and smaller communities.

6. Exclusion of state minorities and backward groups:

- State minorities and backward groups will lose out on reservation benefits if the reservation is based on a central list.

7. Restricted promotional avenues for State officers:

- The AIJS would limit the promotional avenues for the already selected officers through the current system.

8. Uncertainty on Career Progression:

- AIJS may be rendered unattractive on account of lower number of district judges' elevation to the HCs as compared to the Bar.

9. Mismanaged legal education problem:

- Barring a few National Law Universities, the Curriculum followed by law universities lacks effective standards, which results in low quality legal research and scholars. This problem of lack of quality of good legal education will be unaddressed by AIJS.



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WAY FORWARD:

1. Independence:

- The AIJS cadre should report to the Chief Justice of every high court to maintain judicial independence.

2. Regular examination:

- The AIJS examinations must be held regularly and the recruitment process must be completed in a time bound manner.

3. Use of Technology:

- Implementing video-conferencing to expedite justice and reduce logistical issues.

The establishment of AIJS has the potential to address long standing issues in the Indian judiciary, including the problem of vacancies and regional imbalances. However, it is important to resolve the challenges carefully, taking into consideration the principles of federalism, language diversity, and the need for a transparent and accountable system.

