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All India Judicial Services

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Why is in news?

President Droupadi Murmu's suggestion that the creation of an All-India Judicial Service (AIJS) will help diversify the judiciary by allowing bright youngsters from varied backgrounds to become judges through a merit-based process revives the debate on whether a national system of recruitment at the district judge level is desirable.

About:

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.

It aims to **ensure a transparent and efficient method of recruitment** to attract the best talent in India's legal profession.

Currently, district judges are **appointed by the state governor** on the advice of chief justice of the high court of the concerned state.

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.

Previous Proposals:

The AIJS was **first proposed** by the **14th report of the Law Commission in 1958.**

A **statutory or constitutional body** such as the UPSC to conduct a standard, centralised exam to recruit and train judges was discussed.

The idea was **proposed again in the Law Commission Report of 1978**, which discussed delays and arrears of cases in the lower courts.

In 2006, the **Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice** in its 15th Report **backed the idea of a pan-Indian judicial service**, and also prepared a draft Bill.

Supreme Court's Stand:

In **1992**, the Supreme Court (SC) in **All India Judges' Association vs The Union of India** directed the Centre to **set up an AIJS.**

In a **1993** review of the judgment, however, the **court left the Centre at liberty to take the initiative** on the issue.

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In **2017**, the SC took suo motu cognizance of the issue of appointment of district judges, and mooted a Central Selection Mechanism.

Senior advocate Arvind Datar, who was appointed amicus curiae (friend of the court) by the court, circulated a concept note to all states in which he recommended conducting a common examination instead of separate state exams.

Based on the merit list, High Courts would then hold interviews and appoint judges. Datar submitted that this would not change the constitutional framework or take away the powers of the states or High Courts.

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**.

Need for AIJS:

Challenges: The lower judiciary faces about 5400 vacancies and a backlog of 2.78 crore cases.

Quality Concerns: The declining quality of judicial officers necessitates high-caliber recruitment.

Financial Incentives: State services often fail to attract top talent due to lower salaries.

Training and Subjectivity: State-run institutions lack adequate training resources; current appointments are marred by subjectivity and nepotism.

Significance:

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

It will also **address the issue of social inclusion** by enabling suitable **representation to marginalized and deprived sections and women of society**.

To **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:

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.

Key concerns were the **dilution of the federal structure** and that the proposal does not address structural issues plaguing the lower judiciary.

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.

Issues with 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.

This is the main contention of several states, which have also argued that **central recruitment would not be able to address the unique concerns** that individual states may have.

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.

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 Forward:

Over the period of decades, number of States and High Courts have opposed the idea of establishing an All-India Judicial Service.

The insurmountable number of pending cases calls for establishment of a recruitment system that recruits efficient judges in **large numbers for speedy dispensation of cases**.

Hence, before the Parliament establishes an AIJS, there is a **need to build a broad consensus** between the Centre, States and the Judiciary on the topic.

In the meantime, attention should be **focused on implementing more direct solutions** to address the problems of the Indian judiciary.

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.