



## CURRENT AFFAIRS



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# SUPREME COURT: A SYMBOL OF UNITY AND DIVERSITY ON ITS BENCH

### WHY IN THE NEWS?

The recent appointment of Justice Joymalya Bagchi from the Calcutta High Court to the Supreme Court has become a prominent news event due to several significant factors. Primarily, the possibility of Justice Bagchi ascending to the position of Chief Justice of India in 2031 has garnered widespread attention, generating considerable interest in his judicial career. Additionally, his appointment addresses the long-standing gap in representation for the Calcutta High Court within the Supreme Court. The collegium specifically noted that only one judge from the high court was serving in the Supreme Court and that it had been a considerable period since a Chief Justice of India had originated from this esteemed institution. By filling this gap, Justice Bagchi's appointment ensures a more equitable distribution of judicial representation and strengthens the presence of the Calcutta High Court within the nation's highest judicial body.



## **SUPREME COURT JUDGE APPOINTMENT**

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### **1. Constitutional Mandate**

Governed by Article 124 of the Indian Constitution.

The President of India appoints judges after consulting the Chief Justice of India (CJI) and senior judges.

The Collegium System plays a crucial role in recommendations.

### **2. Criteria/Eligibility**

A candidate must Be a citizen of India.

Have served as a High Court judge for at least five years OR

Have practised as a High Court advocate for at least ten years OR

Be recognized as a distinguished jurist by the President.

### **3. Conventions**

**Collegium Consultation:** The CJI consults four senior Supreme Court judges before recommending a candidate.

**Regional Representation:** Efforts are made to ensure diverse High Court representation in the Supreme Court.

**Merit and Integrity:** Selection considers judicial competence, ethical standards, and seniority.

**Seniority Principle for CJI:** Traditionally, the senior-most Supreme Court judge is appointed as the Chief Justice of India.

## **SUPREME COURT APPOINTMENT PROCEDURE**

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### **1. Evaluations of the Appointment Procedure**

**Collegium System Dominance:** The Supreme Court's Collegium System remains the primary method for appointing judges, and ensuring judicial independence, but facing transparency concerns.

**Lack of Executive Role:** Unlike other democracies, the executive has minimal say, reducing political interference but limiting accountability.

**No Fixed Criteria for Selection:** While merit and seniority are considered, there is no codified selection process, leading to inconsistencies.

**Opaque Decision-Making:** Collegium deliberations are not public, raising concerns about favouritism and lack of public accountability.

**Judicial Supremacy in Appointments:** The 2015 Supreme Court ruling striking down the NJAC reaffirmed the judiciary's exclusive control over appointments.

### **2. Current Status & Reforms**

**Pending Vacancies:** The Supreme Court and High Courts continue to face judicial vacancies, affecting case backlogs.

**Transparency Efforts:** Recent discussions have focused on publishing Collegium recommendations and reasons for selections.

**Proposed Reforms:** Experts have suggested institutionalizing a structured appointment process with defined eligibility criteria and independent oversight.

**Ongoing Legal & Political Debate:** The executive and legal experts continue to discuss alternatives to balance judicial independence with transparency and accountability.

## **APPOINTMENT AND INDEPENDENCE OF JUDICIARY**

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**1. Judicial Independence from Executive Control:** The separation of powers prevents political influence over judicial decisions. Judges cannot be easily removed, ensuring freedom from government pressure.

**2. Security of Tenure:** Supreme Court judges serve until the age of 65, and High Court judges until 62, preventing arbitrary removals. Removal is possible only through impeachment, requiring a majority in both Houses of Parliament.

**3. Financial Independence:** Judges' salaries and allowances are charged on the Consolidated Fund of India, meaning they cannot be altered to their disadvantage. This financial security helps in maintaining judicial integrity.

**4. Restrictions on Post-Retirement Appointments:** Judges are barred from practicing law in courts after retirement, ensuring they do not rule in favor of future benefits. However, post-retirement government appointments have raised concerns about neutrality.

**5. Power of Judicial Review:** The judiciary has the power to strike down unconstitutional laws, ensuring executive and legislative accountability. This strengthens democracy and protects fundamental rights.

#### ISSUE RELATED TO APPOINTMENT OF JUDGES

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**1. Lack of Transparency in the Collegium System:** The Collegium System (where judges appoint judges) operates behind closed doors. No formal criteria for selection are publicly disclosed, leading to accusations of favoritism and nepotism.

**2. Executive vs. Judiciary Conflict:** The government has tried to assert influence over judicial appointments, challenging the independence of the judiciary. The National Judicial Appointments Commission (NJAC) was struck down by the Supreme Court in 2015, but debates on executive involvement continue.

**3. Delays in Appointment:** High judicial vacancies in Supreme Courts and High Courts due to prolonged appointment processes. These delays lead to case backlogs and slower justice delivery.

**4. Absence of Diversity in Judicial Appointments:** Underrepresentation of women, marginalized communities, and regional diversity in higher judiciary. No set policy to ensure inclusive representation.

**5. Political Influence and Post-Retirement Appointments:** Concerns over judges accepting government posts after retirement, raising doubts about judicial neutrality in politically sensitive cases. Instances where former judges were given Rajya Sabha seats or government commissions.

**6. Lack of a Proper Evaluation Mechanism:** No institutionalized process for evaluating judges before appointment. No performance reviews, making accountability difficult.

#### WAY FORWARD

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**1. Enhancing Transparency:** Collegium decisions should be documented and made publicly available to ensure accountability. Establish a structured selection criterion based on merit, experience, and integrity.

**2. Timely Appointments:** A fixed timeline should be introduced to prevent judicial vacancies and backlog. Regular updates on pending appointments should be provided to maintain efficiency.

**3. Balanced Executive and Judiciary Roles:** A reformed appointment system that ensures judicial independence while allowing limited executive oversight. Consider revisiting the NJAC framework with necessary safeguards to maintain impartiality.

**4. Diversity and Inclusivity:** The appointment process should ensure adequate representation of women, regional backgrounds, and marginalized communities. A formal mechanism to track and promote inclusivity in judicial appointments.

**5. Post-Retirement Restrictions:** Implement stricter rules on judges accepting government posts immediately after retirement. A cooling-off period should be introduced to prevent any potential conflicts of interest.

**6. Performance Review Mechanism:** Establish an independent body to assess judges' work before appointments. Regular performance evaluations can help ensure higher judicial accountability.

#### CONCLUSION

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The appointment of Supreme Court judges plays a crucial role in upholding judicial independence, strengthening democracy, and ensuring justice. However, concerns over transparency, political influence,

and delays in appointments need urgent reform. A balanced approach, ensuring judicial autonomy while incorporating accountability, is necessary. Moving forward, a transparent, efficient, and inclusive system will be key to strengthening India's judicial framework and maintaining public trust in the judiciary.

**PRELIMS QUESTIONS:**

**Q. Consider the following statements regarding the appointment of Supreme Court judges in India:**

1. The President of India appoints Supreme Court judges based on the recommendation of the Chief Justice of India (CJI).
2. The Collegium system, comprising the CJI and four senior-most judges, plays a crucial role in the selection process.
3. The executive has the power to reject the Collegium's recommendation without seeking reconsideration.

**How many of the statements given above are correct?**

- A. Only one
- B. Only two
- C. All three
- D. None

**Answer: B**

**MAINS QUESTIONS:**

**Q. Discuss the significance of judicial independence in a democracy. What constitutional provisions ensure the independence of the judiciary in India? (250 words, 15 marks)**

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