

**NEXT IAS**

**DAILY EDITORIAL  
ANALYSIS**

**TOPIC**

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**All-India Judicial Service for  
Ensuring Diversity**

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## ALL-INDIA JUDICIAL SERVICE FOR ENSURING DIVERSITY

### In Context

- 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.

### Current recruitment of Judges

- **Articles 233 and 234** of the Constitution of India deal with the appointment of district judges, and place it in the domain of the states.
- The selection process is conducted by the **State Public Service Commissions** and the **concerned High Court**,
  - ♦ since High Courts exercise jurisdiction over the subordinate judiciary in the state.
- **Panels of High Court judges** interview candidates after the exam and select them for appointment.
- All judges of the lower judiciary up to the level of district judge are selected through the **Provincial Civil Services (Judicial)** exam.
  - ♦ **PCS(J)** is commonly referred to as the judicial services exam.

### Arguments favouring AIJS

- **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
- **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.
- **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.
- **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.
  - ♦ All this points to an urgent need to ensure swift filling up of vacancies and ramping up of recruitment to the lower judiciary, for which the Centre has long proposed the creation of the AIJS.

## Challenges

- **Concern of centralisation:**
  - ♦ This Constitution recognises that rules governing the subordinate judiciary in the States will have to be superseded by a central law for this proposal to achieve fruition.
  - ♦ It is unlikely that all States will agree to one more subject from their domain being consumed by centralisation.
  - ♦ Key concerns were the dilution of the federal structure and that the proposal does not address structural issues plaguing the lower judiciary.
- **Lack of consensus:**
  - ♦ There is no consensus on the proposal. Only two High Courts agreed to the idea, while 13 were against it.
  - ♦ There is divergence of views on eligibility, age, selection criteria, qualification and reservation.
- **Issue of language:**
  - ♦ Since cases in lower courts are argued in local languages, there have been apprehensions about how a person from north India can hold hearings in a southern state.
- **Advantages of current system:**
  - ♦ The current system of recruitment of district judges through the respective High Courts and other subordinate judicial officers through public service commissions is more conducive to ensuring diversity, as there is scope for both reservation and a clear understanding of local practices and conditions.
- **Unattractive career option:**
  - ♦ After enrolling, lawyers typically consider judicial service based on **practical experience** rather than academic brilliance.
  - ♦ According to critics, toppers, **especially from the few elite law schools**, are unlikely to sit for a national judicial service recruitment examination.
    - In comparison, options such as **litigation, joining law firms** and going into the **corporate sector** may appear more beneficial.
  - ♦ Further, given that the number of district judges elevated to the High Courts is much lower than those from the Bar, the **lack of certainty on career progression** may also render a national judicial service unattractive.
- **Different than civil services:**
  - ♦ Unlike the civil service, judges are not assisted by an experienced lower bureaucracy in decision-making, and they are required to be well-versed in the issues involved in judicial functioning.

## Way ahead

- The AIJS has been pitched as a solution to judicial vacancies, lack of representation for the marginalised on the bench and the failure to attract the best candidate.
- AIJS needs to be designed in a way to get rid of its shortcomings and it is able to be a powerful technique for the vacancy in the judiciary.
- Adequate judges may be made to be handiest if they're recruited in huge energy through AIJS similar to IAS, IPS, IFS, and different civil offerings.

### Daily Mains Question

**[Q]** Examine the significance of the All-India Judicial Service (AIJS) for enabling social inclusion in the Judiciary. What are the challenges for the application of AIJS?