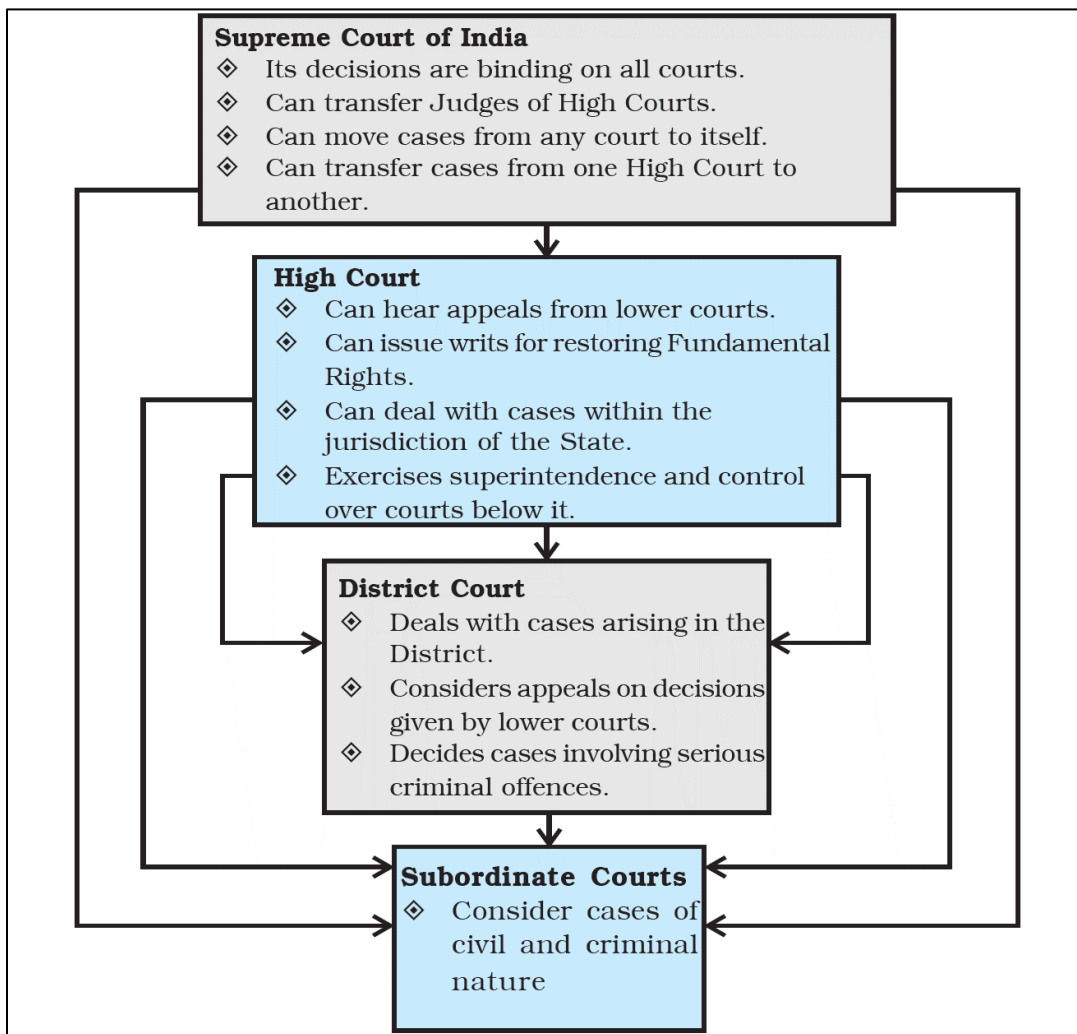


{GS2 – Polity – IC – Judiciary} All India Judicial Services (AIJS)

- **Context (IE):** President Murmu called for an “all-India judicial service (AIJS)” to recruit judges.

Present System of Recruitment of Judges in Lower Judiciary

- Under **Article 233**, all judges of the **lower judiciary** up to the level of **district judges** are selected through the **state judicial services exam**.
- The **State Public Service Commissions (SPSC)** and the concerned **High Court** conduct the selection process, since **HCs** exercise **jurisdiction** over the **subordinate judiciary** in the state.
- Panels of **HC judges interview** candidates after the **exam (by SPSC)** & select them for appointment.
- **District judges** are appointed by the **State Governor** in **consultation** with the **High Court**.
 - ❖ Under **Article 234**, the **Governor** appoints persons (**except** district judges) in a State's judicial service following rules created by **them (state)**, consulting the **SPSC** and the relevant **High Court**.



Integrated judicial system

- Integrated judicial system means that **decisions made by higher courts are binding on the lower**

courts.

- All the lower courts from the Gram Panchayat to the High Courts are integrated into the Supreme Court of India.
- At the top there is the Supreme Court. Below it, there are high courts at the state level.

Drawbacks in Current system

- **Urgent need to fill up the vacancies:** In India there are about **21 judges per 10 lakh population** even though the **Law Commission** had recommended that it **should be at least 50**.
 - ❖ In US or the UK judges to population ratio is **107 and 51 judges per million** people, respectively.
- **Huge pendency of cases & delayed justice.**
- **Subjectivity, corruption and nepotism in appointment.**

What is AIJS?

- All India Judicial Service (AIJS) is a **proposed** judicial service in India.

Purpose

- ❖ To **centralise** the appointment of **district judges** for **all** states and **additional district judges** at the **lower** level of the judiciary.
- ❖ Proposing **centralisation of recruitment** of **lower judiciary judges** akin to **UPSC**, followed by their allocation to states.

