



Indian Polity

All India Judicial Service

Tags:

- **GS Paper - 2**
- **Judiciary**
- **Indian Constitution**

For Prelims: All India Judicial Services (AIJS), Union Public Service Commission

For Mains: Initiatives Related to Judiciary in India, Challenges Related to the Indian Judicial System.

Why in News?

Recently, the President of India advocated for All India Judicial Service (AIJS) to enhance diversity in the judiciary by increasing representation from marginalized social groups.

What is All India Judicial Service (AIJS)?

- **About:**
 - AIJS is a proposed **centralized recruitment system for judges** at the level of additional district judges and district judges across all states.
 - AIJS aims to centralize the recruitment of judges, similar to the Union Public Service Commission (UPSC) model, assigning successful candidates to states.

- Originating from **Law Commission reports in 1958 and 1978**, AIJS seeks to address structural issues like varying pay, faster vacancy filling, and standardized nationwide training.
- The **idea was revisited in 2006** by the Parliamentary Standing Committee, supporting a pan-Indian judicial service.
- **Constitutional Basis:**
 - **Article 312 of the Constitution** provides for the establishment of AIJS, similar to central civil services, upon a resolution by the Rajya Sabha **supported by at least two-thirds of its members.**
 - However, Article 312 (2) states that the AIJS cannot include any post inferior to that of a district judge, as defined in Article 236.
 - According to Article 236, a district judge can include a city civil court judge, additional district judge, joint district judge, assistant district judge, chief judge of a small cause court, chief presidency magistrate, additional chief presidency magistrate, sessions judge, additional sessions judge, and assistant sessions judge.
- **Need:**
 - AIJS would ensure a uniform and **high standard of selection** and training of judges, enhancing the quality and efficiency of the judiciary.
 - AIJS would **fill the vacancies of judges** in the lower courts, which are presently around **5,400 vacant positions in lower judiciary** across the nation and **pendency of 2.78 crore cases** in lower judiciary primarily

due to inordinate delay in holding regular exams by states.

- AIJS would increase the representation and diversity of judges from different regions, genders, castes, and communities, reflecting the **social composition of the country**.
- AIJS would reduce the **scope for judicial or executive intervention** in the appointments to the judiciary, ensuring the **independence and accountability of the judges**.
- AIJS would create a pool of talented and experienced judges who can be appointed to the higher judiciary, improving the career prospects and mobility of the judges.
- **Current Status:**
 - As of 2023, there is **no consensus on AIJS** due to diverging opinions among major stakeholders.
 - The AIJS proposal remains an unimplemented initiative, highlighting the challenges in achieving consensus for its establishment.

How are District Judges Recruited Currently?

- The current system involves **Articles 233 and 234** granting states the authority over the appointment of district judges, managed through State Public Service Commissions and High Courts, since HCs exercise jurisdiction over the subordinate judiciary in the state.
 - Panels of HC judges interview candidates after the exam and select them for appointment.
 - **Article 233** deals with the **appointment of district judges**. Appointments of persons to be, and the posting and promotion of, district judges in any State shall be made by the **Governor of the State** in consultation

with the High Court exercising jurisdiction over such State.

- **Article 234** deals with the **recruitment of persons other than district judges** to the judicial service.
- All judges of the lower judiciary up to the level of district judges are selected through the Provincial Civil Services (Judicial) exam. PCS (J) is commonly referred to as the judicial services exam.

What are the Concerns Regarding AIJS?

- It would infringe upon the federal structure and the autonomy of the states and the high courts, who have the constitutional right and responsibility to administer the subordinate judiciary.
- It would create a conflict of interest and a dual control over the judges, who would be accountable to both the **central and the state governments**.
- It would disregard the local laws, languages, and customs of the different states, which are essential for the effective functioning of the judiciary.
- It would affect the morale and motivation of the **existing judicial officers**, who would be deprived of the opportunities and incentives for their career advancement.

Way Forward

- Facilitate dialogues and consultations with states, high courts, and legal experts to address concerns and garner support for AIJS.
 - Consider implementing AIJS on a **pilot basis** in select states to assess its impact and address concerns gradually.
- Design AIJS with flexible mechanisms allowing adaptation to local laws, languages, and customs, ensuring effective functioning without disregarding regional nuances.

- Propose a **well-defined transition period** during which existing judicial officers can seamlessly adapt to the new system, minimizing disruptions.
- Establish a **periodic review mechanism** to assess the impact of AIJS on federal structure, autonomy, and the effective functioning of the judiciary, making necessary adjustments as needed.
- Develop an **incentive structure within AIJS** that motivates and recognizes the contributions of existing judicial officers, addressing concerns about career advancement.

UPSC Civil Services Examination Previous Year Question (PYQ)

Prelims

Q1. With reference to the Indian judiciary, consider the following statements:(2021)

1. Any retired judge of the Supreme Court of India can be called back to sit and act as a Supreme Court judge by the Chief Justice of India with the prior permission of the President of India.
2. A High Court in India has the power to review its own judgement as the Supreme Court does.

Which of the statements given above is/are correct?

- (a) 1 only
- (b) 2 only
- (c) Both 1 and 2
- (d) Neither 1 nor 2

Ans: (a)

Mains

Q. Critically examine the Supreme Court's judgement on 'National Judicial Appointments Commission Act, 2014' with

reference to the appointment of judges of higher judiciary in India. (150 words)