Posts for which AIJS will be created

- **Article 312 (2)** of the IC states that the AIJS **cannot** include **any post inferior** to that of a **district judge**, as defined in **Article 236**.

Article 236

- The expression **“district judge”** includes
 - Judge of a city civil court,
 - 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;

Procedure for creation of AIJS

- ❖ **No constitutional amendment** will be required for the establishment of AIJS.
- ❖ The [42nd Constitutional amendment in 1976](#) amended Article 312 (1) **empowering Parliament** to make **laws** for the creation of one or more **All-India Services**, including an **AIJS**, common to the Union and the States.
- ❖ If the **Rajya Sabha** declares through a **resolution**, supported by **at least two-thirds of its present and voting members (absolute majority)**, it is **necessary** or **expedient** to create a service in the **“national interest.”**
- ❖ Article 312 (3) states that the **AIJS cannot include any post inferior to that of a district judge**, as defined in **Article 236**.

How is AIJS different from the Present System?

The Present System	Proposed AIJS
Governor is the appointing authority.	Central government will be the appointing authority .
State judiciary exams are conducted for every state & judges are posted in the respective states.	All India level exam will be conducted & State cadres will be allocated by the central government .

Need for AIJS

Huge vacancy of judges and delay in recruitment

- The **116th report (1986) of the Law Commission** had recommended that India should have **50 judges per million population** as against 10.50 judges (in 1986).
- Currently, the figure stands at **21 judges** in terms of the sanctioned strength.
- Almost **5,000 posts remain vacant**.

Pendency of cases

- In 2023, the total number of pending cases of all types and at all levels rose **above 5 crores**.
- **National Court Management Systems** projected that the number of cases being filed would reach **15 crore in 30 years**, requiring **75,000 judges**.

Efficient Judiciary

- It will ensure an efficient subordinate judiciary, to address structural issues such as
 - ❖ Varying pay,
 - ❖ Remuneration across states,
 - ❖ To fill vacancies faster, and
 - ❖ To ensure standard training across states.

Others

- **Addressing subjectivity, corruption and Nepotism:** The **bottoms-up approach** in the recruitment would also address issues like corruption and nepotism in the lower judiciary.
- **State of art Training institutions:** State institutes lack the capacity to allow such adjudication exposure to the selected candidates.

Merits of AIJS

- ✓ **Accountability, transparency and objectivity in recruitment process:** Open competitive exam would reduce discretion of selection panel in the recruitment process of judiciary.
- ✓ **Representation to deprived sections:** AIJS will **improve the judiciary's representative character** by drafting in trained officers from **deprived sections** of society, especially women and SC/STs.
- ✓ **Reduced Regional Bias:** A national pool of judges could help **mitigate regional biases in judicial decisions**, promoting a more **equitable and impartial justice system**.
- ✓ **Promoting National Integration:** The AIJS could foster a sense of **national unity and integration** by bringing together judges from diverse backgrounds and regions.
- ✓ **Improved Public Perception:** A more diverse, **merit-based**, and efficient judiciary could enhance public trust and confidence in the Indian justice system.

De-merits & challenges of AIJS

- **Dilutes separation of power:** AIJS creation **diminishes separation of power** by **granting Union government control over state judiciary recruitment**, **side-lining High Court authority**.
- **Against India's Federal structure:** Centralized recruitment undermines India's federal structure, **encroaching on states' constitutional powers** and **contradicting principles of federalism**.
- **Impedes upon independence of judiciary:** It would **compromise Judicial Independence** since another body would control appointments and integration, whereas in the judiciary, **higher levels oversee and assess lower levels**.
- **Lack of consensus:** Opinions on the proposal lack consensus, with **only two High Courts supporting it** and **13 opposing**. Additionally, there are differences in views regarding eligibility, age, selection criteria, qualifications, and reservation.
- **Opposition from advocate lobby:** **AIJS judges are more likely to become High Court judges** compared to High Court advocates, causing opposition from advocate groups in various High Courts.
- **Exclusion of state minorities and backward groups:** State **minorities and backward groups stand to lose reservation benefits** if reservations are determined based on a centralized list.
 - ❖ Some communities which fall under the backward category in the state list may fall under the general category in the central list.
- **Local Language issue:** AIJS officers **may struggle with local languages used in courts** up to the District and Sessions Judge level, **impeding effective dispensation of justice**.

- **Local laws and customs problem:** AIJS **overlooks the significant diversity** in local laws, practices, and customs among different States.

Recommendations on AIJS

Law Commission and other recommendation

- The notion of a centralized judicial service was initially discussed in the **Law Commission's 1958 report on Judicial Administration Reforms**.
- This idea resurfaced in the **1978 Law Commission Report**, addressing case delays and backlogs in lower courts.
- In 2006, the **15th Report by the Parliamentary Standing Committee** on Personnel, Public Grievances, Law, and Justice endorsed the concept of a nationwide judicial service and formulated a draft bill.

Supreme Court on AIJS

- In 1992, the Supreme Court's ruling in 'All India Judges' Association (1) v. UOI' **directed the Centre to establish an AIJS**.
- A 1993 review of the judgment **allowed the Centre freedom to initiate action on the matter**.
- In 2017, the Supreme Court independently addressed the appointment of district judges and suggested a "**Central Selection Mechanism**."

Way forward

- ✓ Achieving stakeholder consensus is crucial.
- ✓ AIJS must address its flaws to become a potent judicial solution.
- ✓ **NITI Aayog recommends:**
 - AIJS cadre **reporting to High Court Chief Justices** for **judicial independence**.
 - Conducting **regular, time-bound** AIJS examinations.